
**CHANGING THE SEX
MARKER
ON YOUR NZ BIRTH
CERTIFICATE**

2019



GENDER MINORITIES AOTEAROA

TAKATAAPUI, TRANSGENDER, & INTERSEX NZ

2019

CHANGING THE SEX MARKER ON YOUR BIRTH CERTIFICATE

The process for changing the sex marker on your birth certificate is outlined below, step by step. Please read through this document before you begin. You do not need a lawyer to complete this process. Over 90% of all applications do get approved, although sometimes the process is made longer by not having the forms filled in correctly, the supporting documents labeled correctly, or by needing to resubmit additional information.

If you have already changed your legal name on your birth certificate, it will be listed along with your birth name. Changing the sex marker on your birth certificate will wipe away any previous names, leaving only your current legal name, so if you plan to change both your name and sex marker, it is good to leave the sex marker until last.

Summary

Your application will include a legal form from the Ministry of Justice, an affidavit, and supporting documents which show that you meet the legal criteria.

The application goes through the Family Court, though the process can be done "On The Papers" - which is to say, by filing the right paperwork and handing this in at your local Court. If it is done on the papers you do not need to attend a hearing at Court in person.

The law currently requires adults to provide evidence that they have made 'permanent medical changes' as part of their transition. You do not need to provide your full medical records, but simply evidence in the form of a letter from a healthcare provider; if possible the provider who prescribes your hormone therapy if applicable, or documentation or a letter from your surgeon if you have had any gender affirming surgeries, or else a letter from your GP confirming any gender affirming medical treatments you have had.

FILLING IN THE FORMS

The forms you will need can all be found on the Ministry of Justice website, along with some other useful links at

<https://www.justice.govt.nz/family/change-sex-on-your-birth-certificate/> print these one-sided

The G5 form is the main form, which states the request being put to the court.

The G7 is a standard issue form for all Family Court processes, and it is meant to discuss the ways their decisions may affect multiple people. In the case of amendments made to Birth Certificates, its inclusion is a formality, though it must still be completed.



The affidavit is a legal declaration written by you, which covers your personal story. Your affidavit should say that the sex you were assigned at birth is incorrect, and why it should be changed. This might include a brief overview of your gender history - which is explained in more detail later in the document.

If you live overseas you will need to use a New Zealand address for service, which can be the address of someone in your whānau, your lawyer, or an advocate who is processing paperwork on your behalf.

Applicants who are under 18 years old are required to have their legal guardian make the application on their behalf. A judge may make the decision that the process will require the cooperation of one or both of the applicant's parents. The court may approve sex marker changes without evidence of previous medical transition if they are satisfied the applicant will undertake medical transition in the future.

THE G5 FORM

The court to which this and your other forms are filed must be the closest court to your residence or to the Registrar General of Births, Deaths, and Marriages (Wellington). Your closest court can be found using the Ministry of Justice website <https://www.justice.govt.nz/contact-us/find-us/> First select the type of Court as Family Court, and then look for the location closest to you. If you are filing from overseas you can use your service address as your location.

The FAM number can be left blank. The person whose birth certificate will be changed is the applicant. The Respondent will be Registrar-General, 10 Mulgrave Street, Thorndon (leave the occupation line for the respondent blank).

The first box requires information about the document that needs to be changed, in this case the Birth Certificate. The wording needs to reflect the wording of the law, but the following example will work:

"This is an on notice application for a declaration that the sex marker on [applicant's name] birth certificate be changed from ___ to ___ under [s28/s29] of the Births, Deaths, Marriages and Relationship Registration Act 1995"

It should say s28 for applicants 18 or older and s29 for applicants under 18.

The final box on this page says "This document filed by", which is likely the applicant. However, in the case that a legal guardian, an advocate or an interpreter is filing on the applicant's behalf, put their name instead.



The next page starts with a space for the applicant's name. The next box is labelled "apply for". In this space, write how the birth certificate should be changed, to have its current sex marker replaced with your nominated sex instead. Your nominated sex marker may be F, M or —, but you cannot change your gender marker to "--," meaning indeterminate, unless you are intersex and your gender was incorrectly listed at birth. However, the usual process for that is "correcting an error" rather than this process of just changing your birth certificate.

The next box requests the legal grounds on which you wish to have your sex marker changed.

If you are 18 or older, and the sex marker on your birth certificate does not match your nominated sex, you can put: "My birth is registerable under the Births, Deaths, Marriages and Relationships Act 1995, as evidenced by my included birth certificate. The sex assigned on my birth certificate states ___, however, I have undertaken steps to medically transition, and request to change my sex marker to ___. My gender/sex is consistent and persistent, as evidenced by the included documents from expert medical professionals."

If you are filling out an application on behalf of a person aged under 18, and the sex marker on their birth certificate does not match their nominated sex, this part could say: "I am the legal guardian of [Their Name], whose birth is registerable under the Births, Deaths, Marriages and Relationships Act 1995, as evidenced by their included birth certificate. [Their Name] has the assigned sex marker _ on their birth certificate. However, the child has a consistent and persistent gender which is incongruent with that sex assignment. I would like their birth certificate to be amended to show the sex marker _, and will continue to raise them as their nominated sex in accordance with their wishes. They have/will undertake medical changes to affirm their nominated sex, as evidenced by the included documents from expert medical professionals."

Then all that is left for this page is for the applicant to sign and date the application.

The final page is much simpler. First, select which court the application will be made to, which is the same as the one given on page one. The box after this can be left blank. Finally put the full name of the person filing the application, and their address. The last spaces are to be filled out by the court, and should be left blank.

THE GENERAL AFFIDAVIT FORM

This is where the applicant has space to tell their personal story. Page one of the affidavit form contains the exact same details as page one of the G5 form.

The applicant details are the details of the person whose birth certificate needs to be changed. The Respondent is the Registrar-General at 10 Mulgrave Street, Thorndon, Wellington. The Court should be listed at the court nearest to you, or your service address if you are filing from overseas or on someone else's behalf.



The next box can read: "This is an affidavit of [applicant's name] to support an on notice application for a declaration that the sex marker on [applicant's name] birth certificate be changed from __ to __ under [s28/s29] of the Births, Deaths, Marriages and Relationship Registration Act 1995"

It should say s28 for applicants 18 or older and s29 for applicants under 18.

The next space is for the affidavit itself, where the applicant can tell their story and why their birth certificate should be changed. If the application is being filed by someone other than the applicant, like a guardian or an interpreter, then that person can write the affidavit on the applicant's behalf and have them sign it. If an interpreter is needed to write the affidavit then they will also need to swear to its authenticity and provide a certificate of authenticity.

While the affidavit will reflect the personal experiences of the applicant, it should contain certain details which confirm the legal grounds under which changes to the sex marker on Birth Certificates is allowed. This means that the following details should be included in the affidavit:

- That the applicant birth is registrable under the Act (e.g. born in NZ before 2006, has a parent with a NZ birth certificate).
- Their date of birth, as reflected on their Birth Certificate.
- The sex they were assigned at birth- which was recorded on their birth certificate.
- That this assigned sex is incorrect, what their nominated sex is and that they wish to have their Birth Certificate amended to reflect their nominated sex.
- That their nominated sex is consistent and persistent.
- The steps they have taken to transition, when those steps were taken, for how long they have been transitioning, and any steps that they plan to take in the future. (In the case of children, previous transition is not expected, however, it will be expected that they plan to medically transition in the future before any changes to their sex marker on their Birth Certificate are approved).
- If they have changed other legal details like their legal name, the recorded sex on their passport, or if they have other forms of ID showing their preferred name or sex. Copies of these documents may be certified by getting them signed by a Justice of the Peace (there are more details on this process below) and included with the application.
- A summary of the included medical letters. These should document the applicant's medical transition to date, including a letter from an endocrinologist covering their HRT history. The next section will cover which supporting documents should be included in more detail. The supporting documents should be labelled A,B,C, etc. When they are referred to in the body of the affidavit, it should also refer to the letter on the document- "see exhibit A" for example. This step is essential and the court may ask you to resubmit your application if this is not done.

The affidavit then needs to be certified, meaning that its author needs to swear to its accuracy before a Justice of the Peace.



There are service desks around the country where members of the public can find a Justice of the Peace who will be able to help them get documents certified, and you can find one near you at <http://justiceofthepeace.org.nz/Find+a+JP.html>.

An appointment may be needed, so it is a good idea to contact them in advance, and be sure to bring along some photo ID. Before visiting one, it is a good idea to have any copies of original documents, like your passport or current Birth Certificate with you, as a Justice of the Peace can also sign the copies, legally confirming them to be valid. Once the document has been certified, the affidavit will be finished.

SUPPORTING DOCUMENTS

In addition to the legal forms, the application will need to include supporting documents.

Firstly, your current Birth Certificate should be included. In the case that this is not available, new Birth Certificates can be obtained from the Department of Internal Affairs at <https://www.govt.nz/browse/passports-citizenship-and-identity/proving-and-protecting-your-identity/order-a-birth-certificate/>. The certificate itself can be included, or a copy, however in order for a copy to be considered valid it needs to be verified as true by a Justice of the Peace. This applies to all legal documents that might be included in the application. Justice of the Peace desks around New Zealand can be found at <http://justiceofthepeace.org.nz/Find+a+JP.html>.

The next piece of evidence needed will document your medical transition. The current standard that a Judge will accept as sufficient is having undertaken HRT, so a letter from your endocrinologist or prescribing GP should be included. This should explain when and why you started HRT, and what the outcome of the treatment will be, specifically mentioning that these changes are "permanent and irreversible". Other supporting letters can be included too, such as those from friends and whaanau. If you have a support letter from a psychologist, have undertaken any gender affirming surgeries, or have receipts for facial hair removal, these could also be included.

Finally, it will also help the application if any other identifying documents can be included that demonstrate the consistency of your nominated sex. If you have had a legal name change this will already be reflected on the Birth Certificate, which is good. If you have changed your identified sex on your passport or any other ID, then a copy of this could also be included. If you have not yet changed your name, then things like mail which has been addressed to your chosen name, or photo ID showing your chosen name also make good additions.

Every piece of supporting evidence submitted should be referred to in the affidavit so that the person processing the application at the court understands why it's there.



MARKING YOUR DOCUMENTS CORRECTLY

Each piece of paperwork must be correctly marked 'Exhibit A', 'Exhibit B', etc. In your affidavit, list the supporting documents, and what you have marked each one. For example: Please find attached my birth certificate [exhibit A], letters in my chosen name [exhibit B], a letter from my GP confirming 10 months hormone therapy amounting to permanent and irreversible changes [exhibit C], etc.

THE G7 FORM

Most of the information required for this form is the same as the other forms. It is standard practice in Family Court procedures for this form to be included because it looks at how decisions they make can affect networks of people, as Family Court usually deals in decisions affecting whole families. In the case of changing your sex marker, it makes a significant difference to the individual Birth Certificate holder and doesn't really affect anyone else.

The court is the same as on the previous forms, whichever is closest to you. The order that this form is accompanying is the G5. Put the applicant's details in, and under gender put their nominated sex - the one which the Birth Certificate will be changed to.

The interpreter details should only be filled out if one is needed.

The next section covers children that may be affected by the court's decision, and while children with transgender parents may be affected by those parents being trans, they will not usually be affected by a parent changing their recorded sex marker.

The section regarding the applicant and respondent may be left blank, as there will be no respondent with this application.

The last two lines on Page 4 only need to be filled out if you are applying on someone else's behalf. The final box on Page 5 only needs to be filled out if you have applied to have your sex marker changed previously.

FILING THE APPLICATION

Once all of the forms and supporting documents are in order and have been approved by a Justice of the Peace, the last step is to submit the application. If you would like legal support, Gender Minorities Aotearoa can look over your application for you, or you can contact a Community Law Centre for free legal advice - communitylaw.org.nz/our-law-centres/.

The application can then be posted or delivered in person to the nearest Family Court for processing. If you need to contact the Family Court with any questions, they have a general helpline on 0800 225 252.





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Gender Minorities Aotearoa runs Wellington Transgender Legal Clinic in partnership with Community Law Wellington and Hutt Valley. GMA also runs The Gender Centre community drop in at level 1, 130 Riddiford street Newtown, Wellington.

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