

INSTRUCTIONS

Uncontested Name Change of a Minor Child

The procedure for legally changing the name of a minor child is complicated. The statutes can be found at SDCL ch. 21-37, SDCL 34-25-51 and ARSD 44:09:05:02. These laws have also been interpreted by the South Dakota Supreme Court in various cases. It is up to you to decide whether and how you use a lawyer in your case. The law allows you to do the case without a lawyer, which is also known as proceeding *pro se* (pronounced “pro-say”).

THE USE OF THESE FORMS IS LIMITED TO UNCONTESTED CASES:

- **Cases where the minor child’s other parent consents to the change of the minor child’s name and signs the consent form. The other parent will ideally appear at the hearing as well, although it is not required.**

YOU CANNOT USE THESE FORMS IF:

- **You do not know if the minor child’s other parent will consent to the change of the minor child’s name; or**
- **You know the minor child’s other parent will contest the change of the minor child’s name.**
- *If the other parent appears and contests the name change, the name change will be denied.*

There are no forms offered for a contested name change of a minor child action. That is a matter in which you are strongly encouraged to consult an attorney.

Facts About Requesting a Name Change in South Dakota

- In South Dakota, a “minor” is a child who has not yet turned age 18.
- You may change the minor child’s first, middle and/or last name.
- Unless otherwise provided below, if you have more than one minor child in your custody, they have the same biological parents and you want to change their names at the same time, you may do so by including all of the children on the same verified petition. You need open only one file.
- If the parents of the minor children are NOT the same and/or you are requesting different name changes for more than one child, then you will need to file a separate verified petition for each child. This will involve paying a separate filing fee and publication fee for each child. They will be considered separate actions.
- If, for example, you are a single mother who has more than one minor child in your custody whose names you want to change, but there is more than one father involved, then you will need to file a separate verified petition for each child. This will involve paying a separate filing fee and publication fee for each child. They will be considered separate actions.

- Once you file the verified petition the case will be assigned a case number. This number must be on all documents filed with the court. You should be aware that there are additional costs associated with publishing and providing notice that you intend to change a minor child's name.

If you file a Verified Petition for Name Change of a Minor Child without the assistance of an attorney **you** must complete all the forms necessary. The clerk of court's office cannot assist you in preparing any legal documents, or advise you of the process. However, you may contact the **Legal Form Help Line at 1-855-784-0004** if you have questions regarding completion of the forms.

COMPLETION OF FORMS

READ ALL INSTRUCTIONS PRIOR TO FILLING OUT ANY OF THE FORMS.

In order to legally change a name, you must file a Verified Petition for Name Change of a Minor Child form with the Clerk of Court office in the county where you reside provided you have resided there for more than six months immediately before the filing of the verified petition. You will also be required to pay the civil case filing fee. You will be referred to as the petitioner in this name change proceeding.

You must also submit a completed **Civil Case Filing Statement form (UJS-233)** to the clerk of court's office at the time of filing your verified petition. The case name should appear in the "*In the Matter of*" caption. For example, if John Smith is requesting to change his daughter's legal name from Emma Doe to Emma Smith, he should print in the "*In the Matter of*" caption: *John Smith's Petition Regarding a Name Change of Emma Doe, Minor Child, to Emma Smith.* Since you are initiating a civil action, you must check the Petitioner participant role box under the Civil case type. Please provide your personal information as requested on the form as well as the name and contact information of the attorney representing you in this proceeding (if you have one).

Captions: All of the forms for this proceeding have a caption at the top that, except the name of the form, appears as follows:

STATE OF SOUTH DAKOTA))SS: COUNTY OF _____)	IN CIRCUIT COURT _____ JUDICIAL CIRCUIT

In the Matter of the Petition regarding) _____) (Birth Certificate Name), A Minor Child.) For a Change of Name to) _____) (Proposed Name))	CIV. _____ VERIFIED PETITION FOR NAME CHANGE OF MINOR CHILD

Each form will be completed identically using the following instructions:

- On the top left, enter the name of the county where you are filing the verified petition.
- On the top right, enter the judicial circuit number (1-7) in which the county lies. This information can be obtained from the clerk of court's office.

- Enter the name (first, middle and last name) of the minor child as it appears on their birth certificate.
- Enter the proposed first, middle and last name of the minor child.
- The clerk of court's office will give you a case number when you file the Verified Petition. You must include the case number on all papers you file, which is documented above the name of the form (Civ. _____).

FORM UJS-030: VERIFIED PETITION FOR NAME CHANGE OF A MINOR CHILD

- Complete the caption as set forth in the Instructions beginning on page 2.

The numbers below give instructions for completing the numbered paragraphs with the same numbers in the verified petition.

- Paragraph 1. As the Petitioner, enter your first, middle and last name.
- Paragraph 2. Enter the minor child's name (first, middle and last name) as it appears on their birth certificate.
- Paragraph 3. Enter the minor child's date of birth (month, day and year) and circle the child's gender at birth.
- Paragraph 4. Enter the city, county and state where the minor child was born.
- Paragraph 5. Enter your relationship to the minor child (mother or father)
- Paragraph 6. Enter the first, middle and last name of the other parent as well as the other parent's last known physical address. If the other parent pays child support, enter the address last provided to the Clerk of Court or Office of Child Support Enforcement, unless you are aware of a more current address.
- Paragraph 7. Enter your physical address, including city and county.
- Paragraph 8. Enter the name of the county where you reside and the date you began residing in that county.
- Paragraph 9. Enter the minor child's physical address, including city and county and how long the minor child has resided in that county.
- Paragraph 10. (a) Indicate where the child has lived during the past five years and who the minor child has lived with and the dates the child lived in each location. If the child has not lived with anyone but the parents, please write out in the lines provided: "With the parents only" and then simply provide the county/state and date information for the past five years.
 (b) Indicate whether there have been previous court hearings concerning the custody of the child. If so, indicate in which county, state and year(s) those proceedings happened.
 (c) Indicate whether anyone other than the parents has ever had legal custody (court-ordered) of the child.
- Paragraph 11. Enter the first, middle, and last name of the minor child's mother's maiden name as it appears on the minor child's birth certificate.
- Paragraph 12. Enter the first, middle, and last name of the minor child's father as it appears on the minor child's birth certificate. If the father's name is not listed on the birth certificate, enter "N/A" in the blank.
- Paragraph 13. Enter the mother's date of birth as well as her place of birth, including city, county and state.
- Paragraph 14. Enter the father's date of birth as well as his place of birth, including city, county and state.

Paragraph 15. Enter the child's name (first, middle and last) as it appears on their birth certificate in the first blank, the proposed name for the child (first, middle and last) in the second blank and the reasons you desire the name change in the third blank.

Paragraph 16. Nothing is required, just verification that you are not submitting this Petition for fraudulent or illegal purposes.

In the final paragraph, enter the minor child's name (first, middle and last name), as it appears on their birth certificate, followed by the minor child's proposed first, middle and last name.

- Date the verified petition with the day, month and year.
- On the first line, sign your first, middle and last names.
- On the remaining lines, enter your personal information.

Do not fill out the verification until you are in the presence of a Notary Public or Clerk of Court. Make sure to bring identification to show the Notary Public or Clerk of Court. A Notary Public can usually be found at the bank and sometimes at the courthouse.

WARNING: By signing your name, you are telling the court that you are telling the truth and that you have a good faith reason for your requests. If you are not telling the truth, if you are misleading the court, or if you are serving or filing this document for an improper purpose, the court could find you in contempt or you could be prosecuted for not telling the truth.

FORM UJS-031: NOTICE OF HEARING FOR CHANGE OF NAME OF A MINOR CHILD

Pursuant to SDCL 21-37-4, notice of the hearing on change of name of a person, stating the time and place and object thereof with the current and proposed names of the minor child, shall be given by publishing this once each week for four successive weeks in any legal newspaper of the county of petitioner's residence.

You need to contact the clerk of court or court administrator's office and request that a hearing be scheduled approximately six weeks in the future. When scheduling, make sure you have a copy of your filed verified petition to refer to. Additionally, make sure you allow enough time for publication and the receipt of the Affidavit of Publication prior to the hearing. In order to do this, you should know the day of the week the newspaper has to receive the Notice of Hearing to begin publication in the next circulation and in what form. It is suggested that you ask about the expense of publication as well, so you are prepared for that expense in advance.

If another hearing has to be scheduled because enough time was not allowed for publication, the Court may order that another Notice of Hearing be published again, which is an additional expense to you. You will not be refunded any fees or expenses.

- Complete the caption as set forth in the Instructions beginning on page 2.
- In the first blank, enter your name (first, middle and last), as the petitioner.
- In the second blank, enter the name (first, middle and last name) of the minor child, as it appears on their birth certificate.
- In the third blank, enter the proposed first, middle and last name of the minor child.

- In the second sentence, enter the hearing date (day, month, year) and the time. Circle am or pm. Enter the name of the Judge who will be presiding over the hearing. Enter the name of the courthouse, the city and the county where the courthouse is located.

A Judge or the clerk of court must date and sign the notice of hearing, not the petitioner. The clerk of court must put his/her seal on the document.

PUBLICATION:

The original, signed **Notice of Hearing for Change of Name of a Minor Child** must be filed with the clerk of court office. Keep a photocopy for your records. Once the forms have been filed, the court clerk will give you a copy of the filed Notice of Hearing for Change of Name of a Minor Child. Keep a photocopy for your records. **You** must publish the filed Notice of Hearing for Change of Name of a Minor Child once each week for four successive weeks **in the legal newspaper in the county where the Verified Petition is filed, or in a newspaper in general circulation in the county**. It cannot be just any newspaper. Upon completion of the publication, the newspaper will provide you with an **Affidavit of Publication**. You must file the original signed Affidavit with the clerk of court office on or before the day of the scheduled hearing.

SERVICE TO OTHER PARENT:

A copy of the verified petition and a file-stamped copy of the notice of hearing must be received by the other parent by certified mail a minimum of 10 days prior to the hearing. If the other parent pays child support, the notice of hearing must be sent to the other parent at the address last provided to the clerk of court or the Office of Child Support Enforcement, unless you are aware of a more current address.

When you go to the post office to mail the documents, ask the post office to send it by certified mail to the other parent. You do not need to send the documents by registered mail, nor do you need to insure it. Also, you do not need to have the other parent sign for the documents when it is delivered; it is okay if any adult signs for the documents when they are delivered. Keep the green card that the post office sends back to you in case the court wants to see it at the hearing.

Verification of service upon the other parent is also substantiated by completion of the Affidavit of Service, which is also required.

FORM UJS-032: AFFIDAVIT OF SERVICE

After you place a copy of the **Verified Petition for Name Change of a Minor Child** and a file stamped copy of the **Notice of Hearing for Change of Name of a Minor Child** in the U.S. Mail, by certified mail, to the other parent, complete the Affidavit of Service.

- Complete the caption as set forth in the Instructions beginning on page 2.
- Fill in the first, middle and last name of the person who mailed a copy of the Verified Petition for Name Change of a Minor Child and a file stamped copy of the Notice of Hearing for Name Change of a Minor Child to the other parent by certified mail.
- Fill in the day, month and year that the documents were mailed.
- List the documents mailed (for example, “a copy of the Verified Petition for Name Change of a Minor Child and a file stamped copy of the Notice of Hearing for Name Change of a Minor Child.”).

- Fill in the first, middle and last name of the other parent to whom the documents were mailed.
- Fill in the mailing address of the other parent where you mailed the documents.
- Fill in the name of the city, State, and zip code of the other parent where you mailed the documents.
- Fill in the name of the city and State from where you mailed the documents.
- Enter the date (day, month & year) you sign the document, not the date you mailed the documents.
- The person who mailed the documents must sign the Affidavit, on the first line, **in the presence of a notary public or Clerk of Court**. Make sure to bring identification to show the notary public or Clerk of Court. A notary public can usually be found at the bank and sometimes at the courthouse.
- Enter the personal information of the person who mailed the documents on the remaining lines.

The notary/Clerk of Court needs to complete the affirmation section.

The notary needs to affix his/her seal.

Make a photocopy of the Affidavit for your file. **File the original Affidavit of Service with the Clerk of Court. Failing to file this document may result in a denial of the proposed name change.**

UJS FORM 033: CONSENT

This form is to be completed by the consenting parent.

- Complete the caption as set forth in the Instructions beginning on page 2.
- In the blank following “County of” enter the name of the county where the Consent is being signed.
- Enter the consenting parent’s full name in the first line in the body of the Consent. This paragraph does not have a number.

The numbers below give instructions for completing the numbered paragraphs with the same numbers in the Consent.

- Paragraph 1. If the consenting parent is the minor child’s mother, check mother. If the consenting parent is the minor child’s father, check father.
In the first line enter the minor child’s name (first, middle, and last name) as it appears on their birth certificate.
In the second line, enter the minor child’s date of birth.
In the third – fifth lines, enter the city, county & state where the child was born.
- Paragraph 2. In the first line enter the minor child’s name (first, middle and last name), as it appears on their birth certificate.
In the second line, enter the minor child’s proposed first, middle, and last name.
- Paragraph 3. Enter why you are consenting to the name change.

This form must be signed and dated in the presence of a Notary Public. **Make sure to bring identification to show the notary public. A notary public can usually be found at the bank and sometimes at the courthouse.**

- Enter the date the consenting parent signs the document, including the day, month and year.
- On the first line of the signature block, the consenting parent should sign his or her first, middle and last name in the presence of a Notary Public.
- Enter the personal information of the person who mailed the documents on the remaining lines.

Once the notary completes that section, make a photocopy of the Consent for your file. **File the original Consent with the Clerk of Court. Failing to file this document may result in a denial of the proposed name change.**

UJS FORM 034: ORDER FOR NAME CHANGE OF A MINOR CHILD

Before the hearing date, you must prepare the Order for Name Change of a Minor Child. If you are changing the name of more than one child you must prepare an Order of Name Change of a Minor Child for each child for whom you are requesting a name change.

- Complete the caption as set forth in the Instructions beginning on page 2.
- Enter the day, month and year of the hearing for the name change.
- Enter your name as the Petitioner, followed by the child's name (first, middle and last name), as it appears on their birth certificate.
- Enter the name of the County where you and child resided at the time of filing the verified petition and then enter the name of the County where you and child resided for a minimum of 6 months before filing the verified petition.
- Enter the name of the newspaper where the notice of hearing was published for 4 consecutive weeks.
- Enter the child's full name (first, middle and last), as it appears on their birth certificate.
- Enter the child's date of birth (month/day/year).
- Enter the State, county and city or town where the child was born.
- Enter the child's mother's full maiden name (first, middle and last name), as it appears on the child's birth certificate.
- Enter the name of the child's father (first, middle and last name), as it appears on the child's birth certificate. If the child's father is not listed, enter "N/A."
- Enter the name of the child (first, middle and last) as it appears on the birth certificate. On the next line enter the proposed name (first, middle and last) for the minor child.
- Repeat the above instruction for the next two sections.

If the court grants the name change, the Judge will sign the Order. You will need to obtain three certified copies of the Order from the clerk of court's office.

UJS FORM 035: NOTICE OF ENTRY OF ORDER FOR NAME CHANGE OF MINOR CHILD

A Notice of Entry of Order for Name Change of a Minor Child is a document that notifies the other parent that the Judge has signed a Order for Name Change of a Minor Child. This document must be sent to the other parent.

- Complete the caption as set forth in the Instructions beginning on page 2.
- Fill in the date that the Judge signed the Order for Name Change of a Minor Child (day, month and year).
- Fill in the name of the Judge who signed the Order for Name Change of a Minor Child.
- Fill in the City where the Courthouse is located where all the documents are filed.
- Enter the date you signed the Notice of Entry (day, month and year).
- On the first line, sign your first, middle and last names.
- Enter your personal information on the remaining lines.

Make two copies of the Notice of Entry, one for you and one to mail to the other parent. **The original must be filed with the Clerk of Court.**

Mail a copy of the Notice of Entry and a certified copy of the Order for Name Change of a Minor Child (obtained from the Clerk of Court) to the other parent.

UJS FORM 036: AFFIDAVIT OF SERVICE

- Complete the caption as set forth in the Instructions beginning on page 2.
- Fill in the first, middle and last name of the person who mailed the Notice of Entry and certified copy of the Order for Name Change of a Minor Child to the other parent.
- Fill in the day, month and year that the documents were mailed.
- List the documents mailed (for example, “a copy of the Notice of Entry of Order for Name Change of a Minor Child and a certified copy of the Order for Name Change of a Minor Child”).
- Fill in the first, middle and last name of the parent to whom the documents were mailed.
- Fill in the mailing address of the other parent where you mailed the documents.
- Fill in the name of the city, state and zip code of the other parent where you mailed the documents.
- Fill in the name of the city and state from where you mailed the documents.
- Date the document, with the date, month and year. This is the date you sign the document.
- The person who mailed the documents must sign the Affidavit, on the first line, **in the presence of a notary public or Clerk of Court.** Make sure to bring identification to show the notary public or Clerk of Court. A notary public can usually be found at the bank and sometimes at the courthouse.
- Enter the personal information of the person who mailed the documents on the remaining lines.

The notary/Clerk of Court needs to complete the affirmation section. The notary needs to affix his/her seal.

Make a photocopy of the Affidavit for your file. **File the original Notice of Entry of Order for Name Change of a Minor Child and the Affidavit of Service with the Clerk of Court. Failing to file these documents may extend the time an appeal may be filed.**

HEARING – HELPFUL TIPS

- (a) As the Petitioner, you must attend the hearing and testify under oath about the issues raised in the Verified Petition for Name Change of a Minor Child. Make sure you are prepared.
- (b) Bring a copy of the minor child’s birth certificate with you to Court. The Judge may want to review it to ensure that your pleadings are consistent with the birth certificate.
- (c) It is ideal if the consenting parent appears at the hearing as well. He/she should be prepared to testify that they do consent to the proposed name change and why.
- (d) Dress appropriately for Court.
- (e) You should take a file stamped copy of the Affidavit of Publication to the hearing in case the judge wants you to have it marked as an Exhibit at the hearing.
- (f) Before the hearing date, you should also check with court personnel to see if the minor child will be allowed in the courtroom during the hearing and whether the judge will want the minor child present during the hearing. Do not just assume that the judge will allow the minor child to be present.
- (g) You should bring two copies of the Order for Name Change of a Minor Child to the hearing. The judge may keep the original signed Order for the court file and will give you a copy for your records.
- (h) Refer to *A Guide for Representing Yourself in the South Dakota Courts* for additional helpful hints before your hearing. This can be found at any clerk of court’s office or on the UJS website in many spots, one being: <http://uj.s.sd.gov/uploads/forms/UJS%20300%20-%20A%20Guide%20for%20Representing%20Yourself.pdf>.
- (i) If the court grants your request for the minor child’s name change and has signed the Order for Name Change of a Minor, you should get 3 certified copies of the Order for Name Change of a Minor Child from the Clerk of Courts office. One copy goes to Vital Records, one copy goes to the other parent and you retain the other copy for your records. There are still a few things to do after the hearing, i.e. completing the Notice of Entry, sending documents to the other parent and completing the Affidavit of Service. Please refer to the instructions above.

OBTAINING A NEW BIRTH CERTIFICATE

If you require the birth certificate of the minor child to be changed, you must present the Vital Records Office in the state where the child was born with both a certified copy of the “Order for Name Change of a Minor Child” and the applicable filing fee for amending a birth certificate. In South Dakota, the Vital Records filing fee to amend a birth certificate is currently \$8.00. This fee does not include the amount necessary to obtain an informational copy or a certified copy. You can obtain those at any Register of Deeds office in South Dakota once the amendment is complete.

If the child was born in a State other than South Dakota, you need to check with the Vital Records Office of that State to determine the applicable fees associated with amending the birth certificate and obtaining a certified copy of the new birth record.

If you have questions regarding the name change forms, you may contact the Legal Form Help Line at 1-855-784-0004. If you have any questions of a legal nature, you are strongly urged to contact an attorney of your choosing.