

Common Reentry Issues: Obtaining Birth Certificates  
& State-Issued Identification

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Obtaining Birth Certificates:  
How an attorney can help obtain a birth certificate when a client can't!

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A birth certificate is often needed when applying for....

- Identification
- Citizenship
- Jobs
- Housing
- Benefits
- State ID card
- Driver's License
- Minnesota's GI Bill Program
- Custody proceedings



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Why might someone not be able to obtain a copy of their own birth certificate?

- Many people who experience protracted periods of homelessness or incarceration often lose the vast majority of their personal possessions as the costs of maintaining a storage locker for an extended period of time can be prohibitive and property entrusted to family or friends may be disposed of.
- People who have experience protracted periods of homelessness or incarceration may have their government-issued photo identification expire before being able to apply for updated identification.
- People who have experienced protracted periods of homelessness or incarceration may also have lost their copy of their birth certificate, Social Security card, passport, etc.

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## A Catch-22 situation

- Many states require an applicant for a birth certificate to submit a valid copy of a government-issued identification card in order to obtain a copy of a birth certificate.
- Many states also require an applicant for a government-issued identification card to submit a copy of a birth certificate.
- Someone who lacks both a copy of their birth certificate and a valid government-issued identification card is likely to be unable to obtain either document.

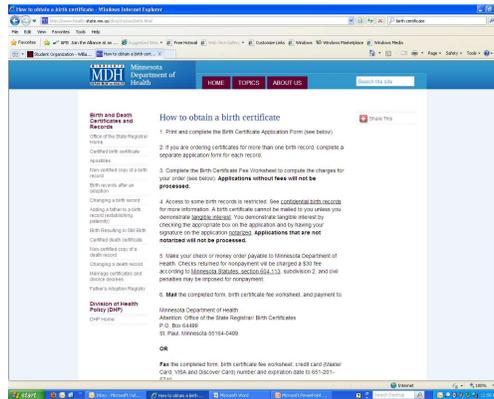
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## How can an attorney help resolve this Catch-22 type situation?

- An attorney can help someone who lacks both a copy of their birth certificate and a valid government-issued identification photo ID card by helping that person apply for a copy of their birth certificate.
- All states allow an attorney to apply for a copy of a birth certificate on behalf of a client.
- The attorney will usually need to submit a copy of his or her own government-issued photo identification card with the application, which is basically a substitution of the attorney's own identification for that of his or her client's.

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## How to Get a Minnesota Birth Certificate



- MN Department of Health Website: [www.health.state.mn.us](http://www.health.state.mn.us)
- Go to local registrar.
- Mail application .
- Pay the required fee.
- Submit the required documentation.

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## Out of State Birth Certificates

- State fees and ID requirements vary
- State-specific instructions and forms are easily found on the internet
- Complete the application
- Include required documentation
- Include required fee
- Wait for certificate to arrive



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### In general, what information is needed to complete a birth certificate application?

- Different states require different information, so check the state's department of vital statistics' website for the most up-to-date version of the birth certificate application form and its instructions.
- Most states require information such as:
  - The child/subject's full name, date of birth, place of birth, parents' full names (& maiden names)
  - The requester's (person completing the application) full name, date of birth, address, and an explanation of the relationship between the subject and the requester.
  - The requester's notarized signature & copy of requestor's ID.

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### Overview of Suggested Steps for Attorneys Requesting Birth Certificates:

- 1. Identify application and required information for the appropriate state.**  
Check for latest updates; changes occur frequently.
- 2. Have client give you necessary information to fill out application.**  
Do not have client fill out application. Fill it out yourself after vetting every piece of necessary information.
- 3. Have client sign a representation agreement showing that certificate is being ordered and how they will pick it up.** You may want to specify how long the birth certificate will be kept if the client does not pick it up and under what circumstances it will be destroyed so you are not obligated to keep it on-file in perpetuity.
- 4. Ensure that the client keeps you updated regarding his or her contact information.**  
It may take several weeks or even a few months to get the birth certificate after the application is submitted. Make sure that the client is obligated to keep you updated regarding his or her contact information in the event they move, change phone numbers, violate parole/probation, etc.

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## When you meet the client....

- Interview the client to obtain the information required to complete the birth certificate application.
- Interview the client to assess the client's credibility to ensure that the client is who the client says he or she is.
- Photocopy any and all relevant documentation that the client can produce to prove his or her identity.
- If you believe the client is credible and want to take the case, explain the scope of the services you will provide and get client to sign a retainer agreement. Determine how client will pick-up the birth certificate after it arrives.
- Make arrangements with client regarding how client will pay the applicable fee for submitting a birth certificate application to a state department of vital statistics.

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## Be ware of potential identity thieves!

- You are potentially putting your law license and reputation on the line when you apply for a birth certificate on a client's behalf. People can and do lie in attempts to assume the identity of another individual.
- It is up to you to verify that the client is actually the person who is the subject of the birth record sought and not an identity thief.
- You are also potentially putting the identity of another person on the line if you are wrong in your assertion that your client is the subject of the birth record sought. An innocent victim of identity theft could suffer civil and criminal liability as a result of your mistake if their identify is stolen.

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## How do I spot a potential identity thief?

- There is no magic bullet. Use common sense and attempt to verify every fact that the client provides by checking court records, public records, social media accounts, conducting a background check using skip-tracing software, getting ROIs, etc.
- Criminal records can be vital source of information and a powerful tool to confirm that someone is who they claim to be.
- However, beware that identity thieves are likely to try to steal the identities of the people whom they are closest to and/or know best such as siblings, cousins, friends, roommates, cellmates, etc.
- Example: A registered sex offender may attempt to steal the identity of his own brother, who has a lengthy criminal record but who is not a registered sex offender, in order to avoid the collateral consequences of a predatory offender conviction.

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## Back at your office....

1. **Open a case.**
2. **Do your due diligence.** You must verify the client's identity. Document verification of facts.
3. **Type request letter on your letterhead to the state department of vital statistics. Include copy of attorney license and photo ID** as proof of your identity.
4. **Fees.** Clients will need to pay the applicable fee.
5. **Send cover letter, application, necessary document, and fee to applicable department of vital statistics.**
6. **Wait for birth certificate to arrive in mail.**

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## Recap of Practical Tips:

- Interview client to access creditability.
- Determine whether you want to take the case & sign a representation agreement.
- Determine client's identity & documents all facts verified for your file.
- Submit birth certificate application, cover letter, copy of your ID & attorney license, & pay costs.
- Wait for birth certificate to arrive in mail.
- Get the birth certificate in the client's hands.
  - ✓Where to have document delivered?
  - ✓What if client doesn't pick it up?
  - ✓How to stay in touch with your client?

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Obtaining State-Issued Identification

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## Which type of identification should someone try to obtain?

### Identification Card

- There are very few barriers to obtaining a state-issued identification card.
- Essentially establishing U.S. citizenship, establishing identity, and paying a fee are all that is usually required.

### Driver's License

- There can be numerous barriers to obtaining a state-issued driver's license such as:
  - Unpaid traffic/criminal fines;
  - Unpaid child support,
  - Unsatisfied civil judgments related to uninsured auto accidents,
  - Medical restrictions, etc.

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## Two Ways to Get a MN ID:

### If you already have a recent valid one....

- To apply for a Minnesota driver's license, identification card, or permit, you may present either: **A Minnesota driver's license, identification card, or permit that is current or expired for five years or less** if it has a photo or one year or less if it does not have a photo.

### If you don't already have a recent valid one....

- If you do not have one of the items listed above, you must present **one primary and one secondary document**. The primary document must contain your full name and the month, day and year of your birth. Any document not in English must be accompanied by a qualified English translation.

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What documents are required to obtain a MN state identification card if you don't already have a recent valid one?

#### Example Primary Documents

- Certified birth record issued by a government bureau of vital statistics
- Certificate of Birth Abroad
- Unexpired U.S. passport book or card
- Valid, unexpired passport from another country with an unexpired I-94 form or I-551 stamp

#### Example Secondary Documents

- Another primary document
- Current or expired for five years or less photo driver's license or state ID card from another U.S. state
- Social security card
- Certified marriage certificate
- Certified school transcript

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### Another potential Catch-22 situation

- You want to apply for a Minnesota state identity card because you don't have a state-issued identity card in your possession anymore because you have been incarcerated so long that your last government-issued identification expired more than five years ago or was lost.
- Paradoxically, you have to provide a copy of your old government-issued ID to get a new one.
- In the alternative, you could present your Social Security card, but if you lost your Social Security card, you will need to present valid government-issued identification to obtain a replacement Social Security card.
- Good luck meeting other requirements to obtain certified marriage records, school transcripts, etc.

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## Is there a remedy for this Catch-22 situation?

- Probably, but how much longer will the remedy last?
- Minnesota Rules, Part 7410.0600 appears to currently provide an opportunity for a person who cannot meet the normal documentary requirements to try to obtain a temporary MN ID by making a petition for a variance with the Commissioner of the Minnesota Department of Public Safety to obtain a temporary ID notwithstanding the person's inability to produce the documents normally required.

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## Petition for a Variance

- A petition for a variance provides a way for individuals to apply for a Minnesota driver's license or identification card, who do not have and are unable to obtain identification and residency documents required under Minnesota Rules 7410.0400 (documenting proof of name, date of birth, identity), and/or part 7410.0410 (proof of residency).
- The petition is submitted to the Commissioner of the Minnesota Department of Public Safety, Driver & Vehicle Services Unit.

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## How much longer will the petition for a variance be around?

- Minnesota Rules, Part 7410.0600 does not appear to have been done away with yet but how much longer the variance option will be around given the Minnesota's struggles with the REAL ID Act passed by the U.S. Congress in 2005 which establishes minimum security standards for state-issued driver's licenses and ID cards.
- The petition for a variance form and its instructions used to be easily located on the Department's website, but now is very difficult to find online. It can still be found at:  
<https://dps.mn.gov/divisions/dvs/forms-documents/Documents/Petition-For-Variance-No-ID-Residency.pdf>

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## Step 1 – Petition for Variance

- **Section A. - Provide your full legal name, address, DOB, phone number, etc.**

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## Step 2 – Petition for Variance

- Section B. - Explain why you are requesting a variance. Include reasons why you are unable to obtain a primary and secondary identity document as required under Minnesota Rules (7410.0100 to 7410.0600).

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## Step 3 – Petition for Variance

- Section C. - List supporting documents and additional information regarding name and identity or legal residency. For example: date and place of birth, place of residency, military service information, Social Security number, immigration information, marriage certificates, school records, any arrest information. List the city or county, along with the state, where your birth or marriage occurred.
- If possible, attach readable photocopies of all supporting documents.

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## Step 4 – Petition for a Variance

- Mail form with nonrefundable \$10 fee to: Driver and Vehicle Services, DVS Variance Request, 445 Minnesota Street, St. Paul, MN 55101-5183.
- Checks or money orders are payable to Driver and Vehicle Services. Please do not send cash.
- All information requested on this form is required by Minnesota Statutes, sections 14.055 and 14.056, or Minnesota Rules, part 7410.1810.
- If incomplete, your petition will be automatically denied.
- If you have questions or need additional info call DVS at 651-215-1181 (to get a recorded message).

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## Rate of Success for Petition for a Variance

- **If at first you don't succeed, try, try again.**
- Of the handful of petitions for a variance submitted, none were granted on the first try.
- Additional documentation was often requested.
- However, the facts of each case are different so don't be dissuaded from trying.

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Questions, Comments,  
Concerns?

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