

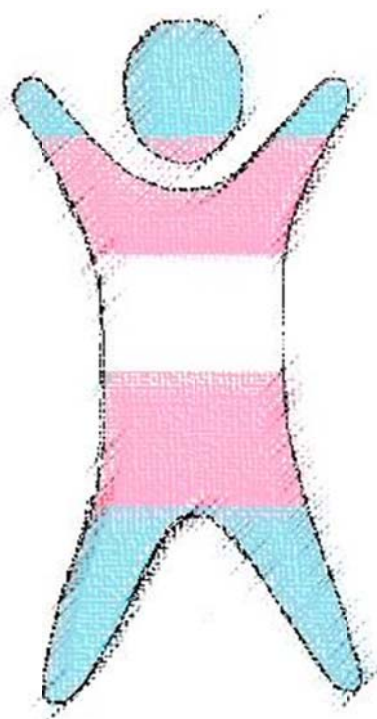
# Legally Transitioning

For Trans People in Indiana



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## How Do I Use This Booklet?

### Who was this booklet made for?

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This booklet was made for anyone who is questioning their gender, anyone who might identify as transgender, is non-binary in their body or identity, or identifies as a gender different than that assigned to them at birth. This booklet contains information regarding things to consider when coming out at work and other professional settings. There is information about changing your legal name and gender marker on state and federal documents for people with a variety of legal status, including those who are undocumented. There are also booklets on “Coming Out Safely: Socially Transitioning for Trans People” and “Trans Inclusive Health Insurance”.

### How was this booklet made?

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This booklet was constructed by the author after 10 years of being part of the trans community and working with those who identify as part of trans and/or gender non-conforming communities, those who identify as intersex and/or those who have differences in sexual development (DSD). The contents of this booklet cannot possibly describe the experiences of ALL trans and/or intersex people – instead this is only an effort to alleviate some of the stress of navigating a society, services, and legal system that are often very trans unaware and unsupportive.

### What should this booklet be used for & what should it not be used for?

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This booklet is an educational tool only. It does not reflect the views of all trans and/or intersex people, any whole community, or the views of any organization that distributes this material. It should not be used as a legal document, legal aid, or replace medical/health information or legal advice given by a professional. This document was not made by any organization but may be offered through organizations as a supportive and educational material.

### Where can I access free internet to get to the websites listed in this document?

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While most of the information is written in this document, you can get more information by going to the websites in this document. If you do not have a computer or access to internet, you can always use free computers at most public libraries, the computers at the Pride Lafayette Community Center (open 6-8pm each day at 640 Main St., Lafayette, IN), or possibly access free computers and internet at a college or university near you.

## Legal Protections Summary

- **Get informed.** Coming out in professional settings can be both rewarding and risky. Be informed about how you are and are not protected in your organization, at the state level, and at the federal level. In most settings and states it is not illegal to ask about someone about their trans identities or transitioning status and it is usually legal to not hire or fire someone for being trans or transitioning.
- **The EEOC protects trans people.** The Equal Employment Opportunity Commission has ruled that it is illegal to discriminate against trans people as a form of sex discrimination. For those employers subject to EEOC oversight, this gives them incentive not to discriminate, but does not necessarily prevent them from doing so.
- **Undocumented workers have rights.** Although it is illegal to hire undocumented workers, if an undocumented worker is hired, the employer is still legally required to pay them minimum wage and overtime, the employee can still file a lawsuit against an employer for harassment or discrimination for reasons unrelated to their legal status, and the employer is not legally allowed to retaliate against the person filing the lawsuit.
- **No more “no match” letters during background checks!** Background checks no longer result in a “gender no match” letter to your employer. However, your previous name(s) will be on the background check and some background checks also list previous gender markers.
- **Trans people have few housing protections.** There are no explicit federal or state protections (in Indiana) against housing discrimination on the basis of sexual orientation, gender identity, or gender expression.
- **Gender markers may impact health insurance, travel, employment, and housing.** A person’s legal gender marker may impact their access to certain forms of health care and health insurance coverage, traveling, employment and housing. Remember that you can choose to have different gender markers listed on different forms of identification, and for some people this is helpful in navigating legal and health care systems and social situations.
- **Court orders are legally compelling.** Once you have a court order for a name or gender marker change, you cannot be denied access to those legal changes at the state or federal level for reasons unrelated to the law. For example, you cannot be denied a name change on your driver’s license if the “gender” of your name does not “match” your gender marker.
- **Indiana recognizes court orders from other states and countries.** If you get a court order for a name or gender marker change in another state/country (for example if your birth certificate is in another state/country), Indiana will recognize it.
- **About surgical requirements...** Indiana BMV policy requires “permanent” change in gender that is supported in writing by a physician to acquire a changed driver’s license. This is vague enough that many individuals have successfully acquired court orders for gender marker changes without surgery. A court order is required for gender marker changes on Indiana birth certificates and there is no state law that requires “permanent” physical changes to acquire a changed gender marker on Indiana birth certificates. However, it is common practice for individuals to be required to submit the same form filled out by a physician (<http://www.in.gov/bmv/2767.htm>) that you would use for legal gender marker changes conducted through the BMV.

## Checklist for Legal Changes

This checklist is for individuals with citizenship status or naturalized status who are interested in legal name and gender marker changes in Indiana.

- ☐ **Paperwork.** Go to <http://www.in.gov/judiciary/selfservice/2338.htm> and fill out the name change packet electronically or print it out and fill it out by hand. You should be able to fill out one form for your name change and your gender marker change together. Ask the county clerk about whether “gender change” or something similar should be written on the paperwork for legal gender changes. Do not sign the forms until the Clerk asks you to.
- ☐ **County Clerk Visit 1.** Go to the county clerk with your paperwork and be prepared to pay the filing fee. Keep your receipt and your case number. It will take about 48 hours for them to cash a check and process your paperwork (if the judge is not present when you go to turn in your paperwork).
- ☐ **County Clerk Visit 2.** Return to the clerk to get a copy of the completed paperwork and set a date and time for your court appearance. Get at least two copies of the stamped and signed paperwork – one for yourself and one for the newspaper printing company (for legal name changes).
- ☐ **Newspaper.** For legal name changes, you must post the name change in a newspaper that is publically distributed for 3 consecutive weeks. The last week must be at least 30 days before the date of your court hearing. You do not need to post legal gender marker changes in the newspaper.
- ☐ **Judge Hearing.** On the date of your court hearing, you will be asked to meet a judge with your original petition for name/gender marker change, the certified copy of these documents, the proof of publication in the newspaper (which the newspaper will mail to you), and any identification that is necessary.
- ☐ **Driver’s license change.** As soon as your name or gender marker change is granted, take your court order and the form (<http://www.in.gov/bmv/2767.htm>) your physician filled out to the BMV along with several documents that prove your residency in the county. Residency documents include your current driver’s license that has a local address on it, utility bills with your address and name on them, and checks from the bank that have your name and local address on them. If you are a student, you can use University documents to show that you are residing in the county of the university/college. If you are someone experiencing homelessness, many shelters or other housing centers will provide you with a mailing address to use.
- ☐ **Social security change.** Go to your local social security office to request a new social security card. They typically require documents that prove your identity, the court order (for name or gender marker changes) and/or a physician’s letter (if your gender marker is getting changed).
- ☐ **Banks, schools, loans, etc.** After you get at least one document changed, you should begin notifying all other entities of your name or gender marker change. Most places require that you show a new i.d., not just a court order. Once your new state i.d. or driver’s license gets in, you can take this to colleges, banks, and contact loan companies to let them know about changes. Please read more below or check out the trans inclusive health care document written by the same author to consider how you will navigate gender marker changes with health insurance companies.

## Coming Out at Work

Coming out at work and other professional settings is becoming a simpler and less intimidating process as companies, corporations, organizations, and small businesses become more aware of LGBTQ+ experiences. Businesses are beginning to understand the benefits to employees and employers by supporting staff fully. However, there are many places that do not protect LGBTQ+ individuals. For this reason, this section is written to support those in work environments that are the least supportive and protected.

### What is discrimination?

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Discrimination is any action that gives preference to a person or group of people over another person or group of people on the basis of an identity or status rather than on the basis of their skills necessary for a job. This could include: not being hired because you are trans-identified or because you are transitioning, being given different or inappropriate tasks for your job description based on your trans status, being given no tasks as an effort to push you out of a job based on your trans status, and well as many other behaviors and language. Notice that discrimination is not always illegal.

### What is harassment?

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Harassment is any behavior or language said or done with the intent or impact of being upsetting or threatening. Calling someone “an ugly old tranny” could be considered verbal and sexual harassment as well as discrimination on the basis of gender identity, sex, gender expression, and age. Telling someone that if they transition, they will get fired is also harassment and discrimination. Understanding discrimination and harassment are important so that you can protect yourself against these situations personally and legally as well as use this information to come out as safely as possible.

### What legal protections exist for workplaces?

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Work places, counties, the state, and the federal government all have different laws regarding protecting or not protecting trans people. The language that is typically used includes protection on the basis of “sex”, “gender identity”, and “gender expression”. You can find information about whether you are protected legally and how you are protected by searching online for federal, state, and county laws. The National Center for Transgender Equality offers some great information about workplace protections:

General Workplace Protections: <http://transequality.org/know-your-rights/employment-general>

Federal Workplace Protections: <http://transequality.org/know-your-rights/employment-federal>



## Coming Out at Work while Undocumented

### Is it legal for me to be employed if I am undocumented?

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No, it is illegal according to the U.S. government and Indiana state laws to knowingly hire undocumented individuals. Besides that, Indiana has relatively strict laws against supporting undocumented people. Many of these regulations were made in 2011 by a bill signed by the then-governor Mitch Daniels called the Compromise Illegal Immigration Reform Bill (SEA 590), but many laws, especially at the federal level, existed long before that. For example, all public employers are required to use a system called E-verify to check the legal status of prospective employees. Private employers (like local businesses or companies not owned by the government) do not have to use E-verify, but they can and Indiana gives them incentives to use it. The state laws that dictate all this can be found in section *IC 22-5-1.7*. The federal equivalent of E-verify is called SAVE – Systematic Alien Verification Entitlements Program – and was started in 1987.

Undocumented workers are ineligible for unemployment benefits (*IC 22-4-14-9*), cannot access the Indiana Jobs Training Program (*IC 22-4-41*), and employers can be reprimanded for employing undocumented people (*IC 44-4-35.5*) or even for helping an undocumented person get into Indiana (*IC 22-5-1*).

### What laws protect me if I am employed and undocumented?

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Minimum Wage and Overtime: The Fair Labor Standards Act (FLSA) – a federal law – regulates wage laws and does NOT have an exemption for undocumented workers. This means that if an undocumented person is employed, the employer must pay them minimum wage and pay them overtime, when it is applicable. In particular, there was a federal case called *Solis v. Cindy's Total Care Inc.* that says undocumented workers must be paid appropriately for the work they complete. More information is here: <http://www.dol.gov/whd/flsa/>.

Employment Discrimination and Harassment: If you are undocumented, you cannot file a lawsuit for discrimination on the basis of your legal status (since it is not legal in Indiana or the U.S. to employ undocumented individuals), but if you have experienced discrimination on the basis of race, national origin, gender, or any other status that is legally protected, you can file a lawsuit. Based on a 2002 federal case, *Hoffman Plastic Compounds, Inc. v. NLRB*, and a few other cases, undocumented workers cannot receive backpay for work they did not complete as a result of discrimination, but undocumented workers can receive financial compensation for mental or emotional distress as a result of the discrimination or harassment.

Immigration Status Retaliation: If you file a lawsuit against an employer for discrimination or harassment that has nothing to do with your undocumented status, it is illegal for the employer to use your legal status against you during the trial by trying to get you deported. This would be viewed as retaliation for filing the lawsuit. However, during or after the trial you can still be deported if it comes to the attention of ICE and they are interested in having you deported. For more information about legal rights, check out:

- <http://www.workplacefairness.org/sc/undocumentedworkers.php>



- <http://www.discriminationiswrong.com/aliens.html>
- [http://warshawskylawfirm.com/lawyer/2013/02/04/Employment-Law/Are-Illegal-Immigrants-Protected-By-Labor-And-Employment-Laws\\_bl6663.htm](http://warshawskylawfirm.com/lawyer/2013/02/04/Employment-Law/Are-Illegal-Immigrants-Protected-By-Labor-And-Employment-Laws_bl6663.htm)

### **What if I have legal status through DACA?**

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DACA is the Deferred Action for Childhood Arrivals, a temporary legal status that gives some young undocumented people the right to remain in the U.S. without fear of deportation, access to a work permit and driver's license, and a few other rights. Having legal status through DACA gives the individual many more legal rights in employment. If you have DACA status, you will not need to worry about being reported to ICE by an employer and it is illegal to not hire or fire you on the basis of your immigration/legal status.

### **Other Important Information**

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If you are undocumented – with or without DACA status – much of the information in the general “Coming Out at Work” section applies. If you are concerned about getting deported, there is a much greater pressure to be gender conforming and it may be necessary for you to express gender in a way you do not identify in order to get a job or keep a job. Ultimately, weighing the risk of deportation or unemployment vs. your level of comfort/happiness (and/or that of your family) is going to be a very personal decision and will likely change with time and as immigration law changes. Know that many people are advocating for changes in laws so that we can all have opportunities to live and love without fear.

### **Resources for Undocumented Individuals**

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*National Immigration Law Center:* <http://www.nilc.org/>

*National Center of Transgender Equality Resource (English):*

[http://transequality.org/Resources/CIR\\_en.pdf](http://transequality.org/Resources/CIR_en.pdf)

*National Center of Transgender Equality Resource (Spanish):*

[http://transequality.org/Resources/CIR\\_sp.pdf](http://transequality.org/Resources/CIR_sp.pdf)

*Not One More:* <http://www.notonemoredeportation.com/>

*National Day Laborer Organizing Network:* <http://ndlon.org/en/>

*Undocumented and Unafraid:* <http://www.undocumentedunafraid.com/>

*No Papers No Fear – Ride for Justice:* <http://nopapersnofear.org/>

### **Resources for DREAMers and Those Eligible for DACA**

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*United We Dream:* <http://unitedwedream.org/>

*Dream Activist:* <http://action.dreamactivist.org/>

*DREAMers Adrift:* <http://dreamersadrift.com/>



## Coming Out Professionally

Besides your actual work place, you may need to make decisions about coming out on your résumé, during interviews, and on other social media, such as Linked In or Facebook.

### How open should I be about identifying as trans and/or transitioning?

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This decision depends on how comfortable you are with being out and what workplace protections exist. Does the organization you are interested in have a group dedicated to supporting LGBTQ+ identified individuals? Are you concerned that someone will report you to ICE out of retaliation if you are undocumented and come out? Take into consideration both your situation and signs from the company that help you determine how trans friendly they are. Finding out whether the company offers same-sex partner benefits, transition-related health benefits, or an inclusive non-discrimination policy can also help you gauge how aware the organization is of LGBTQ+ issues.

### How should I dress during an interview?

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If you go to an interview, your dress will likely depend on the field and position and possibly on your transition status (and ability and desire to pass). Wear clothing that is appropriate for the position and comfortable. If you are interviewing for an administrative or management position, wear business clothes. If you are interviewing for a job that requires manual labor, wear more practical clothing. The topic of what to wear at interviews is very complicated since it addresses the intersection of race, class, gender expression, and gender identity. This document cannot fully address this topic because it is so complicated, but do some of your own research about interview clothing choices and contact your local LGBTQ+ organization if you have more specific questions.

### When should I use my preferred name vs. my legal name?

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If you cannot (or do not want) to change your legal name, but it is different from the name you regularly go by, there are some situations where you must use your legal name. You must enter your legal name on background checks, tax documents, documents that need to be processed by the government, insurance documents, and the document that will allow you to receive checks or get direct deposits. However, you can use the name you go by on your resume and most companies have a way to enter the name you go by which is usually listed as a “preferred name”. Some people choose to list the initial of their legal name followed by the name they go by and others write their legal name followed by the name they go by in quotations. For example, someone may write one of the following:

M. Kyla Hassan

Mikhael “Kyla” Hassan

## What resources exist to help me with the process of coming out professionally?

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*Transgender Workplace Diversity:* <http://transworkplace.blogspot.com/>

*Trans Workplace Diversity Network:* <http://transworkplace.ning.com/>

*National Center of Transgender Equality:* [www.transequality.org](http://www.transequality.org)

*Transgender Law Center:* <http://transgenderlawcenter.org/>

*Out and Equal:* <http://www.outandequal.org/>

*Pride at Work Union:* <http://www.prideatwork.org/>

*The Trans Job Bank:* <http://www.tjobbank.com/>

*The Idealist:* <http://www.idealists.org/>

*Center for Gender Sanity:* <http://www.gendersanity.com/>

*Out for Work:* <http://www.outforwork.org/>

*HRC's Transition Guidelines:*

<http://www.hrc.org/resources/entry/workplace-gender-transition-guidelines>

*HRC's Corporate Equality Index:*

<http://www.hrc.org/campaigns/corporate-equality-index#.UR-3rqXOUso>

## Background Checks

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Not all employers submit background checks. All government (or “public”) employers are required by law to submit a background check that includes checking legal immigration/citizenship status. Private businesses are not usually required to do so, but may still complete a background check.

Until 2010, when an employer would submit a background check for a prospective employee they would receive a “Gender No-Match” letter, which would blatantly out trans and intersex work applications and those with differences of sexual development. You can read about the SSA ending this practice several years ago here: [http://www.huffingtonpost.com/waymon-hudson/social-security-ends-gender-no-match\\_b\\_966654.html](http://www.huffingtonpost.com/waymon-hudson/social-security-ends-gender-no-match_b_966654.html).

Although prospective employers no longer receive letters regarding gender history, many background checks include the individual’s name history and gender history. Background checks differ depending on the service used, but often contain gender markers next to past names or past events included in the background check. If the background check does show your gender history, it may not be important as many employers overlook this if they have an automated system to check for criminal history. Many employers also overlook gender markers since they are not looking for this information.

You cannot control whether your gender marker shows up on your background check. However, an employer may bring it up during an interview. Although this is in an inappropriate line of questioning, and it may be considered illegal by the EEOC, you should think about how you want to handle the situation if it arises. You can say something like, “I don’t feel comfortable answering your question.” Or “How does that question pertain to my skills in this job?” or you may also decide to answer their question and explain part of your gender history. Each of these actions has its own pros and cons so your answer will depend on the job and your own situation.

## Housing Protections

### Federal Protections for Housing

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In the summer of 2010 the U.S. Department of Housing and Urban Development released a statement that the Fair Housing Act's protection against gender discrimination included discrimination against transgender people. However, it is not specifically stated in the Fair Housing Act that people are protected on the basis of sexual orientation, gender identity, or gender expression making federal housing protections complicated. For more information, read on the Housing and Urban Development's LGBT webpage here:

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/LGBT\\_Housing\\_Discrimination](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/LGBT_Housing_Discrimination).

### State Protections for Housing

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Indiana does not protect against housing discrimination on the basis of sexual orientation, gender identity, gender expression, or immigration status. The state does protect against housing discrimination on the basis of national origin and ancestry. To read more, go to this state webpage:

<http://www.in.gov/icrc/2650.htm>.

## Organizations That Can Offer Legal Assistance

*National Center for Transgender Equality (NCTE):* <http://transequality.org/>

*Transgender Law Center:* <http://transgenderlawcenter.org/>

*Indiana Legal Services:* [www.indianalegalservices.org](http://www.indianalegalservices.org)

Offer income-based services!

*National Center for Lesbian Rights:* <http://www.nclrights.org/>

(The NCLR services the entire LGBTQ+ community, not just lesbians.)

*Lambda Legal:* <http://www.lambdalegal.org/>

For more legal resources go here: <http://www.transgenderlaw.org/resources/>



## Court Order for a Legal Name Change

### Where can I find Indiana State information about a court order for a name change?

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Indiana is one of several states that require a court order for name changes that are unrelated to marriage, divorce, or immigration status. To complete this process you must be at least 17 years old, not be in jail or prison, you cannot have been convicted of a felony in the last 10 years or be someone required to register as a sex offender, and you cannot be avoiding creditors. Contact your local Clerk to find out which court your name change needs to be filed, how many copies you will need of each form, how much the filing fee is, and any other details that are specific to your county. Notice that you do not have to be born in the county you are currently living in – or even be born in Indiana – to get a court order for a name change in Indiana. If you prefer to get physical copies of the paperwork, go to your county clerk or public records office. Otherwise, you can access the paperwork online here:

- Here is information about legally proving your identity: <http://www.in.gov/bmv/2767.htm>
- Here are local court rules to help you figure out the details of your paperwork: <http://www.in.gov/judiciary/2694.htm>
- Here is the website that gives you all the general paperwork, application information, and other rules: <http://www.in.gov/judiciary/selfservice/2338.htm>

### What will the cost of getting a court ordered name change?

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The total cost of getting a court order for a name change is about \$300 because the court order will be around \$130-175, the newspaper posting will be about \$125, and then a new driver's license or state i.d. will be between \$9 and \$11.50 (Here is a larger chart about the costs of i.d.s in Indiana: [http://www.in.gov/bmv/files/Fee\\_Chart.pdf](http://www.in.gov/bmv/files/Fee_Chart.pdf)). A new birth certificate is usually under \$25, and changing your name with the social security administration is typically free. You may also want to consider whether you will lose money if you take off work, money for gas mileage, and any other indirect costs. You will need to pay the court fees when you submit the paperwork and you will need to pay for the new i.d.s when you apply for them.

### What is the legal process of getting the court order initiated and completed?

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Take original documents (and copies of documents if necessary) to the Clerk of the Court where you will sign the document in front of the Clerk, the Clerk will verify your identity, you will pay for filing, and you will be given both a receipt for paying and a case number. Ask for a copy of your paperwork to keep and keep your receipt and case number! Remember you can find out how to prove your identity here: <http://www.in.gov/bmv/2767.htm>. It is a good idea to call your county clerk ahead of time to ask if they accept cash, check, credit card, or money order. Most clerk offices around the state accept any of these forms of payment and sometimes the websites have not been updated to include this information.

After the judge is consulted, the county Clerk will ask you to return so you can get a copy of the certified and signed paperwork and you can schedule a final date for your court hearing. The court will set the hearing date far enough in advance that you can post your name change information in a newspaper for 3 consecutive weeks and the hearing will be at least 30 days after the last week your name change is in the newspaper (if this is a requirement in your county).

Bring the signed and certified Notice of Petition for Name Change to the local newspaper – specifically the person at the newspaper who handles legal notices – and have the Notice of Petition for Name Change appear in the newspaper once a week for three weeks. This usually costs about \$100 - \$150. If you are in the Lafayette area, trans people have suggested using the Lafayette Leader instead of the J&C newspaper for this because the Lafayette Leader has fewer people who read it and may be cheaper. Across Indiana there is a lot of confusion from newspaper companies and clerk offices about whether an individual is required to post their address in the newspaper for a name change. For the time being, it is best to follow the requirements presented by your newspaper. If you find the state law or law interpretation that defines this, please contact the author so this information can be included!

*One note about safety: Some trans women have mentioned that some people are aware trans people are required to post their name change in the newspaper and these individuals will watch the name-change section of the newspaper until they see someone who is changing the “gender” of their name (for example, Travis to Tiffany). Because many counties require the person to put a mailing address on your name change newspaper posting, some trans women have received letters from men soliciting them for sex. This is sexual harassment and if you feel comfortable you CAN report it to the police! If you experience this and would like help reporting it, please feel free to ask for support by emailing [translafayette@gmail.com](mailto:translafayette@gmail.com) or get a friend or mentor to go with you. No one should have to deal with harassment. If you or a friend has a mailing address that is a P.O. Box or a non-residential address, it is a good idea to post that rather than posting your residential address. If you are able, it is even worth renting a P.O. Box for a month to use so that you can avoid posting your home address.*

Notice that the last time your petition for a name change gets posted in the newspaper must be at least 30 days before your hearing date. 30 days after the last newspaper post of your petition for your name change, you can THEN (and only then) file the proof of publication with the court. When the newspaper sends you a “proof of publication” notice (saying you did post your Notice of Petition for Name Change in the paper each week), you should first make a copy to keep for yourself, and then staple the original to the Notice of Filing Proof of Publication paperwork and file these forms with the Court.

“If you have had a felony conviction in the last ten (10) years, you must provide notice of the filing of your petition for name change both to the sheriff and the prosecuting attorney of the county where you live and to the Indiana central repository for criminal history information at least 30 days before the hearing on your petition. (Please see the NOTICE included in the Petition for more information.)” – According to the Indiana Government website. You can then appear at your hearing date to inform the judge about why you want a name change. Once your name change is granted, it will take an additional 2 to 4 days to receive the court order paperwork to begin getting your i.d.s legally changed. Altogether, the process of getting this court ordered name change will take about 3 months if you live in a county that requires you to post in the newspaper.

### **Does the judge always grant name changes?**

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No, the judge does not have to grant a request for a name change. Whether you inform the judge that you are changing your name because you are socially or physically transitioning or not, there is always the risk of being denied and having to start over. Generally, people should only be denied if they are hiding from the law or from creditors, not because they are trans. If possible, ask friends or trans groups on social sites about what judges are known to be trans friendly. If you are interested in helping to create a list of trans friendly judges in Indiana, please email the information to [translafayette@gmail.com](mailto:translafayette@gmail.com).

### **What is the court hearing like?**

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The court hearing will likely be held in a small court room with less than 20 chairs. Most name change petitions are only scheduled for 5 minutes on the judge's agenda, so it will not be a long meeting. Notice that since name changes are not viewed as a very serious judicial matter, you may have others in the room with you waiting for their name change petitions or other legal matters heard before the court as well. The judge will likely ask things like:

- What is your legal name?
- What is the name you are switching to?
- Why are you changing your name?
- How long have you thought about getting your legal name changed?
- Have you given your name change consideration?
- Have you told family or friends about your name change?

The judge is ultimately trying to determine two things: 1. Whether you are changing your name for personal reasons or if you are trying to run from creditors or the law. Many people simply tell the judge that they are transgender and looking for a name that better fits their gender, especially if they are changing their gender marker at the same time. Based on feedback from community members to the author of this document, it is unlikely that you will be denied a legal name change for being trans-identified. 2. The judge wants to determine that you are making a relatively permanent name change. Since judges are often very busy, they don't like going through name changes repetitively with people.

Letting the judge know if you have seen a psychologist or a physician for transition-related care can often help show that you are serious about getting your name change. If you show uncertainty about the name you want to switch to or you mention you have been considering a different name, they will likely ask you to come back in a month after you have thought about your decision more. Be sure to come with a decisive answer to the name you want to go by when you get to the hearing.

Some judges may ask whether you have informed family members about your decision to change your name and even whether your family is supportive. These questions are intended to also gauge how much time and thought you have put into the name change. If your family or friends were not supportive, it is okay to let the judge know. You should not be denied a legal name change if you let them know that your relatives have been unsupportive.

### **What do I need to do after the name change is granted?**

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Inform government agencies (such as the Social Security administration), your employer, bank, creditors, health insurance company, medical facilities, any agency that is providing you a loan, and any other institution, agency, or person that needs to know. Notifying these agencies usually involves bringing a changed i.d or the court order or both.

Remember that as soon as you get the court order (about 2-4 days after it is granted by the judge) in the mail, you can begin getting your driver's license, state i.d., birth certificate, and other documents changed. From start to finish, getting your court order and documents changed will take about 3-4 months in total.

### **Can the BMV ignore the court order for my name change?**

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No, they cannot. A community member went to the BMV to get their name changed without their gender marker changed. The BMV official told them they refused to change their name from a feminine name to a masculine name without the accompanying gender marker change. **This is not a legitimate reason for denying this change since their name change was supported by a court order.** Once you have a court order, it compels state employees to comply with it – meaning they will have to help you carry out the court order.

### **Can I get my name change and gender maker change at the same time?**

---

YES! And it is significantly cheaper if you do them at the same time. Each time you file for a court order, it is going to be an additional \$130-175. If you file for a name change and a gender marker change at the same time, it will only cost \$130-175 in total. The main differences between a court order for a name change vs. a gender marker change is that the name change requires newspaper posting (the gender maker change does not) and the gender marker change requires you to get a letter from a physician (while the name change does not). Remember that if you only want your gender marker changed on your driver's license or some other state i.d., you do not need a court order.



## Court Order for a Legal Gender Marker Change

### Where can I find Indiana State information about a court order for a gender marker change?

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Indiana is one of several states that require a court order for gender marker changes in order to change your birth certificate (not driver's license!). To complete this process you must be at least 17 years old, not be in jail or prison, you cannot have been convicted of a felony in the last 10 years or be someone required to register as a sex offender, and you cannot be avoiding creditors. Contact your local County Clerk to find out which court your gender marker change needs to be filed, what paperwork is required, how many copies you will need of each form, how much the filing fee is, and any other details that are specific to your county.

You can get a court order for a legal gender marker change in Indiana even if you were not born in Indiana and this court order can be used to change your state i.d. and many other documents. However, if you were born outside of Indiana, you may have to file another court order for a legal gender marker change in the state you were born in order to get the information on your birth certificate changed. Some states do not require a court order at all. ***You DO NOT need your birth certificate changed to get your state i.d. or Indiana driver's license changed!*** If you get a court order for a legal gender marker change in another state, Indiana will recognize the court order for Indiana documents. If you prefer to get physical copies of the paperwork, simply go to your county clerk or public records office. Otherwise, you can access the paperwork online here:

- Here is information about legally proving your identity: <http://www.in.gov/bmv/2767.htm>
- Here are local court rules to help you figure out the details of your paperwork: <http://www.in.gov/judiciary/2694.htm>
- Here is the website that gives you all the general paperwork, application information, and other rules: <http://www.in.gov/judiciary/selfservice/2338.htm>. Remember the documents for getting a court order for a gender marker change are the same documents as getting a legal name change, you will just need to write that are you filing for a gender marker change.
- Here a link to the actual legal code regarding gender marker changes on state i.d. and driver's license through the BMV: Here is a link to the interpreted law that describes name and gender maker changes. Look at 140 IAC 7-1.1-3: <http://www.in.gov/legislative/iac/20090415-IR-140090169PRA.xml.html>.

### What will be the cost of getting a court ordered gender marker change?

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The total cost of a gender marker change will range from about \$50 to \$300 or more. If you do not have to pay for a doctor's appointment and you file for the gender marker court order at the same time as a name change court order, you will only pay an additional \$25 or so to the cost of the name change. Some doctors require that you make an appointment with them to get the letter in which case it will cost the price of the doctor's appointment plus the cost of the new i.d.s. If you are doing your gender marker change only or at a time separate from your name change court order, it will cost \$130-175 for the court order paperwork plus the cost of the doctor's appointment and new i.d.s with your correct gender marker. You will pay the court fees when you submit your paperwork.

### Do I need a transition letter from a doctor? What should be included in it?

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Notice that you do not need to post your gender marker change request in a newspaper. You will need a form filled out by from a doctor stating that you are undergoing gender transition, which you can find here: <http://www.in.gov/bmv/2767.htm>. Although this form is distributed by the BMV for gender marker changes on BMV officiated documents, several people have used this form to acquire a court order for a legal gender marker change. Scroll down to the section titled “Proving a Change in Name, Date of Birth, or Gender” and click on the link for “State Form 55617”. Download and print this form for your physician or contact Trans Lafayette at [translafayette@gmail.com](mailto:translafayette@gmail.com) to ask us to print one for you.

### What is the legal process of getting the court order initiated and completed?

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Take original documents (and copies of documents if necessary) to the Clerk of the Court where you will sign the document in front of the Clerk. The Clerk will verify your identity, you will pay for filing, and you will be given both a receipt for paying and a case number. **Ask for a copy of your paperwork to keep and keep your receipt and case number!** Remember you can find out how to prove your identity here: <http://www.in.gov/bmv/2767.htm>. It is a good idea to call your county clerk ahead of time to ask if they accept cash, check, credit card, or money order. Most clerk offices around the state accept any of these forms of payment and sometimes the websites have not been updated to include this information. After the judge is consulted, the county Clerk will ask you to return so you can get a copy of the certified and signed paperwork, and you can schedule a final date for your court hearing. Once you go to the court hearing and get the gender marker change granted, the final court order will be mailed to you and you can use that to get your legal documents changed.

### Does the judge always grant gender marker changes?

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No, the judge does not have to grant a request for a gender marker change. Whether you inform the judge that you are changing your gender marker because you are socially or physically transitioning or not, there is always the risk of being denied and having to start over. Generally, people are only denied if they are hiding from the law, not because they are trans. If possible, ask friends or trans groups on social sites about what judges are known to be trans friendly. If you are interested in helping to create a list of trans friendly judges in Indiana, please email the information to [translafayette@gmail.com](mailto:translafayette@gmail.com).

### What is the court hearing like?

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The court hearing will likely be held in a small court room with less than 20 chairs. Most gender marker change petitions are only scheduled for a few minutes on the judge’s agenda, so it will not be a long meeting. Notice that since gender changes are not viewed as a very serious judicial matter, you may have others in the room with you waiting for their identification change petitions or other legal matters heard before the court as well. The judge will likely ask things like:

- What is your legal name and gender?
- What is the gender you are switching to?
- Why are you changing your gender marker?

- How long have you thought about getting your legal gender changed?
- Have you given your gender change consideration?
- Have you had medical support in changing your gender?
- Have you had permanent body changes associated with your gender?
- Have you told family or friends about your gender change?

The judge is ultimately trying to determine two things: 1. Whether you are changing your gender for personal reasons or if you are trying to escape from some legal obligation. Many people simply tell the judge that they are transgender and want their legal gender to reflect their identity and body. Based on feedback from community members to the author of this document, it is unlikely that you would be denied a legal gender marker change for being transgender. 2. The judge wants to determine that you are making a relatively permanent gender marker change.

Letting the judge know if you have seen a psychologist or a physician for transition-related care will show that you are serious about getting your gender marker changed. Indiana does not explicitly require surgery for acquiring a legal gender marker change. However, many people have stated that they are still expected to have a physician fill out the BMV-distributed form (<http://www.in.gov/bmv/2767.htm>) documenting “permanent changes” related to gender transition. Because the law is unclear, the judge can require you to have a gender-related surgery documented, but at this time, no community members have documented a case of this to the author. The judge may ask about whether you are on hormones or if you have had any gender-related surgeries. Do not lie, just answer honestly. You can ask at the beginning or middle of the hearing for others present in the room to leave if it is uncomfortable to talk about your physical transition with strangers present.

Some judges may ask whether you have informed family members about your decision to change your gender and even whether your family is supportive. These questions are intended to also gauge how much time and thought you have put into the gender marker change. If your family or friends were not supportive, it is okay to let the judge know. You will not be denied a legal name change for this reason. You can also let the judge know of any safety concerns you have about them not granting your gender marker change if you think this will increase their likelihood to grant the legal gender marker change. Be sure to show that you are certain about this decision.

### **What do I need to do after the gender marker change is granted?**

After you get the court order for a gender marker change, you should think about what documents you want to reflect your correct gender since this may affect your ability to access some health care through health insurance. Because some aspects of the law do not effectively support trans people, some people have made the choice to change their state i.d. or their federal documents (and passport) to reflect their correct gender, and leave at least one of their documents reflecting their gender assigned at birth. This can serve as a protective measure for many trans people, especially non-binary folks and those who do not pass as binary, yet. However, holding i.d.’s with different gender markers can also become complicated.

In terms of health care, remember that most health insurance plans are gender specific, not gender blind. That means if you have body parts that are only given care if you are legally female and need to get pap smears every few years, but your i.d. says “M”, a gender specific health insurance plan will see that you are listed as “male” and not help pay for your yearly reproductive health check-ups. If you have body parts that are only given care if you are legally male and need to get a prostate exam, but your i.d. says “F”, a gender specific health insurance plan will likely not help you pay for that check-up since they are making the assumption that women do not have prostates.

In contrast: gender blind health insurance gives any person the option to get a yearly reproductive wellness check without determining what body parts are included in that check based on gender. Some health insurance plans have moved to this model, but many have not. The laws have not yet caught up with the trans community, so it is very important to figure out how this legal change will affect you. Notice that there is also no “rule” for what documents health insurance uses to determine your legal gender. Some health insurance companies look at your federal records and some look at your state records. For this reason, you should call your health insurance and ask where they look up legal gender, whether they are gender blind or gender specific, and what transition-related care they cover.

If you are non-binary identified, non-binary bodied, intersex, or have differences of sexual development, you should think about how your body fits into the current legal and health structures. Although it can be frustrating to have to consider your wellbeing in this way, it is important for your own health to figure out



what gender marker will give you the greatest access to health care that is helpful to keeping your body cared for. Lastly, remember that as soon as you get the court order (about 2-4 days after it is granted by the judge), you can begin getting your driver’s license, state i.d., birth certificate, and other documents changed (if you want these changes). To change most of these documents you will need to bring along your court order and a physician’s letter. Remember that getting your driver’s license gender marker changed does not require a court order. More info below.

### **Can I get court orders for my name change and gender marker change at the same time?**

YES! And it is significantly cheaper if you do them at the same time. Each time you file for a court order, it is going to be an additional \$130-175. If you file for a name change and a gender marker change at the same time, it will only cost \$130-175 in total because the paperwork for these court orders is the same. The main difference between a court order for a name change vs. a gender marker change is that the gender marker change requires you to get a letter from a physician and the name change may require posting your name change in a local newspaper, depending on the county you are in.

## Name Change on an Indiana Driver's License

Getting a name change on your driver's license requires getting a court order for a legal name change. You can read details about this process in the section titled "Court Order for a Legal Name Change". Once you have completed the court order process, you can take the court order and the appropriate identifying documents to any BMV and they must comply with the court order.

## Gender Marker Change on an Indiana Driver's License

To get your gender marker changed on your driver's license you will need to bring the form (<http://www.in.gov/bmv/2767.htm>) from your doctor OR bring a changed birth certificate, not both. The law states that you must have some form of "permanent physical change" to prove your "change of gender".

BMV policy does not explicitly require you to have had surgery in order to get a gender marker change, but it also does not explicitly say that you do not have to have gender-related surgery. Many individuals have acquired a gender marker change on their driver's license or on their birth certificate (meaning, they got a court order) without having undergone any surgery. If you go to the BMV to get your gender marker changed and someone asked if you have had surgery, you can tell them you have "successfully undergone all treatment necessary to permanently change from [previous gender] to [new gender]" and give them the physician's letter, changed birth certificate, or court order.

Some people have been able to get their gender marker changed without a court order or a letter from a physician. When these individuals are successful, it is usually because the BMV representative is not aware of gender change laws. However, if you are successful this way, you will only be able to change your driver's license or state i.d., if anything. You will not be able to change your federal documents or birth certificate without a court order (which requires a physician's letter).

BMV officials cannot prevent you from acquiring your gender marker change if your name and gender marker do not "match", if this is the only reason they are denying you a new driver's license. For example, they cannot refuse to change your gender marker if you are changing it to "F" and your legal name is "Mark". The BMV also cannot require you to have a birth certificate AND a physician's letter with a court order. You only need either a changed birth certificate or a physician's letter (or a court order).

## **Name & Gender Marker Change on an Indiana Birth Certificate**

### **Background Information about the Process**

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There are two forms of birth certificates in Indiana – long (8.5”x11”) and short (8.5”x5.5”). In Indiana you do need a court order for both your name change and gender marker change on a birth certificate. Please notice that while we have been unable to find this requirement in writing in the state code, the author has confirmed this policy directly from an employee from the Indiana State Department of Health. Ordering a new birth certificate costs \$10 to get your name changed and \$18 to get your gender marker changed, but the process to get court ordered changes will ultimately cost about \$300 as described in above sections. When you receive a new birth certificate it will have a new name and/or new gender marker and this will be what people are able to see. Your old birth certificate will be sealed and this old (sealed) birth certificate will not be accessible to the public or future employers. Contact your local Clerk to find out which court your name/gender marker change needs to be filed, how many copies you will need of each form, how much the filing fee is, and other details specific to your county.

### **How do I get my name or gender marker changed on my birth certificate?**

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Send \$10 (for name change) and/or \$18 (for gender marker change), the old birth certificate, and a copy of the court order for a name change and/or gender marker change to the contact person (listed below) at the Indiana State Department of Health (ISDH). Contact this person beforehand to find out what form the money should be in (cash, money order, or check), and to find out what else, if anything, is required to complete this process.

### **Who do I send my request for a new birth certificate to and/or contact with questions?**

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To get your name or gender marker changed on your birth certificate, you can work with your County Clerk to acquire a court order. Notice that you must get your birth certificate changed in the state you were born in – whether you still live there or in another state or country. So if you have a birth certificate that is not from Indiana you must find out the requirements to change a birth certificate from that state. You can consult NCTE’s ID Document Center for information on your state ([www.transequality.org/documents](http://www.transequality.org/documents)). If you were born in Indiana, submit these documents to the Indiana State Department of Health as described below. Indiana accepts court orders for name and gender marker change from any state in the U.S. If you live in another state, you can get a court order for name and/or gender change in the state where you live and submit these documents to the Indiana State Department of Health (ISDH).

You can reach the “corrections section” of the Indiana State Department of Health Vital Records Office at 317-233-2700. When you get to the “main menu”, push 4 and then 2 to get questions answered about altering a birth certificate for reasons unrelated to paternity. Alternatively, contact:

Mary Keltner, Corrections Supervisor, Division of Vital Statistics, ISDH, 2 N. Meridian St., Section B4, Indianapolis, IN, 46204, Phone: 317-233-7515, Email: [mkeltner@isdh.in.gov](mailto:mkeltner@isdh.in.gov)

Division of Vital Records at the Indiana State Department of Health (ISDH)  
2 N. Meridian St., Section B4, Indianapolis, IN, 46204; Phone: 317-233-7556 (Tiffany)

# Passports, Social Security Administration, Military Records, and Navigating Airport Security

## Passports

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To change the name on your passport you will need a court order for name change, and to change the gender marker on your passport you will need a letter from a physician certifying that you have had appropriate clinical treatment for gender transition. To better understand the requirements and process of getting your gender marker changed on your passport, please read documents released by the National Center of Trans Equality: <http://transequality.org/know-your-rights/passports>.

## Social Security Administration

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To change your name with the Social Security Administration you will need your court order for name change, and to change your gender marker in the SSA records you will need a letter from a physician, a court order for gender change, or a passport or birth certificate with your correct gender marker. To find out about these processes, please read more at the National Center for Transgender Equality's page: <http://transequality.org/know-your-rights/social-security>.

## Military Records

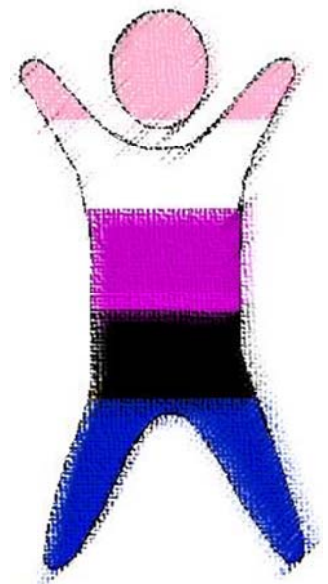
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Although there is no publically available information from the Department of Defense regarding name and gender marker changes in the Defense Enrollment Eligibility Reporting System (DEERS) or the DD214 Military Discharge Record, the National Center for Transgender Equality has very helpful information: <http://transequality.org/know-your-rights/military-records>

## Airport Security

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When traveling do you worry about whether you will get stopped as a result of your gender presentation not matching peoples' expectations based on your gender marker? Are you concerned about going through the body scanners while wearing a prosthetic? Find answers to many of your questions on the National Center for Transgender Equality's webpage dedicated to these concerns! <http://transequality.org/know-your-rights/airport-security>.





## Name & Gender Marker Changes while Undocumented

If you are undocumented and are unable to get any U.S. identifying documents (like a U.S. passport, SSN card, or driver's license), you could still possibly get your name and gender recognized by the U.S. government. If your name and gender marker are already correct on any documents you have from your country of origin, you can just use these to apply for an individual tax identification number (ITIN). For more information about the ITIN application process, read here:

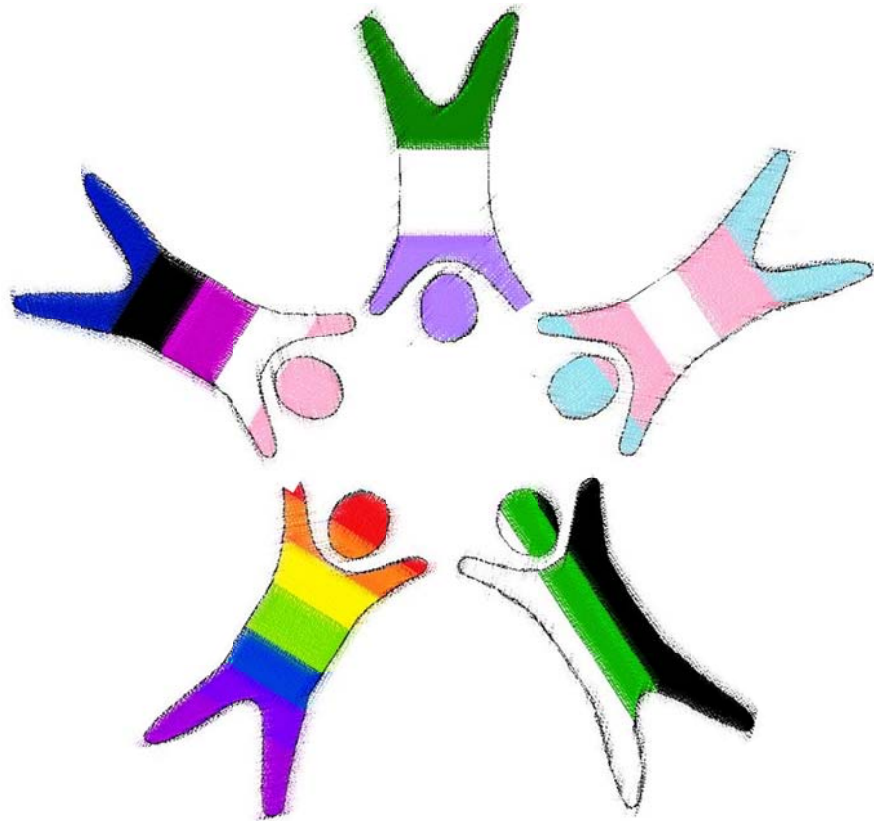
<http://www.irs.gov/pub/irs-pdf/iw7.pdf>.

Notice that to get an ITIN you have to prove your identity either with a passport from your country of origin or two other forms of i.d. If you have one i.d. with your legal name and assigned gender and another i.d. with your preferred name and correct gender, you may have to submit additional documentation showing the changes happened legally.

If you already have an ITIN with your assigned name and gender, there may be a way to get that information changed with the government while you are undocumented, but the author and collaborators are still searching for this information.

Those who qualify for DACA (Deferred Action for Childhood Arrivals) should be able to change their information on their U.S. documents through a similar process as those who are lawful permanent residents or citizens. To get more information from a consular office, check here:

<http://www.state.gov/s/cpr/rls/fco/>.



## About the Contributors

Authored by Skye Brown with the support of many community members  
Contributions from Eliot Blackburn & Aiden Powell

### *About Skye:*

i'm a loud and proud queer –  
of the transmasculine genderfluid variety.  
i'm a pan femme butch,  
a survivor and a fighter.  
i'm an activist for respect and a public disturbance.  
i'm in love with humanity  
and determined to support the end to all oppression.  
i'm a fabulous unicorn made  
of glitter and spice, and civil disobedience  
coming to a public demonstration near you.  
i'm a partner and a sibling, a dog parent, and a hopeful  
romantic  
i believe in supporting bodies and bending minds  
and my life is your life since your life is my life's advocacy  
i'm a second generation American  
and a first generation revolutionary,  
walking on the supportive shoulders of centuries of  
activists before.  
i'm bilingual and bad at both languages  
and a feminist who demands radical change.  
i learned how to DREAM with undocumented queer  
students of color in Texas  
and now strive to create a nexus  
of LGBTQ+ empowerment in Indiana,  
to support a state without fear  
or violence, where love knows no bounds.  
Will you join me  
to create communities free  
from violence and oppression,  
take us in a new direction  
of reflection and action, social change  
until there is no more hate, only love to exchange?

If you want to reach Skye in their capacity as the  
Program Director for Trans Lafayette, please email:  
[translafayette@gmail.com](mailto:translafayette@gmail.com). If you want to reach Skye in  
their capacity as the LGBTQ Outreach Coordinator for  
MESA, please email [brown810@purdue.edu](mailto:brown810@purdue.edu). If you want  
to reach Skye personally, please email:  
[skyeashtonbrown@gmail.com](mailto:skyeashtonbrown@gmail.com).

### *About Aiden:*

Aiden attended Texas  
A&M University where he got his bachelors in  
Anthropology with a cultural and applied focus.  
During his time at Texas A&M, he advocated  
tirelessly for LGBTQ+ student rights by marching  
on campus, speaking in front of student senate  
meetings, and mentoring incoming students.  
He will soon graduate from Purdue University  
with his masters in Anthropology where he  
studied applied medical anthropology. Aiden's  
master's project involved working with students  
and staff at the Purdue University Student  
Health (PUSH) center to increase the capacity of  
the center and staff to serve LGBTQ+ students.  
During Aiden's time at Purdue, he has  
successfully led the establishment of Purdue's  
first LGBTQ living and learning community  
called the Diversity in Gender and Sexuality  
Studies Learning Community and has  
successfully led the movement for getting  
hormone replacement therapy covered on  
student health insurance. Aiden is  
accomplished in policy development and  
implementation, project design and evaluation,  
and is now to using his experiences and degree  
as the inaugural Program Coordinator at the  
Purdue LGBTQ Center. You can reach Aiden at  
[powell61@purdue.edu](mailto:powell61@purdue.edu).

As domestic partners, Skye and Aiden  
have dedicated their relationship to supporting  
each other's development as social justice  
advocates and activists. Together they strive to  
develop their communities' capacity for social  
change - synergistically.