

Name Changes in Maryland

Presenters:

Chris Rahl, Gordon Feinblatt

Heather Heiman, MVLS Human Trafficking Prevention Project





Why Change Your Name?

- Some examples of reasons to change a name include:
 - Just because you want to!
 - Marriage
 - Divorce
 - Adoption
 - Safety and privacy
 - Gender Identity (in conjunction with changes to gender designation via court order or via administrative action on official documents)
- You can change your name for any reason you want, EXCEPT:
 - For the purpose of fraud or an illegal purpose AND
 - Your new name must not interfere with the rights of anyone else.

General Guidelines for Adults

- Maryland Rule 15-901 Action for Change of Name:
 - Must be brought in the county where person seeking name change resides (or where carries on a regular business, is employed, habitually engages in a vocation, or was born)
 - Rule applies to name change actions other than those relating to adoption, divorce, or declaration of gender identity
- A petition for change of name shall be under oath and must at least contain:
 - Captioned, “In the matter of . . .” (name of person seeking change) “for change of name to [insert desired name]”
 - Name, address, date of birth, and place of birth of person whose name is to be changed
 - Whether person requesting change has ever been known by another name; if so, list the name(s) and how they were used
 - The desired change of name
 - All reasons for the change requested
 - Certification that individual is not requesting name change for illegal or fraudulent purpose
 - If minor, names and addresses of the parents and/or guardians or custodians (see slide re: minors for more detail)
 - If person seeking change has ever registered as a sex offender and if yes, full names/suffixes of the name that was registered
 - Attach copy of birth certificate, state driver’s license/ID, or other documents which prove current name of person seeking the change

Publication or posting of notice is no longer required in Maryland!!



Minors -- Generally

- Name change petition for a minor must be brought by an adult petitioner on behalf of the minor in the county where the minor resides, or where a parent, guardian, or custodian of the minor resides
- Petition must include:
 - (i) a statement explaining why the petitioner believes that the name change is in the best interest of the minor;
 - (ii) the name and address of each parent and any guardian or custodian of the minor;
 - (iii) whether each of those persons consents to the name change;
 - (iv) whether the petitioner has reason to believe that any parent, guardian, or custodian is unfamiliar with the English language and, if so, the language the petitioner reasonably believes the individual can understand;
 - (v) if the minor is at least ten years old, whether the minor consents to the name change; and
 - (vi) if the minor is younger than ten years old, whether the minor objects to the name change
- If a petition filed on behalf of a minor contains confidential information pertaining to the minor, the petitioner may request that the court seal or otherwise limit inspection of a case record as provided in Rule 16-934
- Along with a copy of the minor's birth certificate, the petition must include:
 - (i) the written consent of each parent, guardian, and custodian of the minor or an explanation why the consent is not attached, and
 - (ii) the written consent of the minor, if the minor is at least ten years old



Minors -- Generally

- If the consent of each parent, guardian, and custodian is not included with the petition service of the petition and attachments is required on the non-consenting party (if the petition indicates that a non-consenting party may be unfamiliar with the English language, a multi-lingual advisement form approved by the State Court Administrator is required)
- Changing a minor's name does **NOT** change their legal relationship with a parent or guardian
- If child less than 1 year old, see MD. HEALTH GEN. CODE ANN. § 4-214(c)(2):
 - Parents can change the name of a child *born in Maryland* **one time** within the child's first year without getting a court order. Both parents listed on the birth certificate must submit a written request to the Department of Health along with a signed, notarized affidavit that they are the child's true parents and the request for name change is being made of their free will.
- More than one name change in a child's first year or a name change requested after the first year requires a court order

Minors -- Adoption

- Change of a minor's name pursuant to ADOPTION follows a separate procedure
- Parent or guardian may object
- Best Interest of Child Standard; factors include:
 - The length of time the parent's name has been used;
 - The strength of each parent-child relationship; and
 - The need of the child to identify with a new family unit
 - Abandonment **and** serious misconduct disgracing an existing surname are of paramount importance in establishing extreme circumstances
- Court will also consider any additional factors that will help court decide the best interest of the child(ren)
- Service of petition required

Service of Petition for Minor

- Service of Petition is required when the person whose name change is sought is a minor (unless all parents, guardians, and custodians provide written consent that is filed with the petition)
 - Parent, custodian or guardian
 - Copy of the petition, any attachments, and notice (15-901 (e))

Rule 2-121 outlines proper service of process procedures:

“When proof is made by affidavit that good faith efforts to serve a parent, guardian, or custodian pursuant to Rule 2-121 (a) have not succeeded and that Rule 2-121 (b) is inapplicable or that service pursuant to that Rule is impracticable, the court may order that service may be made by (1) the publication required by subsection (e)(2) of this rule and (2) mailing a copy of the petition, any attachments, and notice by first class mail to the last known address of the parent, guardian, or custodian to be served.”



Objections to Petition/Hearing

- Rule 15-901(e):
 - Any person may file an objection to the petition.
 - The objection shall be supported by an affidavit that sets forth the reasons for the objection. The affidavit shall be made on personal knowledge, shall set forth facts that would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated in the affidavit.
 - The objection and affidavit shall be served upon the petitioner in accordance with Rule 1-321.
 - The petitioner may file a response within 15 days after being served with the objection and affidavit.
 - A parent, guardian, or custodian of a minor who does not file an objection within 30 days after being served in accordance with section (d) of this Rule shall be deemed to have consented to the name change of the minor.



Objections to Petition/Hearing

➤ Rule 15-901(f):

(1) *Name Change of Adult*. The court may hold a hearing or may rule on a petition to change the name of an adult without a hearing and shall enter an appropriate order, except that the court shall not deny the petition without a hearing. The court may not enter an order earlier than 30 days after the petition was filed.

(2) *Name Change of Minor*. The court may hold a hearing or may rule on a petition to change the name of a minor without a hearing and enter an appropriate order if (A) the written consent of the minor, if required, has been filed, and (B) each parent, guardian, and custodian (i) has filed a written consent pursuant to subsection (c)(2)(B) of this Rule, or (ii) having been served pursuant to section (d) of this Rule, did not timely file an objection. In all other cases in which a name change of a minor is requested, the court shall hold a hearing and enter an appropriate order no earlier than 30 days after all nonconsenting parents, guardians, or custodians have been served in accordance with section (d) of this Rule.

Alternative Service for Parent

- **What are “reasonable efforts” for service of petition if you are unable to locate one parent?**
- Typically the court will be satisfied with 2 unsuccessful attempts to reach an individual:
 - Try internet search to locate any address or phone number; send at least 2 certified letters to *any* found address
 - Prepare an affidavit for the court detailing the search process and providing the rejected certified letters
 - Court may require use of a process server but this is not typically necessary if multiple unsuccessful efforts have been sufficiently documented

Posting – Challenges with Notice

- If a parent cannot be located to serve the petition, the court may allow you to post notice of the pending name change
- The mechanics of posting involve a short notice of the proposed name change that the Sheriff posts on a bulletin board in the courthouse
- The notice is posted on a bulletin board for 30 days and serves the same function as the publication in a newspaper of general circulation (albeit to a smaller audience)



Court Forms

Visit <https://mdcourts.gov/family/formsindex#changenname> to see domestic relations and name change forms with information on most recent updates to the forms:

- Petition for Change of name (Adult) & Instructions: DR60, DRIN60
- Petition for Change Name (Minor) & Instructions: DR62, DRIN62
- Consent to Change of Name (Consent of Parent): DR63
- Consent to Change of Name (Person on Birth Cert.): DR64

MD Courts also has walk through of the **Name Change Process** with links to forms & instructions: <https://www.courts.state.md.us/legalhelp/family/namechange>

MD Courts Resources on **Judicial Declaration of Gender Identity** with links to forms & instructions: <https://www.courts.state.md.us/genderidentity>

- Petition for Judicial Declaration of Gender Identity with or without a Name Change (Adult): DR120

Sealing in Name Change Cases

- Name change proceedings are public records!
 - If the client has any concerns about privacy or safety, a Petition to Seal or Otherwise Limit Inspection of a Case Records may be filed with the name change petition(s)
 - <https://www.courts.state.md.us/sites/default/files/court-forms/courtforms/joint/ccdc053.pdf/ccdc053.pdf>
- Must include information on:
 - What parts of record to seal – can request all records related to proceedings
 - Why sealing or limit on inspection is requested – “due to safety and privacy concerns”
 - Why immediate, substantial and irreparable harm will result if requesting records be sealed immediately
- Must notify other parent if petitioning for minor, but can redact identifying info from filings
- Can attach supporting evidence
- Request generally decided without a hearing

Corrections: Misspellings

- Changing a name of a minor or adult due to misspelling does not require a court order
- Department of Health will correct records if they are satisfied that submitted documents prove the person's correct name
- Department of Health may require submission of additional documents
- Additional details, see MD Code Ann., Health General 4-214, COMAR 10.03.01.03
- For child **under 7 years old**, must submit **one or more** of the following documents to the Division of Vital Records:
 - notarized letter from a parent citing the correct name
 - notarized letter from the hospital citing the correct name
 - notarized letter from the attendant at birth citing the correct name
 - notarized physician's office record of the birth citing the correct name

Corrections: Misspellings Cont'd

- For person **7 years or older**, must submit 2 or more of the following which cite correct name:
 - Baptismal or other church records- these are acceptable if (1) They are an original certificate or book record made at the time of baptism, or (2) A copy of the certificate or book record executed under church seal by the custodian of the church record, or (3) A notarized statement attesting to the baptism and signed by the custodian of the church records
 - Insurance Policy
 - Hospital or Clinic Record
 - Physician office record of birth
 - Pre-K or grade-school record
 - Family Bible Record
 - Employment Record
 - Military Service Record
 - Federal Census Record
 - Birth Certificate of **child of the subject** of vital record
 - SSA record of individual's original application for SSN
 - Any other relevant record meeting the Secretary's approval and corroborating the name
- Marriage License

Corrections: Missing Name

- First and last names missing from a birth certificate can be added without a court order
- You must provide the required documents (listed in Misspelling Slides) to show the correct name in use
- COMAR process v. judicial process to correct birth certificate

Marriage

- Some people wish to change their names when they get married
- Either party or both parties to the union may change name
- Hyphenated last names that combine both names are permitted
- Use certified copy of marriage certificate to change important papers

Divorce

- Can request a name change as part of your final divorce decree and use the certified copy of decree as proof
- If divorce has already been filed, can amend petition for divorce to include request for name restoration up to 30 days prior to the hearing
- If divorce has already been completed, can make this request separately from divorce proceeding up to 18 months following final absolute divorce decree
 - No requirement to post or publish
- After name restoration, use Judgment of Absolute Divorce copy to prove name change when obtaining important documents such as identification, financial documents, etc.
- Family Law Article 7-105

Criminal Registration & Notice

- Maryland Code, Criminal Procedure Article § 11-705
 - Individuals that are required to register with their local law enforcement unit and that receive a name change must notify the local law enforcement agency in writing within 3 days of the name change
- May include those that were:
 - Granted probation;
 - Granted a suspended sentence;
 - Received a sentence that does not include a term of imprisonment; or
 - Released from the juvenile court's jurisdiction
 - Sex Offenders

Adoption

- Name change should be pled as part of the adoption filing
- The Court should provide you with a Certificate of Adoption to complete and return to the Court
- Once the final adoption decree has been issued, the Court files the form with the Division of Vital Records
- DVR will mail the adopting parents a Birth Registration Notice
- A certified copy of the new certificate is \$10 for each copy
- There is also a \$12 processing fee

Costs

- Depends on type of petition or request
- Filing fee is approximately \$160
- When petitioning on behalf of MVLS client be sure to use a **filing fee waiver**:
 - <https://mdcourts.gov/sites/default/files/import/courtforms/joint/ccdc088.pdf>
 - Benefit to clients going through MVLS PB program – simple fee waiver form that is generally accepted by courts!
 - Occasional issues – Waiver of prepaid costs vs. final costs
- MVLS clients are responsible for court costs that are not waived, BUT if cost is a barrier, attorney **may** be able to use the PBRC litigation fund for reimbursement. Pre-approval can be sought prior to forwarding funds; more information can be found at <https://mvslaw.org/attorney-resources/>
- Certified order in case of marriage, divorce, or adoption - nominal cost

Steps for Client – After Receiving a Name Change

- Get multiple copies of order!
- Provide a copy of the court order containing new name to the Division of Vital Records to obtain an updated birth certificate
- Obtain new vital documents with your proper name such as Driver's License, Social Security Card, Passport, etc.
 - Start with Social Security Administration - SS card should be reissued first, since driver's license requires valid SS card with proper name
- Notify post office, employers, educational institutions, health care providers/insurance, financial institutions (including credit reporting agencies), and other important contacts of name change

Resources for MVLS Volunteers: Looking for Pro Bono Cases?

WELCOME TO THE MVLS PRO BONO PORTAL!

Select a case today by reviewing available cases shown below in real time. You can click "Learn More" to express your interest in the case, or click "Share Case" to forward the available case to a colleague.

If you are not currently a MVLS volunteer, please [click here](#) to register.
By taking a case today, you are helping MVLS to ensure Justice For All.

All Bankruptcy Debt Collection Deed Transfer Estates Expungement Family Foreclosure/Tax Sale Landlord-Tenant Tax Other Category

Search ... All Counties

Single Mom Can't Afford A Large Payment

Client is being sued by her former landlord for \$4146.59. She admits she owes some but not all of the debt and is hoping to reduce the amount she has to pay. Court date set for 7/20/18 at 1:30pm.

Location: Baltimore County Ref. #: 18-0138741 Case Type: Debt Collection

[Share Case](#) [Learn More](#)

I Admit To The Debt, But Can We Negotiate A Settlement.

Client is being sued for \$933.00 for failing to make payments towards a debt. Client agrees that she owes the debt. There are no judgments entered in the case. Client has paid approximately \$300 toward the debt and would like to work out a settlement for the remaining. Affidavit Judgment Hearing: 7/23/18 at 1:00PM. Trial: 8/3/18 at 9:00AM.

Location: Washington Ref. #: 18-0138685 Case Type: Debt Collection

[Share Case](#) [Learn More](#)

You Have Left Me No Other Choice But To File For Rent Escrow.

Client wishes to initiate a rent escrow case after nothing has been done to make repairs. Client has lived in the property since October 2016 and problems in the unit began in December 2017. To date LL, has not tried to resolve the mold issue, flooding, falling attic stairs, and the hole in the ceiling.

Location: Baltimore County Ref. #: 18-0138671 Case Type: Landlord-Tenant

[Share Case](#) [Learn More](#)

Landlord Requests The Move, Now Refusing My Security Deposit.

Client filed suit against her previous Landlord for the return of her security deposit and three times the amount. Client only lived in the property for 3

Looking Towards A Fresh Start

Client seeks help with expunging her criminal record.

Here's To New Beginnings!

Client seeks to go over her criminal record with a volunteer and to have the eligible cases expunged from her record.

Visit our website at
<https://mvlslaw.org/pro-bono-portal/>
to see available cases!

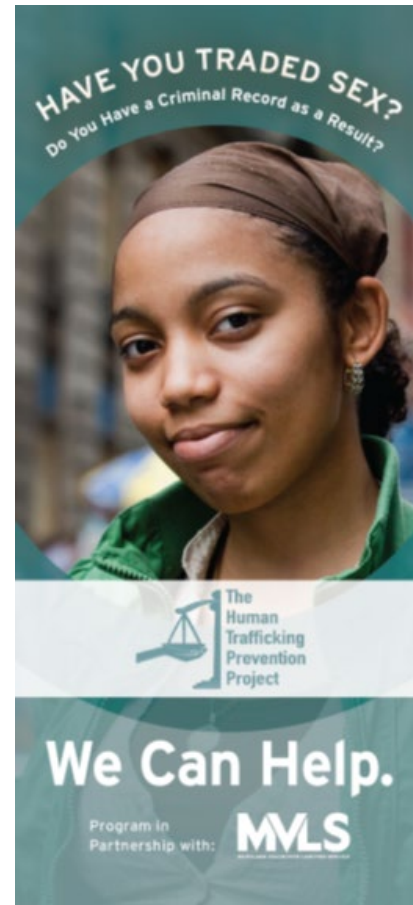
Make a Referral to MVLS via the Human Trafficking Prevention Project

To make a referral for services, please visit:

<https://htprevention.org/get-help/>

To request outreach materials or to inquire about partnering with us, please email us at:

http@ubalt.edu



Follow us on social media!



facebook.com/MVLSProBono/



Maryland Volunteer Lawyers Service



@MVLSProBono

Visit www.mvlslaw.org/events for more info on upcoming training and clinics!

Thank you!!

Christopher Rahl

Gordon Feinblatt LLC

crahl@gfrlaw.com

Heather Heiman

Maryland Volunteer Lawyers Service (HTPP)

hheiman@mvlslaw.org

Nancy Grimm

Maryland Volunteer Lawyers Service

ngrimm@mvlslaw.org