

## Name Change at Point of Naturalization

Immigrants who have been legal permanent residents (green card holders) for several years (generally five) can apply to become U.S. citizens. This process is called naturalization. As part of the naturalization process, a name change can be done—if a court in the area conducts naturalization oath ceremonies. Otherwise, the law prohibits changing your name on your Certificate of Naturalization unless it has already been legally changed before completing the naturalization process.

There is a question on the naturalization application (N-400) asking whether you want to change your name. The idea behind this question is probably to allow applicants with “foreign sounding” names to change them to Americanized versions, but nothing prohibits an applicant from changing his or her name for other reasons. You are required to complete a Petition of Name Change and this should be done during the interview. Delay in participating in the oath ceremony can happen if you decide to petition the court to change your name. The name change petition should really be done at the interview. If you petition to change your name, the new name will not be legal until after the oath ceremony. The new name will appear on the Certificate of Naturalization.

The U.S. Citizenship and Immigration Services (CIS) does not do the processing for name changes once you are naturalized. You would have to change your name through another legal way.

You should be aware that when you apply to naturalize, your entire immigration record will be reviewed. If you have ever been arrested for anything, you should speak to an immigration attorney before applying to naturalize. Criminal convictions, even if they’re old, can lead to deportation.

You should be able to change the gender on almost any of your immigration or naturalization documents if you have enough medical evidence. Generally, but not always, you must provide evidence that you have completed sex reassignment surgery. You should pro-

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SYLVIA RIVERA  LAW PROJECT

*The Sylvia Rivera Law Project (SRLP) works to guarantee that all people are free to self-determine gender identity and expression, regardless of income or race, and without facing harassment, discrimination or violence.*

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KNOW YOUR RIGHTS

## Your Immigration Rights

*Trans Immigrants in New York*

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### *In this brochure:*

- Name Changes for Immigrants in New York
- Name and Gender Change on Immigration Documents
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## Name Changes for Immigrants in New York

People with all types of immigration status can feasibly have their names changed in U.S. courts. If you have legal status in the U.S. and live in New York, you can change your name in New York. The law is less clear for undocumented immigrants, but a name change may still be possible. Undocumented immigrants should talk to a lawyer before trying to get a name change.

Sometimes, the clerks in courts that do name changes do not let immigrants apply to change their names. That is wrong. If a clerk tries to keep you from applying for a name change because you are not a U.S. citizen, you can tell the clerk that you have the right to ask for a name change and a judge should be the one to decide. If you have any trouble with getting a name change, either from a clerk or a judge, you can talk to a lawyer. You can also complain about the way the clerk or anyone else in the court treats you by contacting the Office of Court Administration (see the brochure *Resources for Trans Communities*).

Once you have a name change order from a judge, you can use it to change your name on ID such as your driver’s license, benefits card, and Social Security card. See below for more information on changing your name on U.S. immigration documents. A name change order you get in New York may or may not be seen as valid outside of the U.S. Different countries have different rules about when they recognize U.S. court orders.

The New York legal name change process is explained in detail in another SRLP Know Your Rights brochure: *How to Change your Name Legally in NYC*.

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vide the strongest letters you can from your healthcare providers. If you have had surgery, ask your provider to explain that you have completed sex reassignment and that you are now your current gender. The Sylvia Rivera Law Project can give your provider advice on how to write these letters. If you also want to change your name, you must also submit a copy of your birth certificate as issued at birth, a copy of a new birth certificate that shows your new name and/or gender, and the name change order from a court. If you want to change only your gender and not your name, you do not need to provide your birth certificate.

It is often a lot harder to change your gender than it should be. Not every person who works at CIS will know that they are supposed to change your gender. There is a memo from the CIS that says immigrants can change their gender on their documents. It can help to bring a copy of the memo with you. The Sylvia Rivera Law Project can give you a copy of the memo. It can also help to bring an advocate with you, if you can. You can talk to a lawyer if you are denied a change of gender on your documents.

The exact way to apply for a change of gender will depend on the type of document you need changed. You will generally need to submit a form and a fee for a replacement document. To change the gender marker on an existing permanent residence card (“green card”), you should submit the following:

- Application to Replace Permanent Residence Card (USCIS Form I-90).
- Either check or money order for Form I-90 plus a fee for fingerprinting made payable to the U.S. Citizenship and Immigration Services. The fees change frequently. You should check the USCIS website (*see inset*) for the current fees.

These documents should be sent to the Los Angeles Lockbox (*see inset*). This also may change frequently, so it is best to check the above website to confirm this information. You can also apply electronically through the internet (*see inset*). Do not include your evidence and supporting documents when submitting your initial application. When you have your in-person appearance at your local office, you should present

all the evidence you have, including:

- Your prior permanent residence card or other identity document.
- A copy of the court order granting name change.
- A copy of the birth certificate issued at birth.
- A copy of the birth certificate reflecting the name change and/or sex reassignment.
- Letters from healthcare providers about your gender.

You should be aware that when you apply to replace your green card, your entire immigration record will be reviewed. If you have ever been arrested for anything, you should speak to an immigration attorney before applying to replace your green card. Criminal convictions, even if they’re old, can lead to deportation.

#### U.S. CITIZENSHIP AND IMMIGRATION SERVICES

Forms and instructions are available at <http://uscis.gov/graphics/formsfee/forms/index.htm> by calling **1-800-870-3676**

**The address for the Los Angeles lock box for replacement green card applications is**

*For U.S. Postal Service (USPS) deliveries:*

U.S. Citizenship and Immigration Services  
P.O. Box 54870,  
Los Angeles, CA 90054-0870

*For non-USPS deliveries (ie. Private couriers):*

U.S. Citizenship and Immigration Services  
Attention: I-90  
16420 Valley View Avenue, La Miranda, CA 90638

## Real ID Act

The Real ID Act is new legislation that is likely to affect transgender people in a negative way. The Real ID Act creates national standards for state identity documents. States have to comply with the standards within three years to have their IDs work with federal institutions. States may be able to get more time from the federal government. After that time, if an ID does not meet the standards, the holder of that ID may be turned away from federal benefit providers like Medicaid and Medicare, barred from getting on airplanes, and barred

## Asylum for Trans People

Asylum is a way to get legal status in the U.S. if you have been persecuted in your home country and/or have a well-founded fear of future persecution if you went back to your home country. The persecution must be based on race, religion, nationality, political opinion, or membership in a particular social group. Immigration judges have said that transgender, transsexual, and gender non-conforming people can be members of “a particular social group.” If you are afraid that you would be hurt for being trans if you had to go back to your home country, you might be able to get asylum in the U.S.

Deciding whether to apply for asylum is not easy. If you apply for asylum and do not get it, you might be deported. Before you decide, you should talk to an immigration lawyer to find out more about asylum and to get advice about your case.

You are supposed to apply for asylum within one year of entering the U.S. There are some exceptions that might apply if you missed the deadline, but it is very important to look for legal help as soon as you can.

### more information on asylum:

- Asylum Program and the Transgender Law Center fact sheet: Applying for Asylum on the Basis of Gender Identity Persecution at [www.transgenderlawcenter.org](http://www.transgenderlawcenter.org) or call (415) 865-0176 for a copy.
- Immigration Equality, Information for Asylum Seekers at [www.immigrationequality.org](http://www.immigrationequality.org)

from entrance into federal buildings.

The Act also standardizes the documents required for obtaining State ID, thus leaving less room for exceptions allowed in the past for transgender and immigrant people who often lack various forms of ID. Also, since these documents include proof of residency and citizenship status, undocumented immigrants will be unable to gain ID and actual home addresses must be used, not P.O. Boxes. All these documents required for obtaining ID will be verified and copied into a national database; be

## Trans Marriage Recognition

In general, U.S. citizens (and, with greater restrictions, legal permanent residents) can petition for a non-citizen spouse to obtain lawful permanent residence (a green card) in the United States. Marriages where a spouse is transgender have sometimes not been seen as valid in this context. But, the law in this area is changing.

In 2004, Citizenship and Immigration Services (CIS) stated that it would not recognize marriages for immigration purposes where one or both of the spouses “claims to be transsexual.” But, more recently, the Board of Immigration Appeals recognized as valid a marriage between a transgender woman and a non-transgender man in North Carolina. This decision says that when a marriage with a transgender spouse is valid in the state where it was celebrated, it is valid for immigration purposes. There are a number of cases on appeal about marriage-based petitions where one of the spouses is transgender.

Because there are so many changes, you should always ask for advice from an immigration attorney for any questions in this area. Also, if your U.S. citizen spouse hurts, threatens, tries to control or abuses you, you may be able to apply for immigration status on the basis of your marriage on your own, without your spouse. You should contact an attorney to assist you if you are in this situation.

available for viewing for at least 10 years; and be accessible by an as yet undefined group of people. Thankfully, the Act does not require states to issue licenses reflecting a person’s gender identity; however, all the aforementioned requirements—such as the verification of documents and an accessible database—will likely cause much more investigation of transgender and immigrant people’s documents.

It is important to know the rules for ID in your state, as they vary depending on your location.