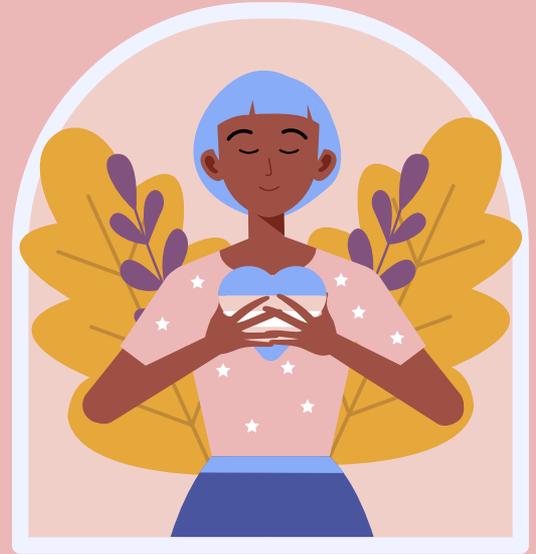


# Name Change/ Sex Designation Correction Clinic

**Presenters:** Steve Huff & Maisy Kleinschmit



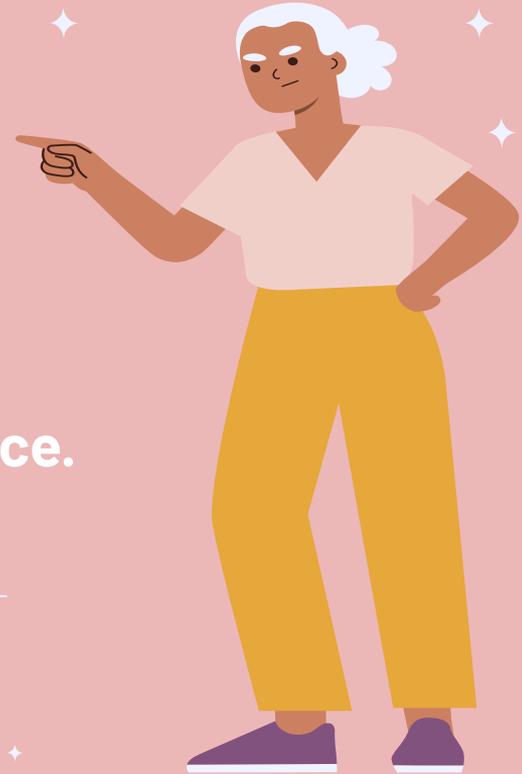
# Questions?

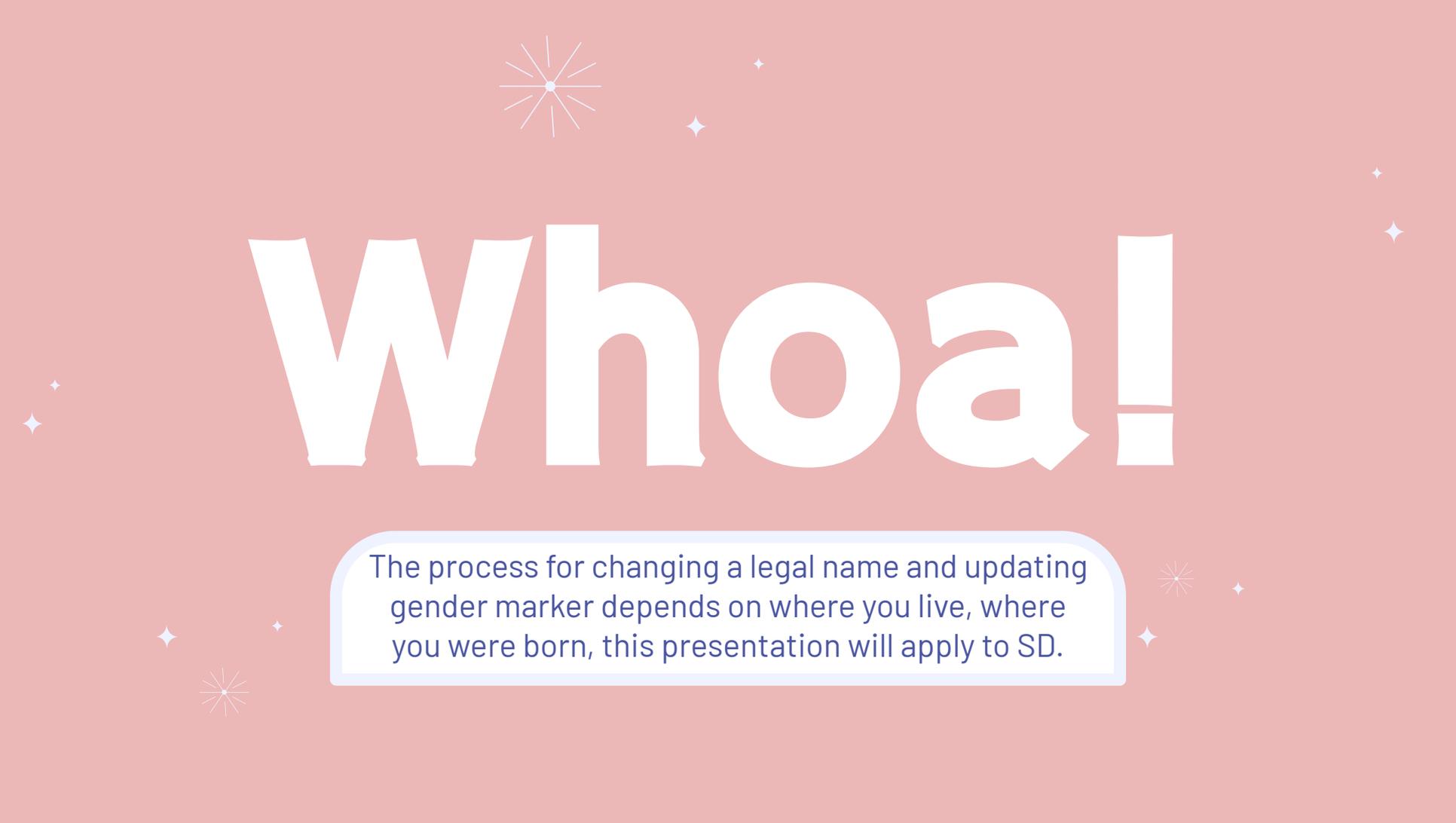
You may **type** all of your questions in the **chat**.

All questions will be answered at the end of the presentation, unless the question must be answered urgently.

We are **NOT** giving legal advice or representing anyone but are instead providing some information and resources that people can review and decide if they want to represent themselves or hire counsel of their choice.

**\*Disclaimer\***





# Whoa!

The process for changing a legal name and updating gender marker depends on where you live, where you were born, this presentation will apply to SD.

# Table of contents

01

## Name/Gender Marker

Legal Court Order &  
Signed Affidavit from a  
Licensed Physician

02

## Documents

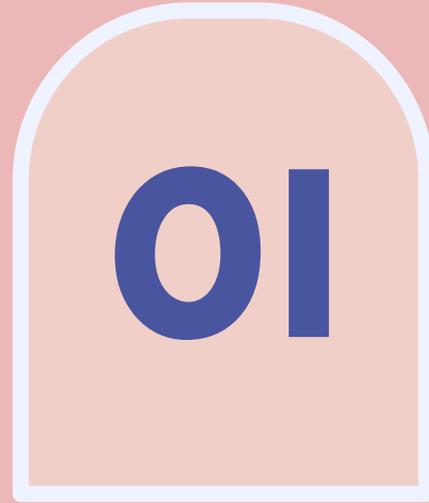
Social Security, Birth  
Certificate, Driver's  
License, Passports, etc.

03

## Process Order

What to Expect

# Name/Gender Marker



# SD Name Change Laws (18+)

18+:

- To obtain a legal name change in South Dakota, an applicant must submit a petition to the court. The applicant must publish notice of the hearing and petition details in a legal newspaper once a week for four weeks. (S.D. Codified Laws §§ 21-37-1 to 21-37-10)
- The purpose of the law is to ensure the legal name change is not to defraud creditors.
- Judges will look for residency to be sure they have jurisdiction to proceed.
- Public notice: Can be in any legal county paper. For example in Minnehaha county- Garretson Newspaper would be acceptable.

# SD Name Change Laws (18+)

- Find paperwork on the website:
  - Instructions:
    - [https://uj.s.sd.gov/media/forms/namechange/UJS-024\\_Instructions\\_for\\_Change\\_of\\_Name.pdf](https://uj.s.sd.gov/media/forms/namechange/UJS-024_Instructions_for_Change_of_Name.pdf)
- Fill out paperwork
  - Application:
    - [https://uj.s.sd.gov/uploads/forms/namechange/UJS-025\\_Petition\\_for\\_Change\\_of\\_Name.pdf](https://uj.s.sd.gov/uploads/forms/namechange/UJS-025_Petition_for_Change_of_Name.pdf)
- Take it to court house with payment and the clerk of courts will set a court date.

You do not need a lawyer for a name change. Total cost is around \$150 to file the paperwork and put your name in the paper for four weeks.

# SD Name Change Laws (Under 18)

Minors: (must establish the best interest of child & parental consent)

- A minor may petition for a name change in the same manner as a legal adult, but a guardian or conservator must be appointed to conduct the action. S.D. Codified Laws § 26-1-3
- In addition to these name change requirements, for the name change of a minor, the petitioner must give notice to any parent who is not a party to the petition and whose parental rights have not been terminated. S.D. Codified Laws § 21-37-4
- The petition is excused from the notice, publication, and public hearing requirements if all parents with parental rights consent and the minor if 12 years or older consents. S.D. Codified Law § 21-37-5.1

# SD Name Change Laws (Under 18)

- Find paperwork on the website:
  - Checklist:
  - [https://ujc.sd.gov/uploads/forms/namechange/Checklist\\_for\\_Name\\_Change\\_Child.pdf](https://ujc.sd.gov/uploads/forms/namechange/Checklist_for_Name_Change_Child.pdf)
- Both parents need to sign the paperwork,
- Kids 12 and up need to also do paperwork.
- It's really a very easy process for people under 18.

You do not have to go to court, unless one parent does not consent.  
Otherwise, it's all done without a hearing.

# Verified Petition for Name/Gender Marker Change

## What You Need:

- Include-
  - Original birth certificate
  - Letter from treating physician, (for gender marker change).
    - (More on this next slide)
  - Other supporting info such as proof of residency
- Notice of Hearing
- Affidavit of Publication
- Proposed Orders, ready to go
- You also need to pay in full. It's a different price for each courthouse. So look on the website to see how much you need to bring or send in.

# Letter From Treating Physician (Template)

To whom it may concern:

I, Physician's Name, Physician's medical license or certificate number, am the physician of Name of Patient, Date of Birth of Patient, whose medical history I have reviewed and evaluated and whom I have treated for TIME. (or "treated since \*DATE\*

Name of Patient is in the process of transition to GENDER, and has had appropriate clinical treatment for legal document change to be appropriate at this time.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Signature of Physician

Typed Name

Address

Telephone Number

Date

# Obtain a court-ordered name/gender



## Acquire Multiple Copies

This is for updating SS, birth certificate, driver's license and other documents. (It may cost money.)



## Starting Next Steps

Once you have certified copies of the court-ordered change you can now start updating your identification documents.



## Sealed Case

Ask for your case to be sealed if you are concerned about privacy or safety

# Documents

02



# Identification Documents

## Social Security

Social Security Card and Records



## ID/Driver's License

State ID or Driver's License with the Department of Motor Vehicles

## Birth Certificate

Follow the instructions in the state or territory where you were born, regardless of where you currently live.



## Updated Passport, Etc.

Updating Passport, insurance, financial accounts, voting, and school or employment records

# Social Security

Locate the nearest Social Security office ([secure.ssa.gov/locator](https://secure.ssa.gov/locator))

- If changing your name bring a certified copy of your name change order.

If changing your gender, bring proof of transition using one of the following:

- A valid 10-year passport showing your updated gender
- A birth certificate showing your updated gender
- A court order recognizing a change of gender
- A signed letter from a doctor on letterhead showing appropriate clinical treatment

# State ID or Driver's License

To update name and/or gender on a South Dakota State ID or driver's license you must submit in person:

- A document demonstrating the name change, such as a birth certificate, passport, or court order
- A court order certifying the gender change or a signed affidavit from a licensed physician certifying that the applicant's gender has been medically altered.
- Other necessary documents that DMV requires such as proof of residency, etc.

# Birth Certificate

For updated birth certificate you will need to follow the instructions in the state or territory where you were born, regardless of where you currently live

To apply for an amended birth certificate the applicant should submit:

- An Application for Birth Record  
<https://doh.sd.gov/documents/Records/StateApplication.pdf>
- A copy of applicant's photo ID
- A certified copy of a court order changing the legal name and/or gender (sex) of the applicant. The court order should specify that a new birth certificate should be issued.
- Payment of the applicable fees to the Department of Health

# Birth Certificate Applications

**Applications should be sent to:**

Vital Records  
221 West Capitol Ave  
Pierre, SD 57501

# Birth Certificate (Amended)

## The Two Methods to Amend Birth Certificates

### 1. An Affidavit of Correction

- a. Name and gender (sex) changes generally cannot meet the strict requirements for affidavits by correction
- b. This is because there is a strict time frame for a correction
- c. And because it is difficult to show that it was an error from the start

### 2. A Court Order

- a. Identifies the information needing to be changed
- b. List the **incorrect data** as stated on the certificate
- c. List the **correct data** as it should appear
- d. This will need to be clearly in the petition as well as the court order

## Amended continued:

- Currently DOH regulations do not define the "incorrect data" requirement
- The DOH currently believes that a person who has transitioned to a different gender **DOES** satisfy the "incorrect data" requirement.
- In SD, there is a disconnect between judges orders and Dept of Health (DOH). Instead of the words "Gender Marker", the word needs to be "Sex" on the birth certificate, as in SD "gender marker" is not recognized by DOH.
- It is very helpful to have a lawyer involved to get the "sex" corrected on birth certificates.

We have some judges in South Dakota who will honor it, and some who will not. You do not get to choose your judge.

# “Marked as Amended”

To have an amended birth certificate appear as if it is the original

- You want to be sure that your amended birth certificate does not have any markings that state “amended” so that it does not leave a opportunity for people to question what was amended.
- Be sure your petition and the court order say that the certificate NOT be “marked as amended,” and that the original birth certificate be sealed.

**\*They will automatically do this with new birth certificate but they will not automatically do this for amended birth certificates.\***

-New birth cert. are for adoptions or when a biological parents is legitimized

# Passports

When you already have a valid Passport, you may submit a Passport Renewal Application to change your legal name/gender marker on the passport by mail. You will need to complete and submit:

- Court Order for Name Change (certified copy showing a seal and officiate/judge signature); or your the letter from your treating physician
- Fee (See Department of State Passport Fees for cost).

Starting on April 11, U.S. citizens will be able to select an X as their gender marker on their U.S. passport application, and the option will become available for other forms of documentation next year.

## Passports Cont.

- The federal government recognizes that transgender people need ID's that match their gender identity, even without their birth certificates changed.
- Many trans people do not update their birth certificate gender marker because it's so complicated and it could go either way. It's much easier to just take a letter from your physician to the passport location and to the DMV and get the correct documents.
- When you're getting a new job, they ask for your birth certificate or a passport.
- So much easier to get a passport than a gender marker change. Plus, then you can travel abroad!

# Updating Voting Records

## Voting Records

- NOTE for anyone who changed their name after registering to vote: contact the county auditor to make sure dead name is removed or merged.
- South Dakota requires photo ID while voting (driver's license or non driver ID card / U.S. government photo ID / U.S. passport / U.S. Armed Forces ID / Current student photo identification card from a South Dakota high school or South Dakota accredited institution of higher education / Tribal photo ID)
- Know your rights: <https://transformthevote.org/voting>
- If a voter does not have a photo ID, they can sign a personal identification affidavit. The voter will then be given a regular ballot.

Make sure your name and address on your voter registration matches your name and address on your ID by the election. But don't worry if your gender identity or gender presentation doesn't match your name, photo, or gender marker, as that is not required by law.

# Updating Other Records

Update insurance, financial accounts, and school or employment records

- Typically, you will only need a copy of your name change court order, as many of these documents do not show gender.
- Update your name on bank accounts, credit cards, and other financial records.
- Update the name on your health, car and home insurance plans if applicable.
- Update your name on any other IDs or records.

**\*The processes for updating school and workplace records may vary\***



# Process Order

03



# Process Order (Typically looks like this...)



## Legal Name Change

Court Ordered Name/  
Gender Change



## Update License or ID

With the Department of  
Motor Vehicles



## Update SS Record

Social Security Card/  
Other Records



## Update Other Records

Insurance, Financial  
Accounts, and school or  
employment records



## Update Passport

If you have one



## Update Birth Certificate

If you need or desire to.

# Resources?

- \*If you are in need of physician or attorney referrals that are trans welcoming, let us know and I will get you a referral list!\*

“Whether you’re transgender or not, most of us get to a point in our lives where we can no longer lie to ourselves.”

–Laverne Cox



# References

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- *Identification Documents and Transgender People: An Overview of the Name and Gender Marker Change Process in the United States*. (n.d.). National Center for Transgender Equality.  
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