

PETITION TO CORRECT A BIRTH CERTIFICATE

**This packet contains forms and information on:
How to Correct a Birth Certificate**

It is advisable to have an attorney when filing legal papers to be sure that your rights are protected and that all the procedures are correctly followed.

Courthouse personnel are prohibited by state law O.C.G.A. § 15-19-51 from giving legal advice. Different situations may require special procedures and courthouse personnel cannot advise you on how to proceed or what forms may be necessary in specific situations.

INSTRUCTIONS FOR PETITION TO CORRECT A BIRTH CERTIFICATE

BASIC STEPS OF THIS PROCESS

- ☐ **Step 1:** Contact the Vital Records office to make the correction without a Court Order. If unable to make correction, proceed to Step 2.
- ☐ **Step 2:** Fill out the Petition to Correct Birth Certificate, Verification, Acknowledgement (if applicable), and Affidavit (optional). Sign the forms in front of a Notary Public where necessary.
- ☐ **Step 3:** Fill out Summons.
- ☐ **Step 4:** Fill out the Sheriff's Entry of Service. Arrange for the Sheriff to serve the State Registrar at the Office of Vital Records and the Commissioner of the Georgia Department of Human Resources.

Additionally, if you are filing this petition on behalf of a minor child, you will need to serve the parent(s) or guardian(s) of the minor child unless they have signed an acknowledgment of service.

- ☐ **Step 5:** Put the documents in order.
- ☐ **Step 6:** File the original documents with the Clerk of Court and pay filing fees and service fees in the Clerk's Office.
- ☐ **Step 7:** Wait the required time, then schedule a final hearing using a Rule Nisi form.
- ☐ **Step 8:** Come to the Court on the date and time indicated on the Rule Nisi form. Bring a copy of the Final Order Form
- ☐ **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).

FIRST, HERE IS WHAT THIS PETITION DOES NOT DO:

- 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 to 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**." You may change the child's name in the Legitimation action, and you can also have your name added as the child's father on the birth certificate in the same case.
 - If you are a mother or father who wants to have a court decide who is the child's father, or if you want to remove the name of the father listed on the birth certificate you must file a **Paternity** action.
- Correcting a birth certificate is not the same as asking for a birth certificate if you have never had a birth certificate issued in your name. 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**.
- 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 these forms.

ALSO, YOU MAY BE ABLE TO CORRECT THE BIRTH RECORD WITHOUT A COURT ORDER:

- 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.
- 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 at the hospital where the child is born, or later, at either the State Office of Vital Records 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 from the county Vital Records Office).

A Paternity Acknowledgment **cannot** be completed if the mother was married to another person when the child was born or conceived. In these situations, you must file a paternity action in court. You should consult an attorney if you need to file a paternity action.

- 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.
- 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.

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. 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, that can include changing 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.

DETAILED, STEP-BY-STEP INSTRUCTIONS

Step 1: Contact the Vital Records office to make the correction without a Court Order.

- Before you even start working on the forms, you must ask the Vital Records office to make the correction without a Court Order. To do this, get a certified copy of the birth certificate from the Georgia Vital Records office. You will have to pay \$25.00 for each certified copy you get.
- You can request a certified copy of the birth certificate by visiting: www.dph.georgia.gov/birth-records.
- Next, circle all the changes you wish to make, and submit a written request asking for further instructions or procedures.
- Write a letter to Georgia Vital Records requesting the changes you wish to make. You will have to enclose an additional \$10.00 money order or certified check payable to "Vital Records" before they will make the changes. Requests to correct the birth certificate should be mailed to Legal Unit, Vital Records, 2600 Skyland Drive, Atlanta, Georgia 30319.
 - Include your name and address at the top of your letter.
 - State whether you are trying to fix your own or your child's birth certificate.
 - Look at the top right corner of the birth certificate to find the State File No. If it is legible, write that File number on the blank provided.
 - Finally, provide a number and address where they can contact you back and sign the letter.
- Remember to keep a copy for your records before you mail it. Also, you should keep any documentation you receive back from them and take that to Court with you.
- If the Vital Records office refuses to make the correction without a Court Order, then you should continue to Step 2.

Step 2: Complete the Filing Forms

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

- Caption:
 - On the 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.
- Your name and name of minor child:
 - 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: Check **(a)** or **(b)**.
 - Type or print your name on the first blank of this paragraph.
 - Check **(a)** if you are bringing the Petition on behalf of a minor child and the minor child lives with you.
 - Check **(b)** if you are bringing the Petition on behalf of a minor child and the minor child lives with someone else, then fill in who the minor child lives with on 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 it is legally correct for you to file this action in Cobb County].
- Paragraph 2: Check **(a)**, **(b)**, or **(c)**.
 - Check **(a)** if you are over eighteen and wish to change your own birth certificate.
 - Check **(b)** if you are the parent listed on the minor child's birth certificate. Check the box that describes whether you are the child's father or mother.
 - Check **(c)** if you are the minor child's guardian.
- Paragraph 3: Check **(a)** or **(b)**.
 - 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. You will need to serve a copy of this Petition on the Department of Vital Records. (See Step 4)
 - Check **(a)** if you have the address for the minor child's parent or legal guardian and the parent or legal guardian has not signed an Acknowledgement of Service. (See Step 2(c) and Step 4).
 - Check **(i)** if you will be serving the legal guardian of the child. Fill in the guardian's name in the first blank and the guardian's address in the second blank.
 - Check **(ii)** if you will be serving the child's mother. Fill in the mother's name in the first blank and mother's address in the second blank.
 - Check **(iii)** if you will be serving the child's father. Fill in the father's name in the first blank and father's address in the second blank.
 - Check **(b)** if you have the address for the minor child's parent or legal guardian and if the minor child's parent or guardian has acknowledged service of process and consented to the jurisdiction of the Court.
 - If the parent or guardian has signed the Acknowledgment form provided in this packet, include it 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 for each person.
- Paragraph 4: Check all that apply.
 - Check **(a)** if you have been informed by the Department of Vital Records that you

- cannot change the given name on the birth certificate without a Court Order.
- Check **(b)** if you have been informed by the Department of Vital Records that you cannot amend the birth certificate, if it was previously amended, without a Court Order.
 - Check **(c)** if you have been informed by the Department of Vital Records that you cannot correct the birth year on the birth certificate without a Court Order.
 - Check **(d)** if you have been informed by the Department of Vital Records that you cannot change the last name of the child (from mother's maiden name to mother's married name) without a Court Order.
 - Fill in the name of the hospital where the child was born in the first blank. Fill in mother's maiden name in the second blank and married name in the third blank.
 - In the fourth blank, fill in the name of the parent completing the supporting affidavit. Include the affidavit with the paperwork you submit to the court.
 - Check **(e)** if the minor child is over one year old.
 - Check **(f)** if you do not speak English and provided correct information to the staff at the hospital where the child was born, but the hospital staff incorrectly recorded the information you provided.
 - Check **(g)** if the Department of Vital Records informed you that you need a Court Order for some other reason. In the blank, fill in the reason the Department of Vital Records has provided.
 - Paragraph 5: Check at least one of the following.
 - Check **(a)** if you have included a certified copy of the birth certificate that needs to be corrected.
 - Check **(b)** if you have included birth certificate(s) of the minor child's parent(s) who are listed on the birth certificate.
 - Check **(c)** if you have included a court document showing you are the adoptive parent or legal guardian of the minor child.
 - Check **(d)** if you have included original or certified copies of church, school, census, or hospital records.
 - Check **(e)** if you have included a copy of the marriage certificate showing you were married to the child's other parent at the time the child was born.
 - Check **(f)** if you have included an affidavit. Fill in the name of the person who signed the affidavit.
 - Check **(g)** if you have included some other document. Fill in the name of the document.
 - Check **(h)** if you have included some other document. Fill in the name of the document.
 - Paragraph 6: Check and complete all that apply.

- Check **(a)** if information on the birth certificate is incorrect. Fill in the field number in the first blank. Fill in the incorrect information (exactly as it appears on the birth certificate) in the second blank. Fill in the correct information you would like included on the birth certificate (exactly as you want it included on the birth certificate).
 - *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.*
- For additional errors, check **(b)** through **(e)** if information on the birth certificate is incorrect. Fill in the field number in the first blank. Fill in the incorrect information (exactly as it appears on the birth certificate) in the second blank. Fill in the correct information you would like included on the birth certificate (exactly as you want it included on the birth certificate). Continue until all the errors are listed.
- Paragraph 7:
 - Tell the Court how the errors occurred to the best of your knowledge. Include the reason in the blank.
- Paragraph 8:
 - 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. You acknowledge this by signing this form.
- Signature:
 - Sign and print your name and fill in your address and phone number.

Step 2(b): Complete the Verification Form

- This document tells the Court that you swear, under oath, that what you wrote in the Petition is true and correct.
- Fill in the caption in the same way you did on the Petition.
- Where it says: "I _____," print or type your full name.
- Where it says: "This _____ day of _____, 20____," fill in the current date, month and year.
- Next to the number 2, print or type your full name where indicated and fill in your address and telephone number.
- **DO NOT SIGN THIS DOCUMENT.** You may only sign this document in front of a public notary. Public notaries are available at banks, the post office, grocery stores, or the Cobb County Superior Court Clerk's Office.

Step 2(c): Complete the Acknowledgement Form (if applicable)

- This document waives the requirement of personal service on the minor child's parent(s) or legal guardian(s) and should be filled out by the Petitioner and signed by the minor child's parent(s) or legal guardian(s).
- Fill in the caption in the same way you did on the Petition.

- Where it says: “I _____,” the minor child’s parent or legal guardian should print or type his/her full name.
- The minor child’s parent or legal guardian should check the box which reflects what their relationship is to the minor child who needs the birth certificate corrected.
- Where it says, “Should further notice be required,” the minor child’s parent or legal guardian should fill in his/her address.
- **DO NOT SIGN THIS DOCUMENT.** The minor child’s parent or legal guardian may only sign this document in front of a public notary. Public notaries are available at banks, the post office, grocery stores, or the Cobb County Superior Court Clerk’s Office.

Step 2(d): Complete the Affidavit (optional)

- 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 has knowledge of the errors on the birth certificate, submit an affidavit of those parents or guardians with the Petition.
- Fill in the caption in the same way you did on the *Petition*.
- Paragraph 1: The person who is submitting the affidavit should type or print their name and age here.
- Paragraph 2: The person who is submitting the affidavit should check the box which reflects what their relationship is to the person who needs the birth certificate corrected.
- Paragraph 3: The person who is submitting the affidavit should fill in any information they have regarding the errors listed on the birth certificate.
- Paragraph 4: The person who is submitting the affidavit should fill in any documents they have which support the information contained in the affidavit.
 - Include copies of the documents included in paragraph 4 with the paperwork you submit to the court.
- **DO NOT SIGN THIS DOCUMENT.** You may only sign this document in front of a public notary. Public notaries are available at banks, the post office, grocery stores, or the Cobb County Superior Court Clerk’s Office.

Step 3: Summons

- Fill out Summons forms.

Step 4: Sheriff’s Entry of Service

- Service is the formal process of notifying the Georgia Department of Human Resources and the Department of Vital Records, and any other interested party, that you wish to amend a birth certificate.
- Service must be made on the Commissioner of the Georgia Department of Human Resources at Suite 29-250, 2 Peachtree St. NW, Atlanta, GA 30303-3142.
 - Obtain one Sheriff’s Entry of Service for the Commissioner of the Georgia Department of Human Resources.
 - Write your address under “Petitioner’s Address” on the left.
 - Write “Commissioner of the Georgia Department of Human Resources” and “Suite 29-250, 2 Peachtree St. NW, Atlanta, GA 30303-3142” under “Name and Address of Party to be Served.”
 - On the right, write your full name on the line above “Petitioner” or “Plaintiff.”

- On the right, write “Commissioner of the Georgia Department of Human Resources” on the line about “Respondent or “Defendant.”
- Service must also be made on the State Registrar at the Department of Vital Records at 1600 Skyland Dr. NE, Atlanta, GA 30319.
 - Write your address under “Petitioner’s Address” on the left.
 - Write the “State Registrar at the Department of Vital Records” and “1600 Skyland Dr. NE, Atlanta, GA 30319” under “Name and Address of Party to be Served.”
 - On the right, write your full name on the line above “Petitioner” or “Plaintiff.”
 - On the right, write “State Registrar at the Department of Vital Records” on the line about “Respondent or “Defendant.”
- Additionally, you will also need to have any other parent or legal guardian served, unless she or he signs an *Acknowledgment of Service*.
 - Write your address under “Petitioner’s Address” on the left.
 - Write the other parent or legal guardian’s name and address under “Name and Address of Party to be Served.”
 - On the right, write your full name on the line above “Petitioner” or “Plaintiff.”
 - On the right, write the other parent or legal guardian’s name on the line about “Respondent or “Defendant.”

Step 5: Putting the Documents in Order

- Put the documents in the following order:
 1. Petition
 2. Copy of the original birth certificate
 3. Verification
 4. Acknowledgement (if applicable)
 5. Affidavit (optional)
 6. Summons
- Make four (4) copies of all of the documents in the package.
- Attach a Sheriff’s Entry of Service to three copies.

Step 6: Filing

- Take the document package to the Cobb County Superior Court Clerk’s Office to file. Have the clerk fill in the case number. Make sure this information is on all copies of your documents. Have the clerk stamp your copies. Keep a copy of the document package for your records. You may be required to pay a filing fee.
- Take one copy of the stamped document package to the Sheriff’s Office so that the Sheriff can serve it upon the minor child’s parent or legal guardian who resides in Cobb County. You may have to pay a service fee. Check with the Sheriff’s Office for the fee schedule.
 - After the Cobb Sheriff’s Department completes service, they will send you back the yellow copy showing that they served the minor child’s parent or legal guardian.
- Arrange for Service on the Georgia Department of Human Resources and the State Registrar of the Department of Vital Records.
 - You will need to take or mail this to the Fulton’s Sheriff’s Department and ask that they serve the Petition on the Department of Human Resources and State Registrar

of the Department of Vital Records. You may have to pay a service fee. Check with the Sheriff's Office for the fee schedule.

- After the Fulton Sheriff's Department completes service, they will send you back one white and yellow copy showing that they served the Department of Human Resources and State Registrar of the Department of Vital Records.
 - When you receive these back, you **must** file them with the Cobb Superior Court Clerk's office, which they will then give the yellow copies back to you.
 - *Note: If a parent or guardian also lives outside of Cobb, or you do not know where they live, you will need to consult with an attorney, to determine whether the case can be brought in Cobb County and how to proceed.*

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

- You can ask the Clerk of Court to schedule a final hearing after one of these has happened:
 - You have received a response back from the Department of Vital Records saying they will not oppose your Petition; or
 - Thirty (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).
- Complete the Rule Nisi Hearing Form (you may obtain one on the Law Library website or from the Clerk of Court).
 - This document is used to set a date for a final hearing.
 - Fill in the caption as you did when you completed the Petition.
 - The remaining information on this document will be filled in by the Clerk of Court when you take the papers to be filed.
- Complete the Final Order Correcting the Birth Certificate.
 - Fill in the caption in the same way you did on the Petition.
 - Fill in the Case Number as the clerk wrote it down for you, when you filed the case.
 - Paragraph 1: Write the name of the person requesting a birth certificate correction.
 - The remaining information on this document will be filled in by the Judge when you take the papers to the final hearing.

Step 8: Attend the Final Hearing

- Come to court on the hearing date and time that is indicated on the Rule Nisi form. You should go to the courtroom that is indicated on this document, and let the case manager know that you are there. Then, wait for your case to be called by the Judge.
- Bring all of your paperwork with you including your copy of the document package stamped by the Clerk of Court.
- You will also need to bring the Final Order Correcting the Birth Certificate. Present it to the Judge when your case is called.

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

- Take the signed Final Order after your hearing to the Clerk of Court to file. Request a certified copy of the Final Order. You will be charged for a certified copy. Check with the Clerk of Court for a fee schedule.

Step 10: Change Birth Certificate

- You can now return to the Department of Vital Records to request a corrected birth certificate.
 - When you go to the Department of Vital Records, (1) bring with you a certified copy of the Final Order, (2) copy of the current birth certificate to be changed, and (3) a money order made out to “Vital Records Services” for \$10.00 which is the current fee required to amend a birth certificate after you have received a Court Order.

Your Petition to Correct Birth Certificate is all done.

Congratulations!