

INSTRUCTIONS: CHILD NAME CHANGE WITHOUT CONSENT

Use this packet only when the consent of the other parent is not required.

Consent (or agreement) to the Name Change of a Minor may or may not be required. Consent is not required when, for example, the other parent has abandoned or deserted the minor, failed to communicate significantly with the minor, or if the parent has committed a crime against the child. See Indiana Code 31-19-9 for more information.

If none of the factors in Indiana Code 31-19-9 apply, then consent is required. See Indiana Code 34-28-2-2. This form packet should only be used when consent is NOT required by the other parent or guardian.

Fill out the forms. There are two ways you can complete these forms:

(a) You can use a computer to fill in the form blanks. After you fill in the blanks you must print out the forms; or

(b) You can print out the forms and handwrite your answers.

Read your local court rules to find out how many copies you will need, and if there are any additional forms or procedures required in your county.

Sign your forms and make copies.

Take the originals and copies of your forms to the Clerk of the Court. The Clerk will provide the case number and process the forms. The Clerk will stamp the forms with a filing date and give you back a copy.

The court will set a hearing date when you file your Petition. Make sure this date is filled in on the Notice of Petition for Change of Name.

You will need to take the Notice of Petition for Change of Name for a Minor to the person who handles legal notices in your local newspaper. This Notice must appear once a week for three weeks. The last publication date must be at least thirty days before your hearing date. *If you feel unsafe putting this in the newspaper, see more instructions beginning on the twelfth page of this packet.*

The newspaper will send a proof of publication notice to you, which you will attach to the Notice of Filing Proof of Publication and then file these forms with the Court.

Attend the hearing. *If you feel unsafe having a public hearing, see more instructions beginning on the twelfth of this packet.*

Once the name of the minor has been changed, the court will send a copy of the Order to the state department of health and local county health department. It is your responsibility to inform government agencies, schools, and other interested agencies and businesses of the minor's new name.

STATE OF INDIANA) IN THE COUNTY WHERE YOU WILL FILE YOUR DOCUMENTS COURT YOU WILL FILE IN. IF YOU DO NOT KNOW, LEAVE BLANK. COURT
 COUNTY OF COUNTY WHERE YOU WILL FILE YOUR DOCUMENTS) CAUSE NO. _____

IN RE THE NAME CHANGE OF)
 MINOR:)
)
LEGAL NAME OF MINOR CHILD)
 Name of Minor)
)
)
)
YOUR NAME)
 Petitioner)

APPEARANCE BY SELF-REPRESENTED PERSON IN CIVIL CASE

1. My name is YOUR NAME and I am the Petitioner, filing this case on my own behalf. I am not represented by a lawyer.
2. Contact information for receiving legal service of document and case information as required by Court Rules.

Address: YOUR ADDRESS

IF YOU WANT THE COURT TO CONTACT YOU ONLY BY EMAIL, CHECK THIS BOX

Email address: YOUR EMAIL ADDRESS

I will accept service at the above email address.

Phone: YOUR PHONE NUMBER

Fax: YOUR FAX NUMBER

3. This is an MI case type as defined in Administrative Rule 8(B)(3).
4. There are related cases: *(If yes, please indicate below)*

IF THERE ARE OTHER CASES RELATED TO THIS CASE, CHECK YES. IF NOT, CHECK NO.

Yes
 No

Caption and case number of related cases:

IF YOU CHECKED YES IN NUMBER 4, FILL IN THE INFORMATION HERE.

Caption: _____ Case No.: _____

Caption: _____ Case No.: _____

Additional information as required by local rule:
IF ADDITIONAL INFORMATION IS REQUIRED BY LOCAL RULE, ADD IT HERE.

SIGN HERE

Signature

STATE OF INDIANA) IN THE _____ COURT
)
COUNTY OF _____) CAUSE NO. _____

IN RE THE NAME CHANGE OF)
MINOR:)

Name of Minor)

Petitioner)

FOR THE SECTION ABOVE THE DOTTED LINE, LOOK AT
THE FIRST PAPER YOU FILLED OUT AND COPY THE
INFORMATION HERE.

VERIFIED PETITION FOR CHANGE OF NAME OF MINOR

Petitioner, YOUR NAME, self-represented,
respectfully petitions the court to change the name of the above-noted child. In support of this
Petition, Petitioner states as follows:

1. Petitioner is the GUARDIAN OR PARENT of the child whose name is sought to be changed.
2. The written consent of the non-petitioning parent or guardian for the name change of the minor child is filed with this Petition.
3. That child's current name is CHILD'S CURRENT NAME.
4. That the child's date of birth is CHILD'S BIRTHDATE.
5. That the child's mailing address is:

CHILD'S MAILING ADDRESS

And if different, the child's residential address is:

CHILD'S RESIDENTIAL ADDRESS, IF DIFFERENT FROM MAILING ADDRESS

6. That the child's Indiana driver's license number/Indiana identification card number is CHILD'S LICENSE OR ID NUMBER; and I will bring the child's Indiana driver's license or identification card to my Change of Name Hearing for verification.

7. The following is a list of all of the previous names of the child:

LIST ALL THE FORMER, LEGAL NAMES OF THE MINOR CHILD

8. That the child DOES OR DOES NOT hold a valid United States passport.

9. That the following judgements of criminal conviction of a felony under the law of any state or the United States have been entered against the child, or I have stated immediately below that the child does not have any felony convictions:

EITHER LIST CHILD'S FELONY CONVICTIONS, OR IF THE CHILD DOES NOT HAVE ANY, WRITE 'THE CHILD DOES NOT HAVE ANY FELONY CONVICTIONS.'

10. That changing the child's name is not an effort to defraud any of the child's creditors.

11. That notice of the request for name change has been published in a local publication as required by law and will be brought to the Change of Name Hearing.

12. That the child is not confined to a Department of Correction facility or a sex or violent offender who is required to register under Indiana Code 11-8-8.

13. That pursuant to Indiana Code 34-28-2-1, I petition this court to change the child's name. Pursuant to Indiana Code 34-28-2-2(b), the reason the change of the child's name is requested is:

REASON YOU ARE REQUESTING THAT THE CHILD'S NAME BE CHANGED

14. That I request that the child's name be changed to:

CHILD'S NEW, REQUESTED NAME

15. That I request that (select one of the following):

SELECT WHETHER YOU WANT CHILD'S NAME CHANGED ON THEIR BIRTH CERTIFICATE



The name on the child's birth certificate **not** be changed.

The name on the child's birth certificate be changed to their new, changed name. Specifically, NEW NAME ON BIRTH CERTIFICATE.

16. The non-petitioning parent or guardian of the minor child has been served with a copy of this Petition as required by the Indiana Trial rules.

WHEREFORE, I respectfully request that this Court grant this Petition for Name Change of a Minor, and for all other just and proper relief.

I affirm under penalties for perjury that the foregoing representations and statements are true.

SIGN HERE

Signature

STATE OF INDIANA) IN THE _____ COURT
)
COUNTY OF _____) CAUSE NO. _____

IN RE THE NAME CHANGE OF)
MINOR:)
)
_____))
Name of Minor)
)
)
_____))
Petitioner)

FOR THE SECTION ABOVE THE DOTTED LINE, LOOK AT THE FIRST PAPER YOU FILLED OUT AND COPY THE INFORMATION HERE.

AFFIDAVIT OF DILIGENT SEARCH

Petitioner, YOUR NAME, being duly sworn upon _____ oath, deposes and states:

1. I am the Petitioner in the above-entitled action and have personal knowledge of the matters stated herein.
2. I am the PARENT OR GUARDIAN of the Minor Child.
3. I am requesting to change the name of the Minor Child from CHILD'S CURRENT, LEGAL NAME to CHILD'S NEW, REQUESTED NAME.
4. The non-petitioning parent's name is OTHER PARENT'S NAME.
5. I am unaware of the whereabouts of the non-petitioning parent.
6. I have done a diligent search and cannot find the whereabouts of the non-petitioning parent.

I affirm under penalties for perjury that the foregoing representations and statements are true.

DATE YOU SIGN
Date

SIGN HERE
Signature
YOUR ADDRESS

STATE OF INDIANA

IN THE _____ COURT

COUNTY OF _____

CASE NO. _____

IN RE THE NAME CHANGE OF
MINOR:

FOR THE SECTION ABOVE THE DOTTED LINE, LOOK AT THE
FIRST PAPER YOU FILLED OUT AND COPY THE INFORMATION
HERE.

Name of Minor

Petitioner

NOTICE OF PETITION FOR CHANGE OF NAME

Notice is hereby given that Petitioner, YOUR NAME,
as a self-represented litigant, filed a *Verified Petition for Change of Name* on
LEAVE BLANK
to change the name of CHILD'S CURRENT NAME
to CHILD'S NEW, REQUESTED NAME.

The Petition is schedule for hearing in the LEAVE BLANK
Court on LEAVE BLANK,
which is more than thirty (30) days after the third notice of publication. Any person has the right
to appear at the hearing and to file written objections on or before the hearing date.

LEAVE BLANK
Date

LEAVE BLANK
Clerk, LEAVE BLANK Court

STATE OF INDIANA) IN THE _____ COURT
)SS:
COUNTY OF _____) CAUSE NO. _____

IN RE THE NAME CHANGE OF)
MINOR:)
)
_____))
Name of Minor)
)
)
_____))
Petitioner)

FOR THE SECTION ABOVE THE DOTTED LINE, LOOK AT THE FIRST PAPER YOU FILLED OUT AND COPY THE INFORMATION HERE.

NOTICE OF FILING PROOF OF PUBLICATION

Petitioner, YOUR NAME, self represented, states as follows:

1. I have given notice of the Petition for Change of Name of Minor Child, pursuant to Indiana Code 34-28-2-3.
2. Notice was given by three (3) weekly publications in a newspaper of general circulation published:

CHOOSE THE BOX THAT IS TRUE

- in the county in which the petition is filed in court.
 in the nearest adjacent county because no newspaper is published in the county in which the petition is filed

3. The first notice was published not more than seven (7) days after the date the Petition to Change Name of Minor Child was filed.
4. The published notice included:
 - A. The name of the petitioner.
 - B. The name of the minor child whose name is to be changed.
 - C. The new name desired.
 - D. The name of the court in which the action is pending and cause number.
 - E. The date on which the petition was filed.

- F. The date, time, and location of the hearing.
 - G. The statement that any person has the right to appear at the hearing and to file objections.
- 5. I have attached a copy of the published notice herein as Exhibit A.
 - 6. The attached notice has been verified by the affidavit of a disinterested person.
 - 7. More than thirty (30) days have passed since the final required publication of notice.

I affirm under penalties for perjury that the foregoing representations and statements are true.

DATE YOU SIGN
Date

SIGN HERE
Signature

YOUR NAME
Printed Legal Name

STATE OF INDIANA) IN THE _____ COURT
)
COUNTY OF _____) CAUSE NO. _____

IN RE THE NAME CHANGE)
OF MINOR:)

Name of Minor)

Petitioner)

FOR THE SECTION ABOVE THE DOTTED LINE, LOOK AT
THE FIRST PAPER YOU FILLED OUT AND COPY THE
INFORMATION HERE.

ORDER SETTING HEARING

Comes now **YOUR NAME**, pro se, having filed a Verified Petition for Change of Name of Minor, and the Court finds that the matter should be set for hearing.

IT IS THEREFORE ORDERED that this matter shall be heard on

LEAVE BLANK _____.

So ORDERED **LEAVE BLANK** _____

LEAVE BLANK _____
Judicial Officer

Distribution:

YOUR NAME _____

YOUR ADDRESS _____

STATE OF INDIANA) IN THE _____ COURT
)
COUNTY OF _____) CAUSE NO. _____

IN RE THE NAME CHANGE OF)
MINOR:)

Name of Minor)

Petitioner)

) FOR THE SECTION ABOVE THE DOTTED LINE, LOOK AT
) THE FIRST PAPER YOU FILLED OUT AND COPY THE
) INFORMATION HERE.
)
)
)
)

ORDER ON VERIFIED PETITION FOR CHANGE OF NAME OF MINOR

Comes now the Court, having reviewed the Verified Petition for Change of Name of
Minor and the Notice of Filing Proof of Publication, now finds as follows:

1. The Minor Child's current name is CHILD'S CURRENT, LEGAL NAME

2. The Minor Child resides at :
ADDRESS OF THE HOME WHERE CHILD LIVES

3. The Minor Child's date of birth is : CHILD'S DATE OF BIRTH.

4. If the Minor Child has a felony conviction within the last ten (10) years, the
required notice to the appropriate agencies has been provided.

5. The Petitioner wishes to change the Minor Child's name to:
CHILD'S NEW, REQUESTED NAME

6. The Petitioner:

**SELECT THE BOX
THAT IS TRUE**

wishes to change the Minor Child's name on Minor Child's birth certificate.

does not wish to change Minor Child's name on Minor Child's birth
certificate.

7. This Order is in accordance with the best interest of the Minor Child as guided by
Indiana Code 31-17-2-8.

WHEREFORE, IT IS ORDERED that Petitioner's Petition for Change of Name of Minor is **GRANTED**, and Minor's name is hereby changed to:

CHILD'S NEW, REQUESTED NAME

The name on Minor's birth certificate:

SELECT THE
BOX THAT
IS TRUE

should be changed to NEW, REQUESTED NAME FOR BIRTH CERTIFICATE

should **not** be changed.

SO ORDERED LEAVE BLANK

LEAVE BLANK

Judicial Officer

Distribution:

YOUR NAME

YOUR ADDRESS

You do not have to file the following documents, *but you may want to*. Read below and then decide whether you want to fill out and file them.

To get a name change, you are required to publish notice of your name change in a newspaper and the court records are public. However, court rules allow you to ask that the publication requirement be waived (not required), and the records be sealed (not available to the public) for your safety. If you feel unsafe publishing in a newspaper (for example, because you are transgender), or having this case public would put you at significant risk of substantial harm, fill out all of the following forms and submit them to the Clerk of Court **when you start your name change case**.

1. The first document is Notice of Exclusion of Confidential Information From Public Access. This lets the court know you want the court to keep the papers you file out of public view.

2. The second document is the Verified Request to Prohibit Public Access Pursuant to Indiana Rules on Access to Court Records. This is a request to the Judge to make your case confidential. This is where you should detail all the reasons you would feel unsafe having your name change made public

3. The third document is the Memorandum of Law in Support of Verified Request to Prohibit Public Access Pursuant to Rules on Access to Court Records. Indiana Legal Services wrote this memo to explain to the Judge why, in general, it can be unsafe for trans people to be outed, and why this means the name change of a transgender person should be sealed (confidential).

4. The fourth document is the Public Notice of Hearing. The law says that if you ask a judge to make the case confidential, there must be a public hearing on the sealing request (that's the second document listed above). To let the public know about the hearing, the court posts this notice in the courthouse at least 30 days before the hearing.

5. Finally, the fifth document is the Order on Request to Prohibit Public Access Pursuant to Indiana Rules on Access to Court Records. This is a document that you want the Judge to sign. If the Judge decides that your case should remain confidential, not viewable by the public, then the Judge will sign this document and your case will be *sealed*.

STATE OF INDIANA) IN THE _____ COURT
)
COUNTY OF _____) CAUSE NO. _____

IN RE THE NAME CHANGE OF MINOR:)
)
_____))
Name of Minor)
_____))
Petitioner)

FOR THE SECTION ABOVE THE DOTTED
LINE, LOOK AT THE FIRST PAPER YOU
FILLED OUT AND COPY THE INFORMATION
HERE.

**NOTICE OF EXCLUSION OF CONFIDENTIAL INFORMATION FOR PUBLIC
ACCESS**

Contemporaneous with the filing of their Verified Petition For Change Of Name Of Minor, NAME OF MINOR CHILD and pursuant to Indiana Rules on Access to Court Records, Petitioner provides this notice that the information listed below is to remain excluded from public access in accordance with Rule 6:

1. Appearance
2. Verified Petition for Change of Name of Minor
3. Consent to Change of Name of Minor
4. Notice of Filing Proof of Publication
5. Notice of Petition for Change of Name
6. Order Setting Hearing
7. Order on Verified Petition for Change of Name of Minor
8. Notice of Exclusion of Confidential Information for Public Access
9. Verified Request to Prohibit Public Access Pursuant to Indiana Rules on Access to Court Records
10. Memorandum of Law in Support of Verified Request to Prohibit Public Access And/Or Waive Publication Pursuant to Rules on Access to Court Records
11. Order on Verified Request To Prohibit Public Access Pursuant to Indiana Rules on Access to Court Records

SIGN HERE

Signature

DATE YOU SIGN

Date

YOUR NAME

Printed Legal Name

STATE OF INDIANA) IN THE _____ COURT
)
COUNTY OF _____) CAUSE NO. _____

IN RE THE NAME CHANGE OF)
MINOR:)

_____))
Name of Minor)

_____))
Petitioner)

FOR THE SECTION ABOVE THE DOTTED LINE, LOOK AT
THE FIRST PAPER YOU FILLED OUT AND COPY THE
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**VERIFIED REQUEST TO PROHIBIT PUBLIC ACCESS PURSUANT TO INDIANA
RULES ON ACCESS TO COURT RECORDS**

I, YOUR NAME, respectfully petition this Court to seal the record of my child's name change proceeding, permanently prohibiting Public Access to the entire court record pursuant to Indiana Rules on Access to Court Records Rule 6. In support of this request, I state:

1. I am requesting the court change my child's name because they are:

SELECT THE BEST DESCRIPTOR transgender

IF YOU CHOOSE THE LAST
BOX, FILL IN THE BLANK.

gender non-conforming

nonbinary

FILL IN THIS BLANK WITH THE BEST DESCRIPTOR

2. I am seeking to change my child's name to accurately reflect my child's gender identity and presentation.

3. I am aware of the high rates of violence, discrimination, and invasion of privacy against transgender, gender non-conforming and nonbinary people in Indiana and nationwide and I fear that if the public knows my child's gender identity, they will personally experience violence, discrimination and an invasion of privacy.

4. I fear that if someone could find my child's name change request and address online, that they could be targeted for discrimination and/or violence based on their gender identity.

5. I also fear for my child's safety because of personal experience with violence and discrimination.

6. My child has personally suffered physical harm discrimination harassment bullying threats of violence other:

SELECT ALL THAT APPLY. IF YOU SELECT 'OTHER' FILL IN THESE BLANKS.

7. I am attaching a Memorandum of Law in Support of Verified Request to Prohibit Public Access And/Or Waive Publication Pursuant to Rules on Access to Court Records prepared by Indiana Legal Services as an Exhibit.

THEREFORE, I respectfully request that pursuant to the Indiana Rules on Access to Court Records, this case be excluded from public access by sealing the record of this proceeding.

I affirm under penalties for perjury that the foregoing representations and statements are true.

DATE YOU SIGN

Date

SIGN HERE

Signature

YOUR NAME

Printed Legal Name

**MEMORANDUM OF LAW IN SUPPORT OF
VERIFIED REQUEST TO PROHIBIT PUBLIC ACCESS AND/OR WAIVE
PUBLICATION PURSUANT TO RULES ON ACCESS TO COURT RECORDS**

1. This memorandum of law was drafted by Indiana Legal Services' LGBT Project to support self-represented litigants who fear for their safety to a request pursuant to the Rules on Access to Court Records² to waive publication and sale the records of their case.
2. Name change cases are subject to the public access rules containing in Indiana Rules of Court Administration 9. Ind. Code § 34-28-2-2.5(b).
- I. HAVING TO PUBLISH NOTICE IN A NEWSPAPER AND HAVING THEIR CASE PUBLICLY AVAILABLE PUTS PETITIONER AT SUBSTANTIAL RISK OF HARM.**
3. The Court of Appeals is clear that the evidence of heightened risk of harassment, violence, and homicide to transgender individuals nationally and in Indiana is enough to demonstrate significant risk of harm warranting prohibiting public access. *In re Name Change of M.E.B.*, 19A-MI-118 at ¶ 11 (June 21, 2019).
4. The purpose of the Access to Court Records Rule is, among other things, to minimize an individual's risk of injury. The Commentary to the Rule recognizes "that unrestricted access to certain information in Court Records could result in an unwarranted invasion of personal privacy or unduly increase the risk of injury to individuals and businesses." Ind. Access to Court Records 1, cmt. ". . . The goal of the Rules on Access to Court Records is proactive; it seeks to *prevent* harm. To force petitioners to wait until they have already experienced that harm would vitiate the purpose of the rule." *Id.*; accord *In Re K.H.*, 127 N.E.3d 257 (Ind. Ct. App. 2019)
5. A.C.R. Rule 6 requires Judges to look at the totality of the circumstances to evaluate if a substantial risk of harm exists and to proactively protect applicants' safety. Rule 6 does not require that Plaintiff endure targeted threats, violence, or abuse before granting temporary and permanent

² The Access to Court Records Rules replaced Administrative Rule 9 on January 1, 2020. Rules on Access to Court Records moved portions of Administrative Rule 9 and placed them in a more organized manner. A.C.R. Rule 6 is Administrative Rule 9(G)(4) without change.

sealing and a publication waiver. *In Re M.E.B.*, 126 N.E.3d 932 at 934 (Ind. Ct. App. 2019); *In Re K.H.*, 127 N.E.3d 257 (Ind. Ct. App. 2019)

6. Part of the circumstances to consider is the reality that transgender people are disproportionately impacted by violence and homicide. The United States is the third most deadly country for trans people.
7. Between 2013 and 2015, hate crimes against transgender people increased 239 percent, with LGBT people more likely than any other minority group to experience hate crimes in the United States. Haeyoung Park and Iaryna Mykhyalyshyn, *L.G.B.T. People Are More Likely to Be Targets of Hate Crimes Than Any Other Minority Group*, N.Y. TIMES, June 16, 2016.
8. The systemic violence transgender people experience neither begins nor ends with hate crimes, physical assault or homicide. Transgender people are more likely than the general population to experience discrimination, harassment, and violence in every facet of life, including family relations, education, employment, housing, public accommodations, obtaining accurate identification documents, and accessing adequate and appropriate medical treatment. . *See e.g. James et al., The Report of the 2015 U.S. Transgender Survey* (2016), available at <http://www.ustranssurvey.org/reports/>; National Coalition of Anti-Violence Programs, *A Report from the National Coalition of Anti-Violence Programs: Lesbian, Gay, Bisexual, Transgender, Queer, and HIV-Affected Hate Violence in 2013* (2014), available at http://avp.org/wp-content/uploads/2017/04/2013_ncavp_hvreport_final.pdf; Jaime M. Grant et al., *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey 2* (2011), available at http://www.thetaskforce.org/downloads/reports/reports/ntds_full.pdf.
9. This is no less true in the state of Indiana. A survey of transgender people in Indiana conducted in conjunction with the National Transgender Discrimination Survey found that 73% of respondents reported harassment in their K-12 school; and 27% reported physical assault. National Center for Transgender Equality and the National Gay and Lesbian Task Force, *Findings of the National*

Transgender Discrimination Survey: Indiana Results (2015), available at [http://www.transequality.org/sites/default/files/docs/usts/USTSINStateReport% 281017%29.pdf](http://www.transequality.org/sites/default/files/docs/usts/USTSINStateReport%281017%29.pdf).

10. In another study of Transgender Hoosiers, 74% of respondents reported experiencing harassment or mistreatment on the job. Christy Mallory and Brad Sears, *Employment Discrimination Based on Sexual Orientation and Gender Identity in Indiana*, August 2017, available at https://williamsinstitute.law.ucla.edu/research/in_discrimination_aug_2017/.
11. In 2016, an Indiana transgender woman was shot in the face while their attacker yelled anti-transgender sentiments. *Alleged Hate Group Member Charged in Shooting of Trans Woman in Indiana*, *The Advocate* (July 17, 2016), available at <http://www.advocate.com/transgender/2016/7/17/alleged-hate-group-member-charged-shooting-trans-woman-indiana>. Across the nation, violence against transgender individuals is on the rise. Maggie Astor, *Violence Against Transgender People Is on the Rise, Advocates Say*, N.Y. TIMES, Nov. 9, 2017.
12. Though the data on violence is staggering, the actual violence against transgender people is likely much worse, due to the underreporting of crimes. *See. E.g.* Lucas Waldron, *Deadnamed: The way cops in Jacksonville and other jurisdictions investigate the murders of transgender women adds insult to injury and may be delaying justice*, available at <https://www.propublica.org/article/deadnamed-transgender-black-women-murders-jacksonville-police-investigation>; Emma Keith et. al, *Lack of trust in law enforcement hinders reporting of LBGTQ crimes*, available at <https://www.publicintegrity.org/2018/08/24/22138/lack-trust-law-enforcement-hinders-reporting-lbgtq-crimes>.
13. The Court of Appeals is clear that these significantly higher rates of discrimination, harassment, and violence experienced by transgender people as compared to cisgender people (people who are not transgender) is enough to satisfy that there was clear and convincing evidence that the

Petitioner would face a significant risk of substantial harm if their transgender status was disclosed to the public. *In re Name Change of A.L.*, 81 N.E.3d 283, 291 (2017).

14. The Court of Appeals rejected the trial court’s reasoning that Rule 9 was not applicable because the petitioner had not shown they were subjected to any specific threats or violence because of their gender identity. *Id.* At 290-91. Trial courts have no jurisdiction to disregard appellate precedent. *Cf. Ross v. State*, 877 N.E.2d 829, 835 (Ind. Ct. App. 2007) (appellate precedent is binding on trial courts), *trans. denied*.

15. There—on an evidentiary record substantively identical to that submitted here—the court found that the significant risk of harm came from the general public being able to access, on the internet, in perpetuity, information about petitioner being transgender.³ *Id.*

II. COURT DOCUMENTS IDENTIFY PETITIONER AS TRANSGENDER, WHICH UNLAWFULLY DISCLOSES CONFIDENTIAL MEDICAL INFORMATION IN VIOLATION OF A.C.R. 5(A)(1).

16. A.C.R. Rule 5(A)(1) mandates that records declared confidential by Indiana statute or court rule must be excluded from public access. Both medical and mental health records are confidential and protected from public disclosure.

17. That Petitioner’s is transgender is protected medical information. I.C. § 16-39-3-10 declares a patient’s “mental health record or testimony related to a patient’s mental health” offered in a legal proceeding to be a confidential court record.

18. Gender transitions involve both physical and social elements. Social elements, such as wearing clothing more readily associated with a specific gender, changing one’s name and updating their identity documents to reflect their experienced sex, are therapeutic treatments for the psychological treatment of gender dysphoria. STANDARDS OF CARE FOR THE HEALTH OF TRANSSEXUAL,

³A publication notice in a local newspaper lives on past the three weeks in which it is published. All public notices published in Indiana are archived and searchable through the Hoosier State Press Association. Indiana Public Notice Search, available at <http://www.indianapublicnotices.com/>. Once publication is made or the court file accessed, it cannot be undone.

TRANSGENDER, AND GENDER-NONCONFORMING PEOPLE, WORLD PROFESSIONAL ASSOCIATION FOR TRANSGENDER HEALTH (7th ed. 2011), *available at* <https://www.wpath.org/publications/soc>.

19. The records in this case constitute protected health records that Indiana law requires trial courts to keep confidential. *See* Ind. Code § 16-39-3-10 (a “mental health record or testimony related to a patient’s mental health” offered in a legal proceeding is a confidential court record). Trial courts have no discretion, and therefore no jurisdiction, to order such records be made publicly available. *E.g. Groth v. Pence*, 67 N.E.3d 1104, 1112 (Ind. Ct. App. 2017) (“as a matter of law,” records declared confidential by statute “shall not be disclosed”), *trans. denied*.

III. BEING OUTED AS TRANSGENDER VIOLATES PETITIONER’S PRIVACY INTERESTS PROTECTED BY THE ACCESS TO COURT RECORDS RULES AND THE 4TH AMENDMENT OF THE US CONSTITUTION.

20. The purpose of the Rules on Access to Court Records is, among other things, to protect the privacy interests of litigants. The Commentary to the Rule recognizes “that unrestricted access to certain information in Court Records could result in an unwarranted invasion of personal privacy or unduly increase the risk of injury to individuals and businesses.” Ind. Access to Court Records Rule 1, cmt.

21. Petitioner has a fundamental right of privacy in preventing the release of their highly personal and intimate medical and mental health information and in deciding under what circumstances to release information that has a statistically significant likelihood to subject them to substantial harm. *Whalen v. Roe*, 429 U.S. 589, 599-600 (1977); *Nixon v. Adm’r of Gen. Servs.*, 433 U.S. 425, 464-65 (1977) (instructed that intrusions on legitimate informational privacy expectations must be weighed against the public interest in accessing that information); *NASA v. Nelson*, 562 U.S. 134, 138 (2011) (reaffirming *Nixon* balancing test); *Denius v. Dunlap*, 209 F.3d 944, 956 (7th Cir. 2000) (holding 4th Amendment right to informational privacy protects the “clearly established ‘substantial’ right in the confidentiality of medical information that can only be overcome by a sufficiently strong state interest”).

22. The United States Supreme Court has recognized that a constitutional right to information privacy protected by the 4th Amendment applies to the states under the 14th Amendment. *Whalen v. Roe*, 429 U.S. 589, 599-600 (1977). This constitutional right to privacy means one has a venerable right “not to have intimate facts concerning one’s life disclosed without one’s consent.” *Bartnicki v. Vopper*, 200 F.3d 109, 122 (3d Cir. 1999). In fact, “the more intimate or personal the information, the more justified is the expectation that it will not be subject to public scrutiny.” *Fraternal Order of Police v. City of Philadelphia*, 812 F.2d 105, 112 (3d Cir. 1987). This right to privacy has been deemed by Federal Courts to include an individual’s gender identity. *See Powell v. Schriver*, 175 F.3d 107 (2d Cir. 1999).
23. Denying Petitioner’s Access to Court Records request would make public the fact that Petitioner is pursuing therapeutic treatment for their gender dysphoria and reveal medical and mental health information to a large number of disinterested persons with no legitimate interest in that information, in violation of the 14th Amendment to the United States Constitution, I.C. § 16-39-3-10, and the purpose of the Access to Court Records Rule.

*Prepared in January 2020 for use by pro se parties by:
LGBT Law Project
Indiana Legal Services
lgbtgroup@ilsa.net*

STATE OF INDIANA) IN THE _____ COURT
)SS:
COUNTY OF _____) CAUSE NO. _____

IN RE THE NAME CHANGE OF)
MINOR:)
)
_____))
Name of Minor)
)
)
_____))
Petitioner)

FOR THE SECTION ABOVE THE DOTTED LINE, LOOK AT
THE FIRST PAPER YOU FILLED OUT AND COPY THE
INFORMATION HERE.

PUBLIC NOTICE OF HEARING

Please take notice: Petitioner having filed a Verified Request To Prohibit Public Access Pursuant to Indiana Rules on Access to Courts and for Sealing the Record pursuant to Indiana Rules on Access to Court Records requesting that the Court enter an Order excluding the entire case from public access, now and the Court having duly examined said motion, hereby sets the matter for hearing on

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Dated _____

LEAVE BLANK
Judicial Officer _____

Distribution:
YOUR NAME
YOUR ADDRESS

STATE OF INDIANA) IN THE _____ COURT
)SS:
COUNTY OF _____) CAUSE NO. _____

IN RE THE NAME CHANGE OF)
MINOR:)
)
_____))
Name of Minor)
)
)
_____))
Petitioner)

FOR THE SECTION ABOVE THE DOTTED LINE, LOOK AT
THE FIRST PAPER YOU FILLED OUT AND COPY THE
INFORMATION HERE.

**ORDER ON VERIFIED REQUEST TO PROHIBIT PUBLIC ACCESS PURSUANT TO
INDIANA RULES ON ACCESS TO COURT RECORDS**

Following a hearing on the matter, held on LEAVE BLANK the Court now issues the following Findings and Order:

- 1. Petitioner has demonstrated by clear and convincing evidence that the requirements of Indiana Rules on Access to Court Records Rule 6(A) are met.
- 2. Petitioner demonstrated that the personal safety interests served by prohibiting public access to the entire court record of this case outweigh the public access interests served by the Rules on Access to Court Records.
- 3. Permanently prohibiting Public Access to the entire court record is the least restrictive means and duration to protect Petitioner’s and Minor Child’s personal safety.

THEREFORE, IT IS ORDERED that Public access to the documents that comprise the entire court record under this case number is permanently prohibited and all Public access to all further proceedings under this case number is prohibited.

So ordered this LEAVE BLANK

LEAVE BLANK
Judicial Officer

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