

# Name Changes for Minors Basics & Gender Change Updates

**July 2023 WJCCA Conference**

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### Ways a Minor's Name can be Changed

<b>Change to a Birth Certificate, Wis. Stat. 69.14(4m)</b>	<b>Adjudication of Paternity, Wis. Stat. 767.89(3m)</b>	<b>Adoption, Wis. Stat. 48.91(3)</b>	<b>Petition for Name Change, Wis. Stat. 786.36</b>
Parent(s) with legal custody may change the name of the child once within 365 days of birth without a court order.	The court can change the name of the child to the name agreed upon by the parents or to a hyphenated surname if parents do not agree.	The court may change the name of the minor at the request of the petitioners.	The court may change the name of any eligible Wisconsin resident, whether a minor or an adult, upon petition to the court.

### Petition for Name Change, Wis. Stat. 786.36 Minors over 14



- A minor over 14 can petition to change his/her name without a parent's permission if he/she is not required to register as a sex offender under Wis. Stat. 301.45(1g) (Wis. Stats. 301.47(2)(a) and 786.36(1)).
- The minor must be a resident of the venue county (Wis. Stat. 786.36(1)).
- Service is not required on any person but third class notice of the name change hearing must be published (Wis. Stat. 786.36(1)).

## Processing Name Change for Minor over 14

- File/date stamp the *Petition for Name Change for Adult or Minor 14 or Older (CV-450)* and *Order for Name Change (CV-470)*;
- Collect the no money judgment filing fee. The fee is required unless waived;
- In CCAP, assign the case a CV case number with the 30708 (Name Change) class code;
- Enter the petition and order using the *PCNM (Petition for name change adult/minor 14 or older)* and *PONC (Prop. Order for name change)* court record events;
- Assign a judge to the case and assign a hearing date using the *NMCH (Name Change Hearing)* scheduled activity code;
- According to local practice, complete the *Notice and Order for Name Change Hearing (CV-460)*, file the notice using the *NONC (Notice and order for name change hearing)* court record event and give a copy to the minor for publication;

## Processing Name Change for Minor over 14

- According to local practice, forward the petition to the judge along with a copy of the *Order for Name Change (CV-470)* and an *Order Denying Name Change (CV-475)*.
- **If the judge grants the order:**
  - File/date stamp the completed order for name change and enter it into CCAP using the *ONC (Order for Name Change)* court record event;
  - Send a certified copy of the court order to the Register of Deeds along with the proper fee;
  - If the minor was born in Wisconsin, sign and seal Vital Records Form F-05021 (Report of Legal Name Change) and send the form to Vital Records accompanied by the appropriate fee; and
  - Dispose of the case using the *PG (Petition Granted)* disposition code.
- **If the judge denies the order:**
  - File/date stamp the completed order denying name change and enter it into CCAP using the *ODNC (Order denying name change)* court record event; and
  - Dispose of the case using the *PDE (Petition Denied)* disposition code.

## Confidentiality of Name Changes for Minors over 14

- Name changes for minors over 14 are not automatically confidential by statute.
- Minors over 14 can petition for a confidential name change. Under Wis. Stat. § 786.37(4), adults and minors over 14 can request a confidential name change where publication is not required if the petitioner shows, by a preponderance of the evidence, that publication of the petition could endanger him or her and that the petitioner is not seeking a name change in order to avoid a debt or conceal a criminal record.
- Forms:
  - *Petition for Confidential Name Change for Adult or Minor 14 or Older (CV-451)(PCCNM)*;
  - *Order for Confidential Name Change (CV-471) (OCNC)*; and
  - *Order Denying Confidential Name Change (CV-476) (ODNC)*.
- See “Confidential Name Change” Model Recordkeeping Procedures on CourtNet for information on how to process and handle confidential name changes.



## Petition for Name Change, Wis. Stat. 786.36 Minors under 14

- The following people can petition to change the name of a minor under 14 if the minor is not required to register as a sex offender under Wis. Stat. 301.45(1g) (Wis. Stats. 301.47(2)(a) and 786.36(1)):
  - Both living parents, the sole surviving parent or the sole adoptive parent;
  - One of the two living parents if paternity has been established;
  - The mother if the minor child is a non-marital child who is not adopted or whose parents have not married and paternity has not been established; or
  - The legal guardian/custodian of the minor if both parents are dead or the parental rights of both parents have been terminated (Wis. Stat. 786.36(1),(1m)(a)).
- The petition should be filed in the county where the parent(s) reside(s) (Wis. Stat. 786.36(1)).



## Petition for Name Change, Wis. Stat. 786.36 Minors under 14

- If only one of the two living parents files the petition, the petition must be personally served on the non-petitioning parent. This does **not** apply if the non-petitioning parent has been convicted of one of the listed offenses in Wis. Stat. 786.36(1m)(c) (Wis. Stat. 786.37(2)).
  - Note: there are specific forms for a name change for a minor under 14 when the non-petitioning parent has been convicted of one of the listed statutory offenses.
- Third class notice of the name change hearing must be published (Wis. Stat. 786.37(1)).

## Processing Name Change for Minor under 14

Follow the general procedure for name changes for minors over 14 but enter as the petitioner the person whose name is to be changed. Additionally, process the specific forms for name changes for minors under 14 using the following court record events:

<i>Petition for Name Change for Minor Child under 14 (CV-455)</i>	<i>PNCU (Petition for name change minor under 14)</i>
<i>Response of Non-Petition Parent to Name Change of Minor under 14 (CV-480)</i>	<i>CPNC (Consent of nonpet. Parent to minor name change)</i>
<i>Petition for Name Change for Minor Child under 14 – Parent with Criminal Conviction (CV-481)</i>	<i>PNCPC (Pet for name change parent with crim conviction)</i>
<i>Order for Name Change for Minor Child under 14 – Parent with Criminal Conviction (CV-482)</i>	<i>PONCP (Prop order for name change parent crim conviction)/ONCPC (Order for name change parent with crim conviction)</i>

## Confidentiality of Name Changes for Minors under 14

- Name changes for minors under 14 are not automatically confidential by statute.
- Wisconsin law does not address whether the confidential name change procedure is allowed for minors under 14, so the judge may not allow it.
- However, there is a form available for confidential name changes for minors under 14 (*Petition for Confidential Name Change for Minor Child under 14 (CV-456)*).
- If a petition for a confidential name change for a minor under 14 is filed, follow the procedure for confidential name changes, unless otherwise directed by the judge.

## Additional Resources for Name Changes

### ● Basic Steps to Handling a Name Change (CV-490)

Provides a general outline of name change proceedings in Wisconsin for pro se litigants.

The form can be found on [wicourts.gov](http://wicourts.gov) under Services>For the public>Self-help law center>Name Change

### ● Name Change Comparison Chart

Provides information on the similarities and difference between a standard name change and a confidential name change in Wisconsin.

The chart can be found on [wicourts.gov](http://wicourts.gov) under Services>For the public>Self-help law center>Name Change

## Gender Change Updates



## Overview

- Any person with a direct and tangible interest in a birth record can petition a court to change the name and sex of the registrant on the record due to a surgical sex-change procedure (Wis. Stat. 69.15(4)(b)).
  - A person with a direct and tangible interest includes: the registrant; a member of the registrant's immediate family; the parent of the registrant, unless parental rights have been terminated; a legal custodian or guardian; a representative; and any other person who demonstrates a direct and tangible interest (Wis. Stat. 69.20(1)).
- It is generally common practice for an individual to petition to change the gender on their birth certificate after having changed their name.
- A petition to change the gender on a Wisconsin birth certificate should be filed in the underlying name case, if one exists in the county. If there is no name change case, the clerk should open a new CV case using the 30703 (Civil Unclassified) class code.



## Gender Change Forms

- New gender change forms were approved by RMC, released in April and are available on wicourts.gov:
  - *Petition for Gender Change on Wisconsin Birth Certificate (CV-452);*
  - *Order on Petition for Gender Change on Wisconsin Birth Certificate (CV-474)*
- The court record events for the forms have also been released:
  - *Petition for Gender Change (PGC);*
  - *Proposed Order for Name Change (PONC);* and
  - *Order for Name Change (ONC)*

This is a legal form titled "Petition for Gender Change on Wisconsin Birth Certificate". It is a form for the State of Wisconsin, Circuit Court, and is used to request a change in the gender listed on a Wisconsin birth certificate. The form includes sections for the petitioner's information, the birth certificate information, and the court's findings and order. It is a legal document that must be filed with the court and the Department of Health Services.

This is a legal form titled "Order on Petition for Gender Change on Wisconsin Birth Certificate". It is a form for the State of Wisconsin, Circuit Court, and is used to provide the court's order regarding a petition for gender change. The form includes sections for the court's findings, the order, and the court's signature. It is a legal document that must be filed with the court and the Department of Health Services.

## Gender Change Procedures

Gender Change Procedures were approved by the Procedures Committee in May and posted to CourtNet.



### Civil / Small claims

- › [Civil](#)
- › [List of small claims disposition codes](#)
- › [Deactivated small claims code replacement list](#)
- › [Small claims disposition code flow chart](#)
- › [Firearm surrender hearing procedures for clerks \(10/14\)](#)
- › [Firearm surrender procedures for judges and court commissioners \(10/14\)](#)
- › [Concealed carry](#)
- › [Confidential name change \(03/15\)](#)
- › [Gender change procedures \(05/23\)](#)
- › [Small claims consolidated creditors actions](#)



## Gender Change Procedures: A Few Things to Note

- Recommended practice is to charge no additional filing fee if the gender change case is filed in the underlying name change case.
- If an individual files a name change with a gender change, the petitions can be filed together using the 30708 (Name Change) class code.
- The petitioner should also bring with them a certified copy of their birth certificate and the *State of Vital Records Order: Report of Order to Change Name & Sex on Birth Certificate Due to Surgical Sex-Change Procedure (F-5035)*, but these documents should not be filed in the case.
- Gender change cases are not automatically confidential. However, counties may have their own policy about automatically sealing these cases, parties can file a motion requesting to seal or the court may seal the case on its own motion (Wis. Stat. 801.21).


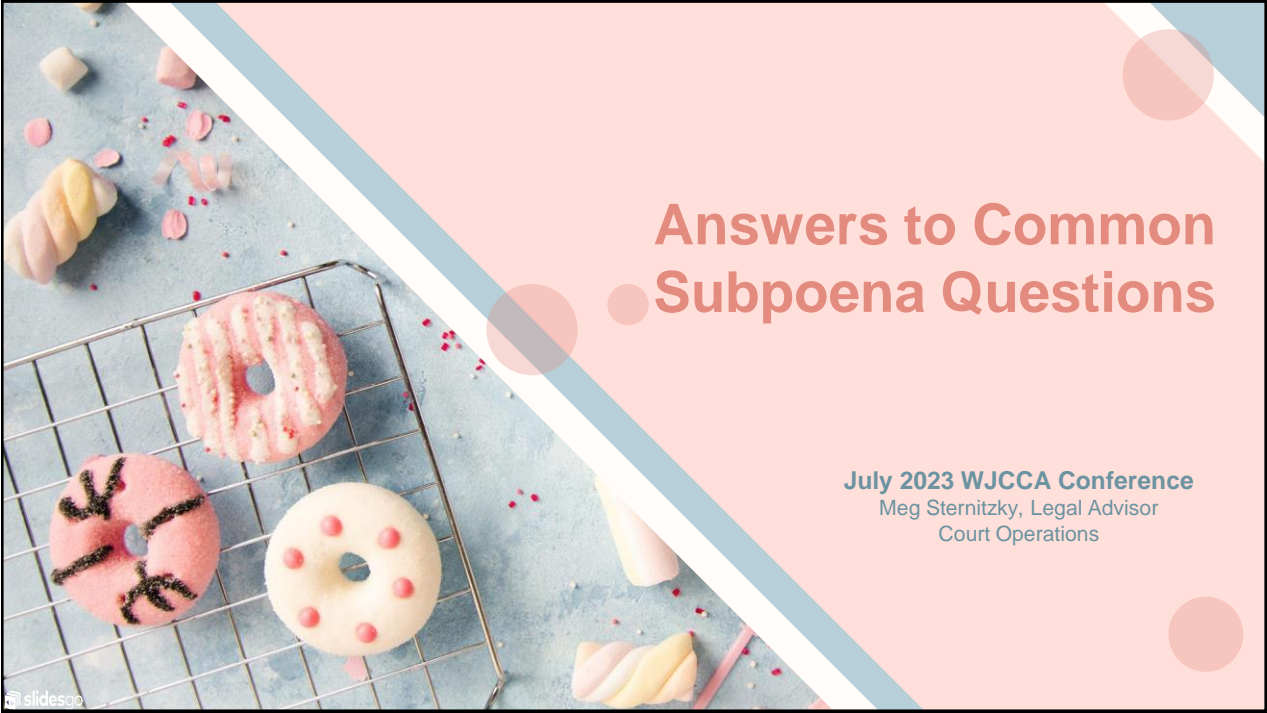
Thanks!

Do you have any questions?

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# Answers to Common Subpoena Questions

July 2023 WJCCA Conference

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Court Operations



## What is a subpoena?

- A subpoena is a writ to compel attendance of a witness for deposition, hearing, or trial. A subpoena may also command the person to whom it is directed to produce books, papers, documents, electronically stored information, or other tangible items (Wis. Stat. 805.07(1),(2)).
- Types of Subpoenas:
  1. Criminal subpoena for documents (Wis. Stat. 968.135)
    - Issued by a judge upon a finding of probable cause based on a request from the district attorney or attorney general (DOJ). See [Criminal subpoenas under 968.135](#) procedure on CourtNet for how to handle these.
  2. Foreign subpoenas (Wis. Stat. 887.24)
    - A subpoena issued in a civil action under authority of a court of record in a state other than Wisconsin. Wis. Stat. 887.24 applies if the action is in another state, but the witness is in Wisconsin.
  3. Subpoena to compel attendance of a witness in a civil action, special proceeding or criminal action (Wis. Stats. 805.07, 885.01) (GF-126A)

Issuing Official \_\_\_\_\_  
 Title (Print or Type Name) \_\_\_\_\_  
 Date \_\_\_\_\_

**(COURT SEAL)**

**STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY**

Case Caption: \_\_\_\_\_ **Subpoena**  
 Case No. \_\_\_\_\_

The State of Wisconsin to (Witness Name and Address):  
 \*

Service Information		
Date Served	Time Served	Fee Charged
Manner of Service <input type="checkbox"/> Personal <input type="checkbox"/> Substitute	Witness Fee Endorsed \$	
Serving Agency		
Served By (Signature)		

**You are required to appear and give evidence:**

APPEARANCE INFORMATION		
Date	Time	Location (Include Room Number)
Presiding Official		
On Behalf Of	Type of Proceeding	

☐ You are further required to bring with you the following:

☐ This is a third-party subpoena. Unless all parties agree otherwise, do not provide any requested items before the date and time of the above proceeding.

**Failure to appear may result in punishment for contempt, which may include monetary penalties, imprisonment and other sanctions.**

If you require reasonable accommodations due to a disability to participate in the court process, please call \_\_\_\_\_ prior to the scheduled court date. Please note that the court does not provide transportation.

If you have any questions about this subpoena, please contact:

Name (Type or Print)	Title	Telephone Number
Address		

GF-126A, 11/18 Subpoena §§805.07, 885.02, and 885.03, Wisconsin Statutes  
 This form shall not be modified. It may be supplemented with additional material.

## Who can issue a subpoena (GF-126A)?

- Clerks of court can issue subpoenas.
  - Wis. Stat. 885.01 lists who can issue subpoenas and includes a clerk of court for cases in their jurisdiction (Wis. Stat. 885.01(1)).
- Attorneys can issue subpoenas.
  - Wis. Stat. 805.07 gives separate authority to the attorney of record in a civil action or special proceeding to issue subpoenas as an officer of the court.
  - WI Supreme Court noted that Wis. Stat. 805.07 also applies to criminal proceedings (*State v. Schaefer*, 2008 WI 25).

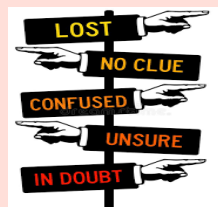


## Can a deputy clerk of court sign a subpoena?



Wis. Stat. 885.01 states that the “clerk of a court” signs and issues the subpoena, but deputies are often authorized to fulfill many of the clerk’s duties. Wis. Stat. 59.40 says that deputies shall aid the clerk in the discharge of the clerk’s duties and may perform all of the clerk’s duties when the clerk is out of office.

## Can a juvenile clerk or register in probate sign a subpoena?



It is unclear whether a juvenile clerk or register in probate can sign a subpoena. “Clerk of court” in Wis. Stat. 885.01(1) appears to include juvenile clerk or register in probate since the statute does not specify “clerk of circuit court.” However, there is no authority on this, so juvenile clerks and registers in probate should check with a judge before signing a subpoena.

## Can clerks use the clerk of court's signature stamp to sign a subpoena?



- The subpoena statute states that a subpoena must be “signed”, and there is case law saying that if a statute uses the words “signed” or “signature” then an original, handwritten signature is required.
- These cases have not been applied to judges and clerks, but the safest route is to sign subpoenas using an actual signature.

## Do subpoenas have to include the court seal?

MAYBE!

If a clerk issues a subpoena for an attorney, Wis. Stat. 757.35 (statute that governs subpoenas for attorneys) requires clerks to sign **and** seal a blank subpoena. This is why “COURT SEAL” is on GF-126A. But Wis. Stat. 885.01 provides that a subpoena for a pro se party does not need to be sealed.



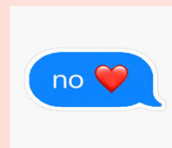
## Can a blank subpoena form (GF-126A) be signed for an attorney only?



Wis. Stat. 757.35 allows blank subpoenas to be delivered only to attorneys. Pro se parties should fill out the subpoena form (GF-126A) before the clerk signs it.



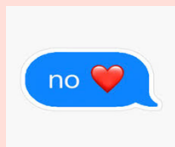
## Can subpoenas be eFiled with the clerk?



- eFiling does not have the functionality for a subpoena document type. Additionally, GF-126A contains lines for a handwritten signature rather than for an e-signature.
- If an attorney attempts to eFile a subpoena, clerks can point them to Wis. Stat. 805.07, tell them they can issue their own subpoena, and ask if they want you to reject the filing.
- If a pro se party attempts to eFile a subpoena, clerks can print the subpoena out, sign it, and mail it back.



## Do clerks have to serve the subpoena?



The statutes do not require service by the clerk. Wis. Stat. 885.03 says that any person may serve a subpoena, so the clerk can give the subpoena back to the requester for service.



## What is the procedure for issuing a foreign subpoena?

- Generally, a party to the out-of-state proceeding will submit the foreign subpoena along with the appropriate Wisconsin subpoena form (GF-127A) to the clerk, and the clerk will:
  - Receive no filing fee since there is no fee for foreign subpoenas;
  - Sign the Wisconsin subpoena form (GF-127A);
  - Make a copy of the Wisconsin subpoena form and foreign subpoena and place them in a GF file; and
  - Give the foreign subpoena and signed Wisconsin subpoena form back to the party for service (Wis. Stat. 887.24(3)(a)).
- An attorney licensed to practice law in Wisconsin can also sign and issue the Wisconsin subpoena (Wis. Stat. 887.24(3)(c)).

Issuing Office	
Title (Print or Type Name)	
Date	
(COURT SEAL)	
STATE OF WISCONSIN, CIRCUIT COURT, COUNTY	
Foreign Jurisdiction Case/Docket No.	
Foreign Subpoena	
The State of Wisconsin for: (Witness Name and Address, including County of residence)	
Witness Name	Service Information
Residential Address	Business Address
Personal Address	Business Address
Business Address	Business Address
Signed by (Signature)	
You are required to appear and give evidence:	
Name	Address
Witness Name	Address
Witness Address	Address
If you require reasonable accommodations due to a disability to participate in the court process, please call (prior to the scheduled court date. Please note that the court does not provide transportation.	
If you have any questions about this subpoena, please contact:	
Name (or print name)	Telephone Number
Address	Telephone Number



## What should clerks do if they are subpoenaed?

- Clerks are usually called to testify as to the authenticity of particular court documents. Court records are self-authenticating documents (Wis. Stats. 908.03(8); 909.02(1),(2), and (4)). The custodian does not need to accompany them in order to have them admitted into evidence.
- If subpoenaed, clerks should talk with their corporation counsel to see if corporation counsel can ask for submission of a certified copy of the court record, or if no record exists, submission of an affidavit in lieu of testifying.

## Is there a resource on subpoenas for clerks?



There is a subpoena memo with all this information located on CourtNet under Resources>Policies & Procedures>Court Operations Memos>Procedure>Subpoenas

# Thanks!

Do you have any questions?

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