

INSTRUCTIONS FOR COMPLETING THE PETITION TO CORRECT A BIRTH CERTIFICATE

About the Petition

Who can file a petition to amend a birth certificate?

You can only apply to amend a birth certificate if you are over eighteen and you wish to correct an error on your own birth certificate; or, if you are bringing the petition on behalf of a minor child, and you are one of the child's parents listed on the certificate or you are the minor child's legal guardian.

The Petition does not affect the legal status of the child's father.

The legal procedure of correcting a birth certificate does not change the legal status of the child or the father in any way. This petition is meant to assist individuals correct minor errors, such as spelling mistakes or a wrong birth date or state of birth attributed to a parent on their child's birth certificate.

If you are the father of a child born out of wedlock, and you want to become the legal father, you must use a different procedure called "Legitimation." The Dougherty County Law Library has the forms for that procedure as well. You may change the child's name in the Legitimation action. In the same Legitimation case, you can get a judicial order directing Vital Records to add your name as the child's father on the birth certificate.

If you are a mother or father who wants to have a court decide who the child's father is, or if you want to change the name of the father listed on the birth certificate you must file a Paternity action.

This petition will not get you your first birth certificate

Correcting a birth certificate is not the same as asking for a birth certificate for the first time. If your birth was never registered and you were born in Georgia, you will have to file a Petition for a Delayed Certificate of Birth.

This petition will only correct Georgia birth certificates

If you or the minor child whose certificate you are trying to correct were not born in Georgia, you will not be able to use this form. ALSO, YOU MAY BE ABLE TO CORRECT THE BIRTH RECORD WITHOUT A COURT ORDER:

Sometimes you can correct a birth certificate without a court order

- **Parents who did not marry until after the child's birth**

If you are the natural parents of a child born out of wedlock in Georgia, and you have now married each other and want to change the child's birth certificate to show the father and change the child's name, you do not have to file a court action. Instead, you may file a simple form with the Georgia Department of Vital Records. The form is called *Application for an Amended Certificate of Birth by Legitimation (Form #3929)*, and is available from the Vital Records office. Note: If the mother was married to a man (who is not the child's father) any time between conception and birth, you would still need a court order. This is because the husband is presumed to be the father of his wife's children.

- **Parents can sometimes sign a voluntary acknowledgement of paternity before the child's first birthday.**

If you are the natural parents of a child born out of wedlock in Georgia, and you both want the name of the father added on the birth certificate, you may not need a court order. Instead, you may be able to add the father's name by completing a *Paternity Acknowledgment* form at one of three places: the hospital where the child is born, the State Office of Vital Records office in Atlanta, or The Vital Records Office in the county where the child was born.

The Paternity Acknowledgment can be completed if both the mother and father agree, and if the mother was not married at the time of conception, birth, or any time in between. (The father should also register with the *Putative Father Registry*. You can get the registration form for that from the county Vital Records Office, which is usually located in the Probate Court Office). Note: A Paternity Acknowledgment cannot be completed if the mother was married to a man (who is not the child's father) any time between conception and birth. In this situation, you would need to file a paternity or legitimation action in court. You should consult an attorney if you need to file a paternity or legitimation action.

- **Some minor birth certificate errors can be corrected without a court order.**

Many minor errors on birth certificates may be amended without a court order. Therefore, you should not file a court action until the Department of Vital Records has notified you that they will not amend the certificate without a Court Order.

Always contact Georgia Vital Records before you file a petition.

You should always ask the Georgia Department of Vital Records to amend the birth certificate administratively before you file a court action to get it corrected (See Step One below for details about how to do this).

WHAT IS THE LAW ABOUT AMENDING A BIRTH CERTIFICATE?

Court cases that are about correcting a birth certificate are covered by Official Code of Georgia Sections 31-10-9 through 31-10-31. Additional procedures are set out in the Rules and Regulations of the State of Georgia, Sections 290-1-3-.10 through 290-1-3.40. To read these laws, go to www.albany.ga.us/lawlibrary. Click on "find a law," then on "Georgia Code Chapter List" or "Georgia Rules and Regulations (Administrative Code)."

Georgia courts only have authority to order corrections for Georgia birth records. So, if you were born in another state or country, you cannot use this packet to correct your birth certificate.

Petitioning a Court to correct an error on a birth certificate is not the same as asking that you be allowed to legally change your name. If you follow the procedure to legally change your name, you can get a court order in the name change case that commands Vital Records to change the name on the birth certificate (if you were born in Georgia).

Other court cases can also include name changes as part of the case. These include legitimations, paternity actions and divorces. Each of these actions has its own part of the Official Code of Georgia, and is not included in this packet of forms.

If you need advice on what you should do, you need to talk to a lawyer.

It is a good idea to talk to a lawyer before filing any court action. This petition to correct a birth certificate is no exception to that rule. There are often more issues involved than you might realize if you fail to get legal advice. If you do talk to a lawyer before filing this action, it is a good idea to review the forms and instructions in this packet before you talk to the lawyer, so that you will be able to make the best use of your time with the lawyer.

People who work at the courthouse cannot give advice.

State law, OCGA § 15-19-51 prohibits court personnel (including staff attorneys or law clerks, calendar clerks, clerk's office staff, and sheriff's department staff) from giving legal advice or answering legal questions. This rule also applies to the Dougherty County Law Library.

LIST OF FORMS YOU SHOULD HAVE IN THIS PACKET

- Petition to Correct a Birth Certificate
- Verification of Petition
- Summons
- Affidavit in Support of Petition to Correct a Birth Certificate (optional)
- Acknowledgment of Service, Consent to Jurisdiction and Venue, and Consent to Present Case
- General Civil Case Filing Information Form
- Final Order to Correct Birth Certificate
- General Civil Case Final Disposition Information Form

Forms you need from elsewhere:

- Sheriff's Return of Service form (at least two copies), available at the Sheriff's Department.

LIST OF STEPS FOR CORRECTION OF BIRTH CERTIFICATE

STEP 1: See if you can get Vital Records to correct the birth certificate without a court order.

STEP 2: Fill out the forms packet.

STEP 3: Make copies of the documents you want the judge to see in support of your allegations. Attach the copies to the Petition before you file it.

STEP 4: Make copies of all the forms.

STEP 5: File the forms at the Superior Court Clerk's Office.

STEP 6: Have the Sheriff serve copies of your papers on necessary parties.

STEP 7: Wait the required time, and prepare the Final Order form for the final hearing.

STEP 8: Schedule and attend the court hearing.

STEP 9: File the Final Order and get a certified copy of it.

STEP 10: Take the certified copy of the Final Order to the Vital Records Office and ask them to change birth certificate(s).

DETAILED, STEP-BY-STEP INSTRUCTIONS

The rest of these instructions tell you how to fill out each form and perform each step of the process to complete your petition to correct the birth certificate.

Please read these instructions and each form very carefully. Missing or misreading a word could cause you to make serious errors in your case, causing confusion and delays, and even causing the Court to deny the corrections you are requesting.

STEP 1: See if you can get Vital Records to correct the birth certificate without a court order.

You can request a birth certificate in one of three ways:

1. Mail a request to Georgia Vital Records
2. Request it in person at your local Probate Court Office or County Vital Records Office
3. Request online from your local Vital Records or Probate Court website (for Dougherty County, go to <https://www.vitalchek.com/vital-records/georgia/dougherty-county-probate>). You can find a link to find your Probate Court office at <http://w2.georgiacourts.org/probate/>.

Georgia Department of Vital Records Contact Information:

Vital Records

2600 Skyland Drive

Atlanta, GA 30319-3640

404-679-4702 (phone)

404-679-4730 (fax)

www.health.state.ga.us/programs/vitalrecords/

Vital Records does charge a fee for a certified birth certificate. Fees change over time, so call Vital Records at the number listed above or visit its website to find the correct amount.

Once you get the certified copy of the birth certificate, circle all the changes you wish to make, and submit a written request to Vital Records asking for further instructions or procedures. You may use the letter included in this packet to make this request. Vital Records does charge a fee for processing this request. Fees change over time, so make sure to verify the correct amount.

If the Vital Records office refuses to make the correction without a court order, then you should continue to Step 2.

Step 2: Fill out the forms packet.

Step 2 (a): Complete the Petition to Correct an Error on a Birth Certificate

The Caption: The caption is the standardized heading on legal documents, which contains the names of the parties, the name of the court, the docket

number, and the title of the action. Here is what a caption looks like:

5		Case No.: CASS-178925
6	H.C. Anderson, Guardian Ad Litem for	Complaint
7	Hansel W. and Gretel W.	Kidnapping
8	Plaintiff,	Battery
9	vs.	Intentional Infliction of
10	The Old Witch,	Emotional Distress
11	Defendant	Negligent Infliction of
12		Emotional of Emotional
		Torture
		Aggravated Mayhem

On the caption's first blank line (to the left of the vertical line, after the words "In re:"), type or print the current name of the person whose birth certificate is being corrected exactly as it appears on the birth certificate you are trying to correct. Fill in your name on the blank for the Petitioner. Do not fill in the Civil Action Case Number. The clerk will assign a number to your case when you file your petition in the Clerk's office.

Introduction: Your Name and name of minor child (if any)

Check the first box if you are filing this action on behalf of yourself, and type or print your name on the blank of this paragraph.

Check the second box if you are filing this action on behalf of a minor child. Then, type or print your name on the first blank of the paragraph, and the name of the child (exactly as it appears on the birth certificate—even if you are claiming the name was misspelled) on the second blank.

Paragraph 1 of Petition: Your name and residency and residency of minor child

Type or print your name on the first blank of this paragraph. If you are bringing the petition on behalf of a minor child, check the first box if the minor child lives with you. If not, mark the second box, and type or print the name of the person with whom the minor child live in the next blank. The last blank should be filled in with the name of the County in which the child lives.

[Note: if you are filing the petition on behalf of a minor child and he or she does not live with you and/or lives in a different county, you should consult an attorney to make sure you are filing in the correct county].

Paragraph 2 of the Petition: Your relationship to the petitioner

Check the box next to the sentence that describes your relationship to the person whose birth certificate is being changed. Only people who have a legal relationship (that is, parents and legal guardians) can petition on behalf of a minor child. If you are a parent listed on the minor child's

birth certificate, type or write in whether you are the child's father or mother in the blank provided.

Paragraph 3 of Petition: Party and Address to be Served

The State Registrar of the Department of Vital Records and the Commissioner for the Georgia Department of Human Resources are entitled to notice of your petition. Additionally, if you are filing this petition on behalf of a minor child, you will need to also serve any parent or guardian not listed on the Petition unless they have signed an Acknowledgment of Service. If you will be serving the parent or guardian, check box (a). Additionally, you will need to then check box (i) if you are serving a guardian, box (ii) if you are serving the mother, and/or box (iii) if you are serving the father. After each person's name, write his or her address. If the parent or guardian has signed the Acknowledgment of Service form provided in this packet check box (b) and include the Acknowledgement of Service form with the paperwork you submit to the court. [If more than one parent or guardian will acknowledge service you will need to submit one Acknowledgment of Service for each person).

Paragraph 4 of Petition: reasons for request

Check every box which applies to your situation.

Paragraph 5 of Petition: Documents supporting your case

You must provide documents to prove your claim that an error occurred on the birth certificate. For example, if you are saying that the maiden name of the child's mother was listed incorrectly on the birth certificate, you should provide a copy of the mother's birth certificate showing the correct spelling of her last name. If you claim you were married at the time of the child's birth, but your husband's name was left off the certificate, you should provide a copy of your marriage certificate.

Different documents may be required to amend different items on a birth certificate. Talk with a lawyer to decide which documents will best support your case. At the very least, you will need to include a certified copy of the birth certificate you wish to amend. If you have several documents which support one fact, submit the best one. You should try and keep the documents to those 3 or 4 which are most legally convincing. (If you have more, you should take those to your final hearing, and be prepared to present them to the Judge if he or she has any more questions).

Paragraph 6: Errors on the Birth Certificate

You must tell the Court what errors appear on the birth certificate and what the corrections should be. You should also let the Court know the

Field Number for the Error you wish to correct. For example, if you wish to amend your child's first name, look at her birth certificate. There will be a number above her first name. This will be the 'field number.' Then fill in the first sentence of Paragraph 6 as follows in this example: Field 2 which currently reads "Samanhta" should read: "Samantha" and so on.

Paragraph 7: Reasons for Errors

Tell the court how the errors occurred to the best of your knowledge.

Paragraph 8: No intent to defraud

It is a crime to knowingly and willfully make any false statement or supply false information in an application for an amendment of a birth certificate. To finish filling out this Petition form, sign your name in the space provided on the last page, type or print your name underneath your signature, add the date on which you are signing it, and write your address and a daytime telephone number where the Court staff can reach you if necessary. Note that, if you are living in a shelter for victims of family violence, DO NOT LIST THE ADDRESS OF THE SHELTER. Giving out the address of a domestic violence shelter violates OCGA § 19-13-23. Instead, on the space for the address, list only the name of the shelter and the state where it is located.

Step 2 (b): Complete the Verification Form

The Verification form must be filed with the Petition to Correct the Birth Certificate. Fill out the caption in the same way you filled it out on the Petition. Then, write your name in the space after the words "My name is." Now, before you sign this Verification, remember that you will be swearing under oath that the information you have provided in the Petition is true. Therefore, you should re-read the Petition one more time, from start to finish, to make sure it is all true. Do not sign it until you are in front of a notary public. The notary must complete the rest of the Verification form after you sign it under oath. (If you do not speak English and the petition is being read to you, make sure it was translated by someone you trust, since you are swearing that what you are saying in the Petition is true).

Step 2 (c): Complete the Affidavit

If you are submitting this petition on behalf of a minor child, but there is another parent or guardian who agrees to the changes or who knows about the errors on the birth certificate, it is a good idea to submit an affidavit of those parents or guardians with the petition. The affidavit from the parent or guardian can state whether they have any additional personal knowledge or documents to support your claim that there are errors on the birth certificate, and, if they do have documents, state that those will be provided with the affidavit: For example, if you are

alleging that the child's father's name was misspelled on the certificate, the father's affidavit can support this by stating that he agrees that his name is misspelled, stating what his correct last name is, that he has no objection to your request to amend his name, and could including any proof (such as a copy of his own birth certificate) to show how his last name should be spelled. Remember that all affidavits must be signed in front of a notary public. You may also want to include an affidavit from an individual who has knowledge regarding facts you are trying to prove if you cannot provide any documents to support your request.

Caption (Heading) on Affidavit:

Fill out the caption in the same way you did it on the Petition.

Paragraph 1 of Affidavit: Name and Age.

The person who is submitting the affidavit should type or print his or her name and age here.

Affidavit: Relationship to Petitioner.

They must check the box to explain their relationship to the person whose birth certificate is being corrected.

Paragraph 3 of Affidavit:

If the petitioner has any information regarding the errors on the birth certificate he or she can state those here.

Paragraph 4 of Affidavit:

If there are any documents that support the request to change the birth certificate, list them here and attach copies to the Affidavit. Affidavits must be signed in front of a notary public. The Affiant (person who is signing the Affidavit) should also print his or her name, address and phone number underneath their signature.

Step 2 (d): Complete the Acknowledgment of Service, Consent to Jurisdiction and Venue, and Consent to Present Case Form

Fill out the caption the same way you filled out the Petition. The person acknowledging service should then write his or her name on the first blank provided after the caption. Additionally, he or she should check the box which classifies his or her relationship to the person with the incorrect birth certificate. Be sure to include an address where he or she can be reached by the court if necessary. Finally, he or she will have to sign in front of a notary public and print name, address and phone number underneath the signature. Note: you may need to file more than one Acknowledgment of Service, one for each person that is acknowledging service.

Step 2 (e): Complete the Non-Domestic General Civil Case Filing Information Form

Case Caption (left side of form): Write in the county where you are filing, as well as the date filed. Do not fill in the docket Number; The Clerk will do it when you file the case. On the lines underneath the Case Number, type or print your name, address and telephone number on the spaces provided under the words "Plaintiff(s)." In the box beside Plaintiff/Petitioner's Attorney, check the box just left of the words "pro se." Leave the blanks underneath the word "Defendant(s) blank. In the "Check Primary Type" box, Check the box next to "other" and type or write in "Petition to Correct Birth Certificate." Leave the second box labeled "If Tort is Case Type" blank.

Step 2 (f): Signing in Front of a Notary Public.

After you fill out all of the forms, review them to make sure they are complete and accurate. Then, take them to a notary public and sign them in front of the notary. You must have proper identification such as a driver's license, passport, etc.

Step 3: Copying Your Papers

Check to make sure you have completed all the forms you need, and that they have all been signed by the proper people in front of a notary. (See Page 4 of these instructions for a list of all the forms.) Then, make one copy of each of the forms for each parent and guardian, including you, one for the State Registrar of the Department of Vital Records and another for the Commissioner of the Department of Human Resources. Sort the copies into sets for the Court and for each parent etc. with one copy of every form in each set. The Court will need the original petition and other original documents. Clip each set with a paper clip.

Step 4: Filing the Forms at the Clerk's Office

After you have completed, signed (in front of a notary, where applicable), copied and sorted all your paperwork, you are ready to file your case. The court filing fee for a petition to amend a birth certificate action is currently (4/2013) \$200.00* (*note that fees are subject to change). In addition, you will also have to pay a fee to have the Commissioner for the Department of Human Resources served by the Fulton County Sheriff's Department office.

Note about fees: *If you have a very low income, and feel that you cannot afford to pay these fees, you can ask the Court to waive the fees. To do this, you will have to fill out a Poverty Affidavit and Order and file them with the other papers when you file your case at the Clerk's office. (Ask the staff at the Clerk's Office or the Law Library for these forms, which are not included in this packet.) A judge must approve the Poverty Affidavit before you can file your case with the Clerk's office staff. If*

the judge signs the order of approval, the filing fee, and possibly the service fee will be waived. If the judge does not approve your Poverty Affidavit, you must pay the fees before your case will proceed.

Take all of the sets of forms (with the Court's original set on top), along with your cash or money orders, to your local Superior Court Clerk's office. When it is your turn, give all the forms to the clerk. Tell the clerk if there have ever been any cases about the child in this Court (if you are filing on behalf of a minor child), so that the case can be assigned to the proper judge. If your paperwork is in order, the clerk will keep the originals for the Court's file.

If you are paying the fees, you will probably be sent to a different clerk to pay the money, and then bring the receipt back to the filing clerk to show that you paid. If you are not paying the fees, but are filing a Poverty Affidavit instead, the clerk will instruct you about how the Poverty Affidavit and the Order on Poverty Affidavit are to be presented to the appropriate judge for review and signing.

After the fees have been paid, or the Poverty Affidavit has been approved by the judge, the clerk will write your case number on the top page of your set of copies, stamp them with the date & time stamp, and return them to you. Keep one set for your records, and set aside the other sets for the Sheriff's office to serve them on the proper people. Your case has now been filed. Ask the clerk which judge has been assigned to the case, and get the name and phone number of the Judge's calendar clerk (which you will need at the end of your case).

Step 6: Arranging for Service on the Georgia Department of Human Resources, the State Registrar of the Department of Vital Records, and any parent or legal guardian

Service is the formal process of notifying interested parties in a lawsuit that a suit has been filed.

You must serve the following parties:

1. The Commissioner of the Georgia Department of Human Resources at: Suite 29-250, 2 Peachtree St. NW, Atlanta, GA 30303-3142; and
2. The State Registrar of the Department of Vital Records at: 1600 Skyland Dr. NE, Atlanta, GA 30319.
3. Finally, you will also need to have any other parent or legal guardian served, unless she or he signs an Acknowledgment of Service.

There are several different ways to serve someone, but personal service by the Sheriff ("Personal Service") is the usual way that service is completed. The deputy sheriff personally hands the papers to the State Registrar, the Commissioner for the Department of Human Resources, and any parent or guardian entitled to notice.

- (i) Ask the Superior Court Clerk's office for one sheriff's entry of service form for each party you need to serve. (You'll need at least 2 – one for vital records and one for DHR – and maybe more, depending on if there is another parent or guardian you have to serve.) Different counties have different forms for this.
- (ii) There are other methods of service besides personal service. For parties who live in a county other than the one where you are filing, service is done "by second original. To read more about this and other methods of service of process go to www.albany.ga.us/lawlibrary, click on "representing yourself," and click on "how to serve papers on the other party."
- (iii) After the Fulton County Sheriff's Department completes service on Vital Records and the GA DHR, they will send you back Sheriff's Entry of Service forms showing that they were able to serve the parties. When you receive these back, you **must** file them with your local Superior Court Clerk's office, which will then give you your copies of the Sheriff's Entry of Service forms.

Step 7: Wait the Required Time and Prepare Forms for Final Hearing

You can ask the Judge's calendar clerk to schedule a final hearing after one of these events has happened:

- you have received a response back from the Department of Vital Records saying they will not oppose your petition, or
- 30 days or more have passed with no response from the Department. (If for any reason, the Department is opposing your petition, you should consult with an attorney at that time).

Complete the Final Order Correcting the Birth Certificate.

- (1) Fill in the caption in the same way you did it on the Petition. Fill in the Case Number that the clerk gave you when you filed the case. In the first paragraph, type or print your name and follow with the name of the minor child on the next blank. Fill in your name or your child's name in the next blank as applies.
- (2) Next, look at the birth certificate you wish to amend. It should have a local file number and state file number. List both of those numbers in the applicable blanks. Then, fill in the current mistakes on the birth certificate, the field number on which the error occurs, and the proposed corrections for each mistake. Finish by repeating the state file number.
- (3) Leave the rest of the order form blank. The Judge will fill out the rest at your hearing and will sign it if he or she approves of the final order.

Complete the General Civil Case Final Disposition Information Form:

Check the box next to the word "Superior" in the upper left-hand corner of the form. Fill in the name of the county where your case is being heard on the space for the County. Fill in the Case Number on the space beside

the words "Docket Number." Fill in your name as the Reporting Party; your title is "Petitioner." Fill in your name on the line for the "Plaintiff/Petitioner." Check the box for "Pro Se." Fill in the name of the Respondents on the space provided. Under "Type of Disposition," check the box for Bench Trial (#6). *Do not fill in the "Award" section or the "Judgment on Verdict" section. (Leave them blank.)* Under "ADR," check the box for "No."

Step 8: Schedule and Attend the Court Hearing

Contact the calendar clerk for the Judge assigned to your case. Make sure you have your court papers (including the Case Number) in front of you when you make the call, so you can answer any questions the calendar clerk may have about your case. Schedule your final hearing. (Some judges require you to make an appointment; others just have certain days and hours when you can come in for this type of hearing.)

When you go the court for your hearing, take your copy of all the court papers with you, including:

- Petition to Correct Birth Certificate;
- All affidavits you filed in support of your petition;
- All documents you filed in support of your petition (including the birth certificate you wish to amend, and any documents which support your claim that there are errors on the birth certificate which need to be corrected);
- Any documents you received from the Office of Vital Records regarding your petition.
- Final Order
- General Civil Case Final Disposition Form.

When you get to the Judge's office, tell the staff that you are there for correction to a birth certificate (similar to a name change). The staff may ask you for your Final Order form. When you go into the Judge's office, the Judge will have you swear to the truth of what you are about to say. Then, tell the Judge the following information:

- your name;
- county where you live;
- how you are related to the children (if filing on behalf of a minor child);
- that you are asking the Judge to grant a correction in the birth certificate from [list error] to [list proposed correction]; and
- the reasons you want to correct the certificate

If you didn't already give the Final Order form to the Judge's staff, offer it to the Judge now. The Judge may ask you some additional questions. Then, if the Judge approves the petition, she or he will sign the Final Order form.

Step 9: File the Final Order and Get a Certified Copy

Take the signed Final Order to the Clerk's office and file it with the clerk. Ask for a certified copy of the Order. There is a fee for the certified copy. Check with the Clerk of Court to find out what the fee is in your county. A certified copy of the Order proves that the Court is allowing you to amend the birth certificate

Step 10: Send a certified copy of the Final Order to Vital Records, pay the fee, and get your new Birth Certificate

Send a written request for the new birth certificate, along with the certified copy of your court order, to Vital Records: 2600 Skyland Drive, NE, Atlanta, GA 30319. Send a certified check or money order to pay for the new certificate. At the time these instructions were written (4/2013), the fee was \$10. Fees change over time, so check with vital records online or by telephone to find out the correct amount to send. You may call Vital Records at (404) 679-4730. Vital record's web address for birth certificates is

www.health.state.ga.us/programs/vitalrecords/birth.asp.

You are all done!