



## 28<sup>th</sup> Judicial District Self Help Center

### **ADULT NAME CHANGE**

#### **About This Packet:**

This packet of information is provided for individuals who wish to obtain an adult name change *without an attorney*. This packet contains information regarding the name change process, copies of the forms required by the court, and instructions about filling out the forms. **It is important that you read through this entire packet *before* filling out the forms in the packet.** Please visit <http://www.28thjdb.com/> for a list of resources/attorneys.

If you have any questions about these forms or instructions, you should consult a lawyer. If you decide to pursue your case without a lawyer, your case will be called a *pro se* or self-represented case. You will be held to the same standards for procedure and evidentiary rules as an attorney. Since you do not have a lawyer, it is up to you to make sure the forms and information provided in this packet are correct and up-to-date. **It is your responsibility to verify that you are following ALL of YOUR State and county's requirements.**

***Please Note: The Clerk of Superior Court and staff are specifically prohibited by law from giving you legal advice.***

**Use this packet at your own risk. In no event will anyone contributing to the production of these forms and instructions be held responsible for any indirect or consequential damages resulting from the use of the forms or information provided in this packet.**

**YOU ALONE ARE RESPONSIBLE FOR YOUR CASE.**

# Do-It-Yourself Name Change Packet

This packet is provided to individuals who wish to obtain a name change in North Carolina. Please keep in mind that this is a PUBLIC COURT FILE anyone can access.

## **This is a Pro Se Packet:**

This packet of information is provided for individuals who wish to pursue a case without the assistance of an attorney. This is called a self-represented case, or *pro se* case. If you are not sure that you want or need to file this action, you can call the North Carolina Attorney Referral Service at (800) 662-7660 (Monday – Friday from 9:30 A.M. to 4:30 P.M.) for a thirty (30) minute consultation with a North Carolina lawyer for \$50.00. You can also look up a list of attorneys in Buncombe County in the phone book. If you are a victim of domestic violence, you can call Pisgah Legal Services at (828) 253-0406.

## **How This Packet Can Help:**

If you do not plan to use an attorney, this packet will guide you through the process of filing a name change, by providing the forms and filing instructions you will need. This package is ONLY designed to cover a name change. There may be significant consequences to legally changing one's name, and you should consult an attorney to discuss these consequences, as the Clerk of Court cannot give you legal advice. Since you are representing yourself, it is YOUR responsibility to ensure that these are the correct and current forms for the nature of your case. You should review and research applicable laws and rules of procedure that apply to your type of case. If, after reviewing all of the materials, you decided that you are not able to do this, you should talk with an attorney.

Be sure to **READ ALL OF THE INSTRUCTIONS COMPLETELY** before you begin to fill out any of the forms. Then, fill out the forms by typing or printing *neatly in pencil*, then in permanent *black ink* once you've made all corrections. Please read the forms carefully as some have a "Verification" page. This means that you must sign this page in the presence of a Notary Public. Whenever you see the words "**Sworn and Subscribed before Me,**" do not sign it until you are in front of a Notary, who will sign and the Notary will stamp your document with a Notary Seal after s/he has witnessed you sign. Notaries are likely found at banks, law firms, and insurance agencies. A few may also be found in the phone book. Notaries often charge a small fee (usually \$5.00) and require you to show picture identification for their services. Be sure to have your documents already notarized when you take them to the Clerk's Office to file.

## **Filing Fee for a Name Change:**

Currently, the fee for a name change is **\$120.00** and must be paid to the Clerk of Superior Court by cash, money order, or cashier's check. This must be paid at the Civil Clerk's Cashier window on the 1<sup>st</sup> floor of the Buncombe County Courthouse. There is an ATM on the ground floor of the courthouse. **Please keep in mind that this fee may change.** If the Clerk of Court determines you financially eligible, you may have this fee waived by filing a **Petition to Sue as an Indigent** (included). There are other fees (not assessed by the Buncombe County Clerk of Court) associated with the completion of a name change, and they are addressed in the instructions.

## Resuming a Prior Name or Maiden (“Pre-marriage”) Name

If you wish to resume your pre-marriage name after obtaining a divorce or the death of your husband, you may resume your maiden name through the Clerk’s Office for a \$10.00 fee. The resumption of pre-marriage name form is included in this packet. Additionally, you may resume the name of a prior deceased husband or previously divorced husband (if you have children with that husband’s surname) by using the same form. You **must** sign this form in front of a Notary Public. You will need a copy of the divorce or death certificate to attach to the application form.

## Instructions for Adult Name Change

If you wish to change your name to something other than your pre-marriage name, you must follow the instructions below. Some of the forms listed below are included in this packet and are marked as “included.” Of course, those documents which you must produce are not included (e.g. criminal history checks, etc.).

You will need the following documents when you file the Name Change Petition at the courthouse:

*(please check off each of the documents to make sure you have everything you need to file)*

- \_\_\_ A **Notice** of your intent to change your name (included)
- \_\_\_ A **verified Petition** for name change (included)
- \_\_\_ A recent **certified copy of your birth certificate**
- \_\_\_ An **official government-issued photo identification** (not necessarily a driver’s license)
- \_\_\_ A **limited title search printout** that includes a judgment and civil action check
- \_\_\_ A **certified official State of North Carolina criminal history check** (by the SBI)
- \_\_\_ A **certified official national criminal history check** (by the FBI)
- \_\_\_ Two (2) **Affidavits of Good Character** (included)
- \_\_\_ An **Order and Certificate of Name Change** – the *pink* form (at Clerk’s office)
- \_\_\_ **\$120.00** filing fee in cash, money order, or cashier’s check. This may be waived by the **Petition to Sue as Indigent** (included)
- \_\_\_ A **proposed Order of Name Change** (included)

## Gather Your Required Documents First

The Petition, the Notice, the two (2) Affidavits of Good Character, the Petition to Sue as an Indigent, and the proposed Order of Name Change are all included in this packet. **If your packet is missing these documents, you should immediately inform the person from whom you purchased the packet.** The rest of the items listed above on the checklist must be provided by you to the Court.

You can get a certified copy of your **birth certificate** from the North Carolina Vital Records

(<http://vitalrecords.nc.gov>). Please note that this may take time and will cost you money. Even if you are determined to be “indigent” by the Buncombe County Clerk of Court, that will only waive the filing fee. Processing fees and copying fees assessed by Vital Records will not be waived. If you were born in Buncombe County, you can get a certified copy of your birth certificate from the Buncombe County Register of Deeds at 35 Woodfin Street in Asheville (across from the courthouse).

When you file your Petition and/or before you obtain your name change before the Clerk, you must produce some valid, official, **government-issued photo identification** to prove you are who you purport to be. This does not necessarily need to be a N.C. Driver’s License.

Buncombe County requires you to submit with your Petition a printout of a **limited title search** that includes any money judgments against you and any pending civil actions in which you are involved. This can be done at the courthouse. Please use the computers provided for the public in the Civil Records room. If you are unable to perform this search, you may need to consult an attorney, as the Clerks cannot do this for you. The printout from this search must be filed along with your Petition.

North Carolina now requires that **two (2) certified/official criminal history checks** be completed and submitted along with your Petition. One must be a nationwide check by the **Federal Bureau of Investigation (FBI)**, and information for obtaining this check can be found here: <http://www.fbi.gov/about-us/cjis/background-checks>). The other must be a statewide check by the **State Bureau of Investigation (SBI)**, and information for obtaining this check can be found here: ([http://ncdoj.gov/Files/About-DOJ/SBI/CIIS/Right-to-Review\\_packet.aspx](http://ncdoj.gov/Files/About-DOJ/SBI/CIIS/Right-to-Review_packet.aspx)). **Keep in mind that it may take up to ten (10) weeks to obtain the results of these checks.** Also, you will be responsible for the costs associated with these certified results. You will need two (2) sets of fingerprints for the required criminal history checks. You can have these fingerprints done at the Buncombe County Detention Facility at the City/County Bureau of Identification (look for the office marked “ID Bureau CDE”). Since the certified results of these checks must be attached to your Petition, they must be done before you file anything.

As stated on page 2, these documents will be part of a public court file which anyone can access. **If you wish to keep certain information confidential** and not write it on the Petition, you will have to schedule a **hearing before the Clerk** where you will give oral testimony. Please schedule this upon your filing of the Petition.

## **Complete and Submit the Notice**

- 1) The first thing you must do – before filing the Petition with the Court – is post a Notice of your intention to legally change your name. The State requires that you post this Notice for ten (10) days before you may file your Petition to change your name. If you are either a **victim of domestic violence** or a participant in the North Carolina **Address Confidentiality Program**, this notice requirement may be waived (see below under #6).
- 2) Fill out the Notice form that it is in the packet. On the “OF” line, fill in your full current legal name.

- 3) On the “TO” line, fill in the name you wish to use. Be sure to put the **full name**.
- 4) In the following blanks, take note of the required information below each line and fill in all the appropriate information.
- 5) Make sure to use the proper date and sign the bottom of the Notice.
- 6) Once the Notice is filled out bring it to the Clerk’s Office. A Clerk will time-stamp the Notice before you post it. It **must** be posted on the courthouse bulletin board for at least ten (10) calendar days. If the 10<sup>th</sup> day falls on a Saturday, Sunday, or legal holiday, you must allow the NOTICE to remain posted until 5:00 P.M. the following business day. **In order to avoid having to post the NOTICE again, always keep a copy of your NOTICE in case the one you post is lost or taken off the bulletin board.**
  - a. Publication on the courthouse bulletin board is **not** required for individuals who meet certain criteria as a victim of domestic violence.
    - i. If the person is a participant in the N.C. Address Confidentiality Program under N.C. Gen. Stat. § Chapter 15C; or
    - ii. If the person provides evidence that he/she is a victim of domestic violence, sexual offense, or stalking. This evidence may include any of the following:
      1. Law enforcement, court, or other federal or state agency records or file ; or
      2. Documentation from a program receiving funds from the Domestic Violence Center Fund, if the applicant is alleged to be a victim of domestic violence.

### **Completing the Petition for Legal Name Change**

- 1) This is the Petition in which you are requesting the name change.
- 2) On the “OF” line, fill in your full current legal name.
- 3) On the “TO” line, fill in the full name you wish to use.
- 4) In paragraph #1, fill out the information using your birth certificate. If there is no father listed on your birth certificate, write “none” on the line.
- 5) In paragraph #2, fill in the full name you wish to adopt.

- 6) In paragraph #3, you must fill in why you desire to have your name changed. Give a few brief sentences as to the reasons behind your wish to legally change your name.
- 7) In paragraph #4, check the appropriate box. If you have changed your name before, please list the reasons and date, county, state, etc. in which you had your name legally changed.
- 8) In paragraph #5, you don't have to check anything; however, in order to file in Buncombe County, you must be a bona fide resident who is domiciled in this county. "Domicile" is your permanent dwelling place of indefinite duration, as distinguished from a temporary place of abode.
- 9) In paragraph #6, you must check whether you have any outstanding tax or child support obligations. If you *do*, check the first box; if you *don't*, check the second box.
- 10) In paragraph #7, you must check whether you have any judgments against you for money owed. You must provide and attach to the Petition a title search printout that includes a judgment and civil action check. You can access the computers in the civil records office to search for a judgment or civil action. You can also consult an attorney to assist you in obtaining this printout. The Clerk of Court cannot and will not do this for you. If you *do* have any judgments against you, check the first box; if you *don't*, check the second box.
- 11) In paragraph #8, you must provide the certified results of a national FBI (Federal Bureau of Investigation) criminal history check as well as a state SBI (State Bureau of Investigation) criminal history check. (see above)
- 12) In paragraph #9, you must either check that you have complied with the ten (10) day notice requirement or check that you are either a victim of domestic violence or a participant in the N.C. Address Confidentiality Program.
- 13) **Do not sign the petition** until you bring it to a Notary Public. If it is not signed in front of a Notary Public, it will not be accepted for filing.

### **Completing the Affidavits of Good Character**

- 1) You **must** submit two (2) Affidavits of Good Character. These Affidavits must be filled out by two (2) separate people who meet the following criteria:
  - a. They are **not** related to you by blood or marriage;
  - b. They must be over the age of eighteen (18); and
  - c. They **must** reside in the county where you file the petition.
- 2) You must instruct the persons filling out the Affidavits of Good Character that **they must sign the affidavit in the presence of a Notary Public.**

## **Completing the (pink) Order and Certificate of Name Change**

This document (also known as AOC-SP-601) is not included in the packet. You must request it from the Clerk's Office before you file your Petition. This is the ***pink*** form (it is different from the *proposed* Order which is included in the packet). It must be completed in triplicate. There is one (1) pink copy, which will serve as the original, and two (2) white copies. Be sure to fill out this form and submit it along with your Petition. This form is available at the Special Proceedings Division at the courthouse.

## **Completing the (proposed) Order**

The other Order is the proposed name change Order that is a 2-page white document entitled "Order." Follow the directions below to fill out the proposed Order.

- 1) In the top right corner, put the file number after "File No." It will be a number such as 11 SP 9981.
- 2) On the "OF" line, fill in your full current legal name.
- 3) On the "TO" line, fill in the full name you wish to use.
- 4) In paragraph #1, fill in your full current legal name.
- 5) In paragraph #2, fill in your date, month, year, county, and state of birth.
- 6) In paragraph #3, fill in the names of your mother in the first line and your father in the second line, as set forth in your birth certificate.
- 7) In paragraph #4, fill in the full name you wish to adopt.
- 8) In paragraph #7, check the box which applies. If you have no outstanding tax or child support obligations, check the *first* box. If you have outstanding tax or child support obligations, check the *second* box. This does not automatically preclude you from obtaining a name change, but you must disclose this.
- 9) The Clerk of Court will check this box if you had to give any sworn testimony.
- 10) Under the part that says "**ordered, adjudged, and decreed,**" put your full current legal name in the *first* line and the name you desire to adopt in the *second* line. Be sure to spell it correctly.

## **Filing at the Courthouse**

After your Notice has been posted for at least ten (10) calendar days, remove it from the bulletin board and bring it to the Special Proceedings Division in the Clerk's Office, along with the Petition and the two (2) Affidavits of Good Character. **Make sure all of the required documents are attached to your Petition when you file, or it will delay you obtaining your name change.** (see the checklist on page 3)

There will be a filing fee at this time, and there will be a fee for copies. The Clerk will only take cash, money order, or a cashier's check. Call the Special Proceedings Division to find out how much money you will need to proceed. Presently, the **filing fee is \$120.00**, but it may change. If you are filing a Petition to Sue as an Indigent, that form **must be notarized**.

If all of the paperwork is in order, and the Assistant Clerk determines no further information is needed then the Assistant Clerk will sign all three (3) copies of the Order and Certificate of Name Change (the pink form) as well as the proposed Order (the white 2-page Order) provided in this packet. You will be given one certified copy which you will need to present when obtaining new Social Security card, passport, driver's license, green card, etc.

Once you have obtained your name change Orders from the Clerk of Court, you must still submit a certified copy of the name change Order to North Carolina Vital Records. Please call them at (919) 792-5985. There are more costs associated with the processing and copying of a **new birth certificate with your new legal name on it**. Please see their instructions at <http://vitalrecords.nc.gov/vitalrecords/change.htm>.

**\*\*\*Please keep in mind that the Clerk of Court in Buncombe County has no control over the process at Vital Records, the SBI, or the FBI.** Please contact the appropriate agency if you have questions or concerns.