

# NAME CHANGE

*This information guide is general in nature and is not designed to give legal advice. The court does not guarantee the legal sufficiency of this information guide or that it meets your specific needs. Because the law is constantly changing, this guide may not be current. Therefore, you may wish to seek the advice and assistance of an attorney.*

**For basic information about representing yourself in District Court, see also the opening section of this Self Help Guide**

In New Mexico, the laws about changing a name are found under “Change of Name” in Sections 40-8-1 through 40-8-3 NMSA 1978

Currently, there are no New Mexico Supreme Court approved forms for changing your name. Ask if your local district court offers a packet of forms for changing your name.

## **WHAT IS A NAME CHANGE?**

In general, a name change is when someone changes their legal name to a different name.

Changing your name or a child’s name requires a court order.

## **WHO CAN FILE FOR A NAME CHANGE?**

First, the person or the child must be a resident of New Mexico.

If you are “14 years old or older,” you can file for a name change on your own.

If a child is “13 years old or younger,” the child’s parent or legal guardian can file for a name change.

## **I AM 14 YEARS OLD OR OLDER**

### **HOW DO I FILE FOR A NAME CHANGE?**

To get started, you will need at least these forms:

- Petition for Name Change – This is the form that starts the court process
- Order Changing Name – This is the form the judge uses to change your name. You are required to fill it out for the judge.

Next, file your name change case:

- Take the original and 1 copy of each form to the clerk's office at your local district court. Some courts require more than 1 copy; check with your local district court.
- Pay the filing fee. Filing fees vary; check with the clerk's office at your local district court for how much it costs to file your forms. If your income is below a certain level, you may be entitled to a waiver of the filing fee. This is called "free process." Ask the clerk's office at your local district court for more information about free process.
- The clerk will file your petition. That starts your name change case.

### **THE JUDGE APPROVED THE NAME CHANGE. AM I DONE?**

**NO.** You are responsible for notifying the public that you have changed your or your child's name. Take a certified copy of the Order for Name Change to the county clerk's office in the county where you live or where your child lives and ask the clerk to record the order. There may be a fee for this. If you want your or your child's name change on the birth certificate, contact the Department of Vital Records in the state where you or your child were born. Some Departments will require special language in the Order for Name Change so it is important to contact them before you go to your hearing and find out what their procedures are.

## **APPENDIX: REPRESENTING YOURSELF – BASIC INFORMATION**

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### **WHO THIS GUIDE IS INTENDED TO HELP**

This guide is intended to help individuals who are representing themselves, either as a plaintiff/petitioner or a defendant/respondent in a civil lawsuit or a domestic matter filed in a New Mexico State District Court.

That means this guide is not intended to be used for any other type of court, including Metropolitan Court, Magistrate Court or Municipal Court. It does not have information about appeals from these courts. It is not to be used by defendants in a criminal case.

### **HOW THIS GUIDE IS INTENDED TO HELP YOU**

This guide is intended to be an informative and practical resource guide to understanding the basic practices of the court and the most common procedures encountered by people representing themselves without a lawyer (known as “self-represented litigants” or “pro se litigants”). It **IS NOT** a substitute for legal advice; it will not answer all your questions about what you need to do to represent yourself.

### **A WORD OF WARNING**

Because the law is constantly changing, the court does not guarantee the legal sufficiency of this information guide nor does it guarantee that it meets your specific needs. If you represent yourself in a court case, you are acting as your own lawyer. That means you are expected to know and follow the law and court rules. The potential risks associated with representing yourself are not always obvious. That is why the court encourages anyone who is thinking about representing themselves to talk to a lawyer first.

If you are a tribal member, please be aware that this guide does not address tribal law. Your rights and responsibilities in state court may be different than your rights and responsibilities in tribal court.

### **GETTING HELP**

Court employees are not lawyers and cannot tell you what you should do or how the law applies to your situation. Read more about what court employees can and cannot do at [Rule 23-113 NMRA](#).

Some courts have a resource center where court employees can help you with court procedures. They cannot give you legal advice. Check with your local district court to see what services are available to you.

While some courts offer packets of forms for certain kinds of court cases, there are not forms for every issue. Look for forms on the New Mexico Supreme Court website at <https://nmsupremecourt.nmcourts.gov> or check with your local district court to see what forms they offer. Sometimes you will need a lawyer to create legal documents for you.

To read about free and low-cost legal help, please go to the Resource List section of this guide.

## **ABOUT NEW MEXICO'S LAWS, RULES OF PROCEDURE, LOCAL RULES AND FORMS**

As a person representing yourself, you should be familiar with the laws (called "statutes"), rules, local rules, and forms that govern or must be used in your court case. But, court employees cannot help you with this. New Mexico laws, rules, and forms are referred to using a very specific format. You will see four common formats in this guide.

For New Mexico Laws (Statutes) the format looks like this: Section 40-8-1 NMSA 1978

For New Mexico Rules of Procedure, the format looks like this: Rule 23-112 NMRA

For Local District Court Rules, the format looks like this: LR1-306 NMRA

For New Mexico Supreme Court Approved forms, the format looks like this: Form **4-209** NMRA

For more information about New Mexico's Laws, Rules, Local Rules, and Forms, contact the New Mexico Supreme Court Law Library by telephone at 505-827-4850, by email at [libref@nmcourts.gov](mailto:libref@nmcourts.gov), by regular mail at P.O. Drawer L, Santa Fe, New Mexico 87504-0848, or visit their website at [supremecourtlawlibrary.org](http://supremecourtlawlibrary.org). If you are viewing the electronic version of this guide, you can click on the number of any statute, rule, or form that is mentioned in this guide to see the text of that statute, rule, or form. You can also get free access to all New Mexico state statutes, rules, and forms on the New Mexico Compilation Commission's public access website. The New Mexico Compilation Commission is the official legal publisher for the State of New Mexico. Directions for how to find and navigate the Compilation Commission's public access website can be found at the end of this section of the guide (page 6).

### **STARTING A COURT CASE**

The pleading that starts a court case is called a "complaint." Depending on the type of case, this first pleading can also be called a "petition" or an "application."

The court case is started when a complaint is filed with the court. **Filing** a complaint requires a filing fee. Filing fees vary; check with the clerk's office at your local district court for more information about filing fees. If your income is below a certain level, you may be entitled to a waiver of the filing fee. This is called "free process." Ask the clerk's office at your local district court for more information about free process.

Once a court case is started, the plaintiff must "serve" each defendant with a copy of all the court papers they filed.

### **SERVING THE COMPLAINT**

Each defendant must be notified that a lawsuit has been filed against them through a process that is specified under the law. Whether you are trying to serve a person, a business or a governmental agency, this can be a complicated process. Please read [Rule 1-004 NMRA](#) carefully for the steps to follow when serving a complaint.

Even if you can't find the defendant, you still have to serve them. You may have to ask the court for permission to publish a notice in the newspaper by using New Mexico Supreme Court approved [Forms 4-209](#) and [4-209A NMRA](#). Again, please read [Rule 1-004 NMRA](#) carefully for more details.

One thing is very important – **you** do not serve the defendant; your job is to **arrange** for someone else to serve the complaint for you.

## **ANSWERING A COMPLAINT THAT HAS BEEN FILED AGAINST YOU**

It is important to file an “Answer” to the Complaint within 30 days from the date you are served. The date you are considered served with the Summons is determined by Rule 1-004 NMRA. Otherwise, the plaintiff can ask the court for a judgment against you without you knowing anything is happening.

An “Answer” is a pleading. There are New Mexico Supreme Court approved Answer forms available for divorce and civil cases. Some courts offer a packet with the form used to answer a complaint; check with your local district court for more information.

There is no fee to file an Answer.

## **TALKING DIRECTLY TO A JUDGE, HEARING OFFICER, OR THEIR STAFF**

Communicating with a judge or hearing officer without the opposing party being present is not allowed. This is why a judge or hearing officer cannot read your letters or answer your calls.

The judge’s or hearing officer’s personal staff – the Trial Court Administrative Assistant – can answer questions about scheduling but cannot give legal advice or tell you how a judge will rule on your case.

## **MONITORING THE PROGRESS OR STATUS OF YOUR CASE**

The clerk’s office maintains a computerized “register of actions” for each court case. Every time something happens in your court case, whether you file a pleading, have a court hearing, or the court enters an order, it is added to the register of actions in your case. You can look up the register of actions at any time at [www.nmcourts.gov](http://www.nmcourts.gov). Select “On-Line Case Lookup” and follow the directions.

## **FILING MOTIONS**

Asking the judge to take a specific action in your case requires filing a “motion.” A motion is the pleading you use to tell the judge your problem and to explain what action you want the judge to take. Some courts offer a packet of forms needed to file a motion. Check with your local district court for more information. Additionally, you must send a copy of any motion you file to all other parties (or their lawyer, if they have one). It may also be necessary for you to send a copy of the motion directly to the judge so the judge will know it has been filed. Read the local rules for your district carefully to determine how and when to send the motion to the judge.

## **TRIAL**

You are entitled to a jury trial in many, but not all, types of lawsuits. If you are entitled to a jury trial, you must ask for one in writing and pay a jury fee. Read Rule 1-038 NMRA for more information about asking for a jury trial.

## **HEARINGS**

How to ask for a Hearing:

- Asking a judge to schedule a hearing requires filing a pleading called a “Request for Hearing.” It is also called a “Request for Setting.”
- There are rules you must follow when you file a Request for Hearing. For example, when you file the request, you also deliver a copy to all other parties (or their lawyer, if they have one). Read more at Rule 1-005 NMRA.

- Some courts require you to provide addressed-stamped envelopes with your request for hearing. Check the Local Rules or with your local district court for more information.
- Always check the Local Rules or with the court to see if you are required to turn in other forms in addition to the Request for Hearing.

#### Rescheduling a Hearing:

- Asking a judge to reschedule a hearing is called asking for a “continuance.” It means continuing the hearing to another date and time.
- Asking a judge for a continuance requires filing a motion. Some courts offer a packet of forms needed to file a motion; some even have a packet specifically designed to ask for a continuance. Check with your local district court for more information.

#### What happens at a hearing:

- At the hearing, each party will have a chance to tell the judge their side of the issue.
- It is important to bring your evidence, witnesses, and anything else that will help you prove your case. Because there are specific rules about presenting your evidence to the judge, you may wish to consult with a lawyer about how to present your case.

#### Helpful hints about hearings:

- **SHOW UP** – it is always important to show up to court. **If you are not in the courtroom when your case is announced, you may lose your case.**
- **BE ON TIME** – plan to be at the courthouse **early**. Remember that you will need to park, clear the security check, and find the courtroom. **If you are not in the courtroom when your case is announced, you may lose your case.**
- **Practice** – go to the court on a day before your hearing. Practice how long it takes you to get to the court, park, and find the courtroom. Go and see what the courtroom looks like. Go to a court hearing to see what happens.
- **How to dress** – dress neat and clean. Each court has a dress code. The judge can order you to be removed from the courtroom if you violate the dress code; **if you are not in the courtroom, you may lose your case.**
- **How to act** – court hearings are not like TV. Be respectful to the judge and to the opposing party at all times.
- **Talking to the judge** – stand when talking to the judge. Call the judge “your Honor.” Speak clearly and loudly enough to be heard. Do not interrupt the judge. Stay calm.
- **Cell phones** – each court has a cell phone policy. Check with your local district court about cell phones.
- **Children** – do not bring children into the courtroom unless the judge has given you permission to do so. Courts do not have a place where children can wait unattended.
- **Take notes** – bring a pad of paper and a pen to the hearing. Write down any orders the judge makes.

## ORDERS AND JUDGMENTS

A “court order or judgment” is the judge’s instructions telling someone what they can or cannot do.

Creating an order or judgment – usually, at the end of a hearing, the judge will say who is to create the court order or judgment. Most courts do not create this paperwork for you. If you are instructed to create the court order or judgment, you may need to hire a lawyer to create one for you.

Enforcing an order – some courts offer a packet of forms needed to ask a judge to enforce a court order. Check with your local district court for more information.

**IF YOU HAVE A DISABILITY**

If you have a disability and need assistance, notify the court as soon as possible before any hearing or trial.

**IF YOU NEED AN INTERPRETER**

The court provides an interpreter in any language for free at court hearings or trials.

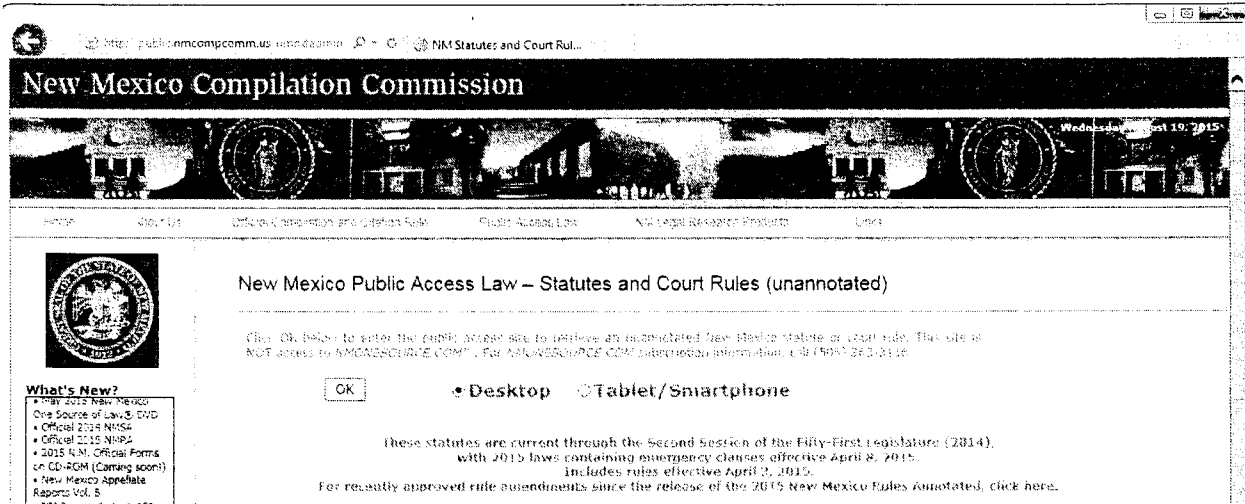
You are responsible for notifying the court that you need an interpreter, so make sure you reserve an interpreter in advance of any hearing or trial.

Use Form 4-115 NMRA to **reserve** an interpreter.

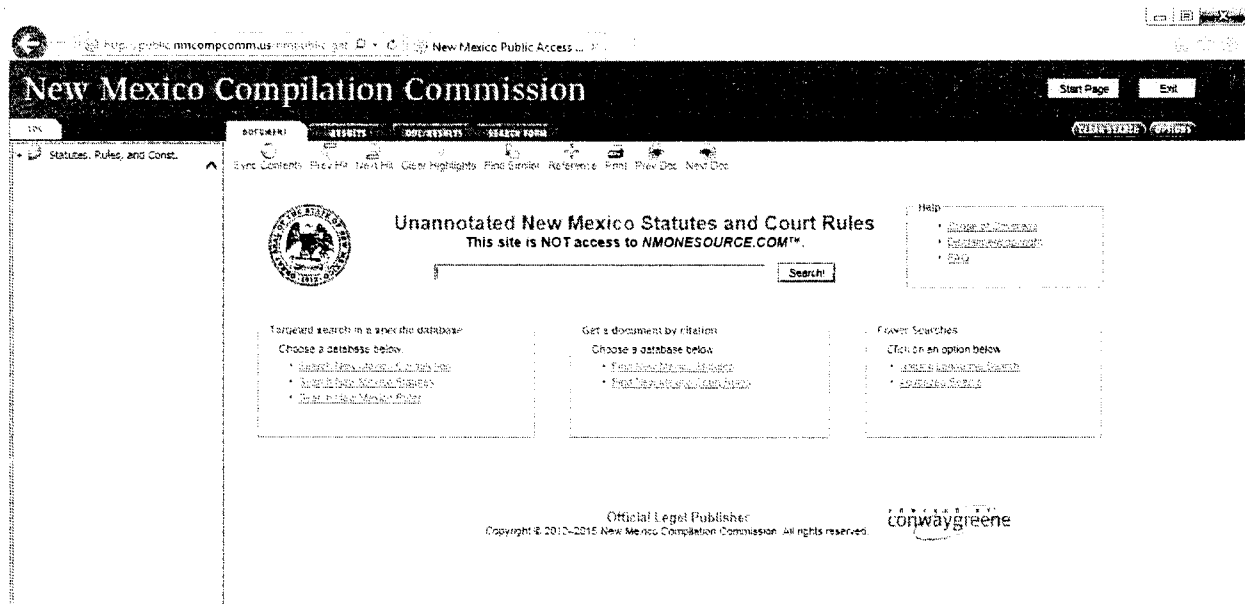
If you reserved an interpreter and then find out you don't need one (for example, if a hearing or trial was rescheduled), be sure to **cancel** the interpreter. Use Form 4-116 NMRA to **cancel** an interpreter.

# HOW TO FIND STATUTES, COURT RULES AND FORMS ON THE PUBLIC ACCESS SITE PUBLISHED BY THE NEW MEXICO COMPILATION COMMISSION

The New Mexico Compilation Commission publishes the statutes, court rules and forms online for public use at the public access site located at: <http://public.nmcompcomm.us/nmnextadmin/NMPublic.aspx>



Select **Desktop** or **Tablet/Smartphone** and click **OK** to enter the public access site.



This is the Start Page where you will begin the retrieval of statutes, court rules and forms. For step-by-step directions from the Start Page, consult the Help section in the upper right hand corner of the Start Page for the "Self Help Guide: How to Find Statutes, Court Rules and Forms."



STATE OF NEW MEXICO  
COUNTY OF TORRANCE  
SEVENTH JUDICIAL DISTRICT COURT

IN RE: The Petition for Change of Name

Of \_\_\_\_\_ No. D-722-CV-\_\_\_\_\_

**PETITION FOR CHANGE OF NAME  
(Over the Age of 14)**

**COMES NOW** the Petitioner, \_\_\_\_\_, and

states as follows:

1. Petitioner is a resident of Torrance County, in the State of New Mexico.
2. Petitioner is a person over the age of fourteen (14) years, having been born on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

3. Petitioner requests a change of name

from: \_\_\_\_\_ (current name)

to: \_\_\_\_\_ (new name)

for the following reason(s): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**WHEREFORE.** Petitioner prays this Court for its Order granting a change of name from \_\_\_\_\_ to \_\_\_\_\_, and for such further relief as the Court may deem proper.

\_\_\_\_\_  
Signature, Petitioner, pro se

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Mailing address if different:

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

**VERIFICATION**

I, \_\_\_\_\_, Petitioner in this matter swear and affirm under penalty of perjury under the laws of the State of New Mexico that the statements in this Petition are true and correct.

\_\_\_\_\_  
Signature, Petitioner, pro se

Print Name: \_\_\_\_\_

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

STATE OF NEW MEXICO  
COUNTY OF TORRANCE  
SEVENTH JUDICIAL DISTRICT COURT

IN RE: The Petition for Change of Name

Of \_\_\_\_\_ No. D-722-CV-\_\_\_\_\_

**ORDER**

**THIS MATTER** having come before the Court on the Petition for Change of Name of \_\_\_\_\_ for hearing, the Court having examined all the pleadings of records including the proof of publication herein filed as required by § 40-8-1, NMSA 1978, and the Court being otherwise fully advised in the premises,

**HEREBY FINDS:**

1. That the Petitioner has complied with all of the requirements of the statutes of the State of New Mexico for a change of name.
2. That no sufficient cause has been shown why the Petitioner's name should not be changed from \_\_\_\_\_ to \_\_\_\_\_

**IT IS THEREFORE ORDERED** that the Petitioner's name hereby and herewith be changed to \_\_\_\_\_.

\_\_\_\_\_  
District Court Judge