

INSTRUCTIONS FOR FILLING OUT FORM

PURPOSE. This form is to be used when you are an adult (someone over the age of 18) and you are seeking to change your legal name (your name as it appears on your birth certificate) to that of another name and to change the sex field on your original birth certificate.

WHAT IS A PETITION FOR NAME AND SEX FIELD CHANGE

An adult can petition a court to have their name and sex field legally changed to another name and sex on your birth certificate. A person could request a change of their first, middle or last name. They can also request their sex field changed on their original birth certificate.

However, a state may or may not honor the Tribal Order to change your sex field on your birth certificate depending on the state you were born in. Currently, the State of South Dakota has no laws preventing someone from changing the sex field on their amended birth certificate but gives little guidance on how to go about it. You will want to check with the state you were born to determine if they allow a birth certificate to amend the sex field on it and what the requirements are for such an order.

It appears that in almost all the states that allow the sex field to be amended on a birth certificate the state will require proof that the Petitioner participated in the requisite mental health counseling to obtain the recommendation to begin gender confirming clinical treatment and proof that the Petitioner is receiving the appropriate clinical treatment for gender transition.

FORMS INVOLVED. The form is a **Petition for Name and Sex Field Change of an Adult**. You will need to fill in the necessary information with help from the instructions below and then file the forms with the appropriate court.

FILE THE PETITION WITH THE CLERK OF COURTS OF THE TRIBAL COURT WHERE YOU ARE FILING YOUR PETITION. No summons is required. The clerk will have you publish notice in a local newspaper and you will be responsible for the cost of such publication.

HOW TO FILE A PETITION FOR NAME AND SEX FIELD CHANGE

A person can petition a court to have their name changed to another name. A person can request a change of their first, middle or last name. A person can also petition the court for an order to have the sex field on your birth certificate amended to reflect their current gender.

What is a petition. A petition is a document similar to a complaint except it does not require an answer from the respondent. It is a document where the petitioner is formally requesting the court to order something and sets out the petitioner's version of the facts.

How to file a petition. A petition is filed when you take it to the courthouse and file it along with the filing fee with the clerk of courts. When you file your petition with the clerk, please

date and sign the form in front of the clerk so they can notarize your signature.

Filing and service fees. The court will require payment of a filing fee unless waived to file your petition with the court. Use the **Motion to Waive Filing and Service Fees** form to ask the court to waive the filing fee or for a partial waiver of the fee.

Once you file your petition for name change the court clerk will schedule a hearing on your petition for name change. The court will require that you publish the notice of hearing in the Todd Country Tribune for 4 consecutive weeks before the hearing at your own expense (the newspaper will charge you for publishing the notice of hearing). You will need to bring an affidavit of publication to the hearing to prove to the court that notice of hearing was in fact published in the newspaper. You must get the affidavit of publication from the newspaper.

Jurisdiction. Petitioner must show the court that it has jurisdiction over them. The Petitioner will need to establish that they are an enrolled member of the Rosebud Sioux Tribe and is currently residing within the exterior boundaries of the Rosebud Sioux Indian Reservation and has been bona fide resident of Todd County, South Dakota for more than six months prior to the filing of the petition.

NAME AND SEX FIELD CHANGE HEARING

Once a petition is filed and notice of hearing is published, the court will hold a hearing on the petition.

BURDEN OF PROOF. If a party files a Petition for Name and Sex Field Change, they have the burden of proving that claim in court. In a typical civil case a party has the burden of proving their claim by a **preponderance of the evidence**. Proving something by a preponderance of the evidence means evidence with greater weight or that is more convincing than the evidence of the opposing party(s). The court may require that a party prove their Petition by clear and convincing evidence (evidence that is both clear and convincing to the court). This means that by representing your self in a legal matter it is your responsibility to prove your case. Don't expect the judge to prove your case for you. The petitioner has the burden of proving by a preponderance of the evidence the following to the court:

1. Petitioner must also show the court that their request for name and sex field change is for a legitimate purpose. This means that petitioner cannot change their name for any illegal or fraudulent reasons. If petitioner is seeking to change their name to avoid creditors or avoid child support or deceive any government agency the court will not grant their request for a name change. If petitioner is seeking to change their name to their grandfather's name, for example, to honor your grandfather's memory or wishes, the court will probably grant their request.

2. Petitioner will be required to provide the court with evidence that Petitioner has participated in the requisite mental health counseling to obtain the recommendation to begin gender confirming clinical treatment and proof that the Petitioner is receiving the appropriate clinical treatment for gender transition. This information is required by the State Office of Vital

Records to change the sex field on Petitioner's birth certificate.

INSTRUCTIONS FOR FILLING OUT THE FORM. To fill out this form follow these instructions. The numbers to each instruction below is the number on the blank line on the form where the information for that number needs to be inserted on the form.

Instructions for filling out the petition:

- (1) on this line insert your name and your date of birth.
- (2) on this line insert your name.
- (3) insert your mailing address.
- (4) insert "is" if you are an enrolled member of the tribe. Insert "is not but is eligible for enrollment" if you are not an enrolled member of the tribe.
- (5) insert your date of birth.
- (6) insert the name of the city you were born.
- (7) insert the name of the county you were born.
- (8) insert the name of the state you were born.
- (9) insert your mother's name as it appears on your birth certificate.
- (10) insert your father's name as it appears on your birth certificate.
- (11) insert what you want to change your name to.
- (12) insert the sex you were born with as it appears on your birth certificate.
- (13) insert the sex you want to be reflected on your birth certificate.
- (14) explain in detail why you want to change your name.
- (15) identify by name the person or facility that provided you with the requisite mental health counseling to obtain the recommendation to begin gender confirming clinical treatment.
- (16) identify by name the medical doctor who is providing the appropriate clinical treatment for gender transition.
- (17) on this line insert the day.
- (18) on this line insert the month.
- (19) on this line insert the year.
- (20) on this line insert your name by signing.

**ROSEBUD SIOUX TRIBAL COURT)
 ROSEBUD INDIAN RESERVATION)SS
 ROSEBUD , SOUTH DAKOTA)**

IN CIVIL COURT

<p>IN RE THE NAME AND SEX FIELD CHANGE OF:</p> <p>(1) _____ _____ DOB: _____,</p> <p>An Adult.</p>	<p>DOCKET# _____</p> <p>VERIFIED PETITION FOR NAME AND SEX FIELD CHANGE</p>
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Comes now (2) _____, petitioner and petitions this Court as follows:

1. That petitioner has resided on the Rosebud Sioux Indian Reservation for at least the past six months. Petitioner's address is (3) _____ and petitioner (4) _____ a member of the Rosebud Sioux Tribe.

2. That petitioner is an adult and was born on (5) _____, in the city of (6) _____ County of (7) _____, in the State of (8) _____.

3. That petitioner's mother's name as it appears on petitioner's birth record is (9) _____.

4. That petitioner's father's name, if at all, as it appears on petitioner's birth record is (10) _____.

5. That petitioner requests that their name be changed to (11) _____.

6. That petitioner requests that the sex field on their birth certificate be changed from (12) _____ to (13) _____.

7. That the above named adult requests a name change for the following reasons:
 (14) _____

_____.

8. Petitioner has participated in the requisite mental health counseling to obtain the recommendation to begin gender confirming clinical treatment from (15)_____.

9. Petitioner is receiving the appropriate clinical treatment for gender transition from (16)_____ and a letter is attached hereto confirming Petitioner is receiving the appropriate clinical treatment for gender transition.

10. That the name and sex field change petitioner is seeking is not sought for any fraudulent or illegal purposes.

11. Pursuant to ARSD 44:09:05:09(4) Petitioner requests the court order that the amended birth certificate contain no indication on its face that it is an amended certificate and that the original birth certificate be sealed.

WHEREFORE, Petitioner prays that this Court order that:

- A. This court has jurisdiction over the parties and subject matter herein;
- B. This matter be set for hearing and the clerk prepare Notice of Hearing for publication;
- C. Petitioner's name and sex field be changed as prayed for and that petitioner's birth record be amended accordingly by the state where petitioner was born;
- D. The court order that the amended birth certificate contain no indication on its face that it is an amended certificate and that the original birth certificate be sealed; and
- E. For such other and further relief the Court finds just and equitable.

Dated this (17)_____ day of (18)_____, (19)_____.

(20)_____
Petitioner(s)

VERIFICATION

