

**SUPERIOR COURT OF THE STATE OF WASHINGTON
WALLA WALLA COUNTY**

In the Matter of the Change of Name:

MARTIN GONZALEZ (a/k/a Lennon
Mae Gonzalez),

Petitioner.

Superior Court Case No. 22-2-00148-36

District Court Case No. x22-00115

AMICUS CURIAE BRIEF OF THE
ATTORNEY GENERAL OF THE
STATE OF WASHINGTON

I. INTRODUCTION

For transgender and gender-expansive Washingtonians, changing their legal name to match their gender identity and chosen name is a matter of safety, self-determination, and dignity. While a legal name change is important to all who seek one, it is especially important to transgender people who are at a disproportionate risk of violence—in particular, transgender women of color like Petitioner Gonzalez—when they use a form of identification that does not match their gender presentation. Because transgender individuals generally experience more economic challenges than the overall population, they are likely to have a greater need to avail themselves of the court fee waiver process provided in General Rule (GR) 34. As such, the proper interpretation of GR 34 is a critical access to justice issue. The Attorney General of the State of Washington respectfully submits this amicus curiae brief to ensure that the Court understands the impact that a narrow interpretation of GR 34 will have on the safety and well-being of indigent transgender Washingtonians who require a complete waiver of all fees to be able to

1 | legally change their name. The Attorney General also submits this brief to inform the Court of
2 | the significant outreach conducted by his office regarding this issue, and the importance for
3 | consistent statewide application of the law.

4 | **II. IDENTITY OF AMICUS CURIAE**

5 | The Attorney General is the legal adviser to the State of Washington. RCW 43.10.030.
6 | The Attorney General's constitutional and statutory powers include the submission of amicus
7 | curiae briefs on matters that affect the public interest. *See Young Americans for Freedom v.*
8 | *Gorton*, 91 Wn.2d 204, 212, 588 P.2d 195 (1978); *see also City of Seattle v. McKenna*,
9 | 172 Wn.2d 551, 562, 259 P.3d 1087 (2011) (Attorney General's "general powers and duties"
10 | include "discretionary authority to act in any court, state or federal, trial or appellate, on a matter
11 | of public concern") (internal quotation marks omitted).

12 | **III. THE ATTORNEY GENERAL'S INTEREST IN THIS MATTER**

13 | This case presents issues of significant public interest: the public's right to equal access
14 | to justice; and the health, safety, and well-being of transgender and gender-expansive residents
15 | of the State of Washington. A legal name change is undoubtedly important to everyone who
16 | avails themselves of the process. But it is especially important to transgender and gender-
17 | expansive Washingtonians, who most often are seeking to conform their legal name to their
18 | gender identity and chosen name. Not having identification that accurately reflects a chosen
19 | name is frequently dangerous for those individuals, and is linked to depressive symptoms. The
20 | Attorney General therefore has a strong interest in ensuring rules like GR 34, which is meant to
21 | eliminate financial barriers to court services, are interpreted and applied in a manner that protects
22 | the public's broad access to the legal name change process. That interest is present in this case,
23 | where Petitioner Gonzalez, a transgender woman, was denied a waiver of a \$205.50 fee to record
24 | her legal name change, even though the District Court found Ms. Gonzalez is indigent. *See*
25 | *Pet.'s Op. Br.*; RCW 4.24.130(4); 36.18.010.

1 The Attorney General also has an interest in ensuring Washingtonians seeking a legal
2 name change receive equal treatment under the law, regardless of the county in which they
3 reside. To that end, the Attorney General has conducted a significant amount of statewide
4 advocacy and outreach to help county officials understand their authority and obligation to waive
5 recording fees under GR 34. For instance, in November 2021, the Wing Luke Civil Rights
6 Division of the Attorney General’s Office filed an amicus brief in a Snohomish County RALJ
7 appeal challenging the denial of a GR 34 fee waiver for an indigent petitioner’s name change
8 recording fee. The Superior Court granted the RALJ appeal, determining that GR 34 requires
9 courts to “waive all fees and charges, of whatever nature, for indigent litigants, no matter to
10 whom or to which governmental entity the fees are paid.” Pet.’s Op. Br., Ex. E at 2. After
11 receiving complaints that numerous counties in Washington were declining to waive name
12 change recording fees for indigent petitioners, the Attorney General wrote to every auditor and
13 district court in the state to clarify the application of GR 34 to recording fees, highlight the
14 disproportionate impact that narrow interpretations of the rule can have on certain populations,
15 and confirm that those counties’ practices conformed to state law. These efforts included letters
16 to the Walla Walla County Auditor and District Court. *See* Appendix A. The Walla Walla County
17 District Court and Auditor have not confirmed their compliance with the law. Instead, the
18 District Court stated that the legal issues raised in the Attorney General’s outreach efforts, as
19 they pertain to Walla Walla County, should be addressed through Ms. Gonzalez’s present RALJ
20 appeal. *See* Appendix B. For that additional reason, and because of the impact that the outcome
21 of Ms. Gonzalez’s appeal will have on other similarly situated residents of Walla Walla County,
22 the Attorney General has an interest as amicus in this case.

23 IV. SPECIFIC ISSUE ADDRESSED BY AMICUS

24 The impact of the failure to waive a recording fee for a legal name change order under
25 GR 34 on access to justice and the safety and well-being of transgender and gender-expansive
26 Washingtonians.

1 **V. STATEMENT OF THE CASE**

2 The Attorney General adopts Petitioner’s Statement of the Case.

3 **VI. ARGUMENT**

4 In general, the Attorney General’s Office agrees with and supports the arguments made
5 in Petitioner’s Opening Brief, and agrees that Substitute House Bill 1961 clarifies existing law.
6 Pet.’s Op. Br. at 14. The Attorney General submits this Amicus Curiae Brief to highlight the
7 unique and substantial impacts that a narrow interpretation of GR 34, or a failure to apply it to
8 petitions which, like this one, were filed prior to the effective date of Substitute House Bill 1961,
9 would have on transgender and gender-expansive Washingtonians seeking a legal name change.
10 Given that the Court’s decision in this appeal will impact individuals in Walla Walla County
11 beyond Petitioner Gonzalez, the Attorney General offers several important considerations that
12 support the Court’s robust application of GR 34 to waive all fees associated with a legal name
13 change.

14 First, as observed by the Washington Supreme Court Gender & Justice Commission,
15 legal name change recording fees “may have a disparate impact on indigent transgender and
16 non-binary individuals.” Wash. State Sup. Ct. Gender & Justice Comm’n, *2021 Gender Justice*
17 *Study*, at 14 (2021), [https://www.courts.wa.gov/subsite/gjc/documents/](https://www.courts.wa.gov/subsite/gjc/documents/2021_Gender_Justice_Study_Report.pdf)
18 [2021_Gender_Justice_Study_Report.pdf](https://www.courts.wa.gov/subsite/gjc/documents/2021_Gender_Justice_Study_Report.pdf). Transgender people are statistically more likely to
19 need a GR 34 fee waiver in order to access the legal name change process in district court because
20 they have higher rates of unemployment, underemployment, and poverty than the general
21 U.S. population, and are more likely to receive a means-tested benefit, such as SNAP or WIC.
22 Sandy E. James et al., Nat’l Ctr. for Transgender Equality, *The Report of the 2015 U.S.*
23 *Transgender Survey*, at 140–45 (2016), [https://transequality.org/sites/default/files/docs/](https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf)
24 [usts/USTS-Full-Report-Dec17.pdf](https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf). The unemployment rate amongst respondents to the 2015
25 U.S. Transgender Survey—the most recent version of the large, in-depth, national survey—was
26 15%, which is three times the overall U.S. unemployment rate at the time of the survey.

1 *Id.* at 140–41. These rates are even higher for transgender people of color. *Id.* at 140–45. The
2 economic challenges that transgender people face have been attributed to the rampant
3 discrimination and harassment directed towards them in nearly every area of society, but most
4 notably in the employment context. Jaime M. Grant et al., Nat’l Ctr. For Transgender Equality,
5 *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*, at 66–67
6 (2011), https://transequality.org/sites/default/files/docs/resources/NTDS_Report.pdf.

7 In spite of their need for name change services, studies show that many transgender
8 people are deterred from seeking a legal name change by the costs associated with the process.
9 Of the 64% of respondents to the 2015 U.S. Transgender Survey who did not seek a legal name
10 change, 35% said it was because they could not afford it. James et al., *2015 U.S. Transgender*
11 *Survey*, at 83–84. Of the 30% of respondents who did attempt to change their legal name, 2%
12 did not complete the process because they ran out of money. *Id.* Cost barriers only exacerbate
13 the difficulties transgender people already face in seeking a legal name change. According to the
14 2015 survey, 49% of respondents did not have an ID or record with the name they preferred. *Id.*
15 at 85. Transgender noncitizens are even less likely to have an ID or record with their preferred
16 name. *Id.*

17 A narrow interpretation of GR 34 therefore is more likely to impede the ability of
18 transgender people to access justice, especially those whom, like Petitioner Gonzalez, are unable
19 to pay anything to access the name change process. In this situation, denying the application of
20 a GR 34 fee waiver as to even one fee amounts to a total denial of the ability to obtain judicial
21 relief, which is inconsistent with the plain language of GR 34 and controlling case law. *See*
22 GR 34 & comment (allowing waiver of any fee “which is a condition precedent to a litigant’s
23 ability to secure access to judicial relief” including “legislatively established” fees); *Jafar v.*
24 *Webb*, 177 Wn.2d 520, 529, 303 P.3d 1042 (2013) (“Consistent with our analysis of GR 34,
25 principles of due process or equal protection require that litigants have access to the courts and
26 require a complete waiver of fees.”); *accord* Wash. State Sup. Ct. Gender & Justice Comm’n,

1 2021 Gender Justice Study, at 23 (observing that “[s]ince the recording is a requirement of the
2 name change petition process, it appears it should be waived under *Jafar* and GR 34”).

3 Second, reliable access to the vital gender affirming service of a legal name change is
4 critical to ensuring the safety and well-being of transgender Washingtonians. Unfortunately, hate
5 crimes and incidents of violence against transgender people have increased substantially in the
6 last five years. Last year was the deadliest year for transgender and gender non-confirming
7 people ever in the United States, with at least 57 reported violent deaths, the majority of whom
8 were women of color. Hum. Rts. Campaign, *Fatal Violence Against the Transgender and Gender*
9 *Non-Conforming Community in 2021*, [https://www.hrc.org/resources/fatal-violence-against-the-](https://www.hrc.org/resources/fatal-violence-against-the-transgender-and-gender-non-conforming-community-in-2021)
10 [transgender-and-gender-non-conforming-community-in-2021](https://www.hrc.org/resources/fatal-violence-against-the-transgender-and-gender-non-conforming-community-in-2021) (last accessed Apr. 29, 2022); see
11 also Anagha Srikanth, *Almost twice as many transgender Americans have been killed as this*
12 *time last year*, The Hill (Apr. 13, 2021), [https://thehill.com/changing-america/respect](https://thehill.com/changing-america/respect/equality/548027-almost-twice-as-many-transgender-americans-have-been-killed)
13 [/equality/548027-almost-twice-as-many-transgender-americans-have-been-killed](https://thehill.com/changing-america/respect/equality/548027-almost-twice-as-many-transgender-americans-have-been-killed). Transgender
14 people are over four times more likely to experience violent crimes compared to cisgender
15 people, and twice as likely to experience property crime. Movement Advancement Project,
16 *Policy Spotlight: Hate Crime Laws*, at 4–6 (July 2021), [https://www.lgbtmap.org/file/2021-](https://www.lgbtmap.org/file/2021-report-hate-crime-laws.pdf)
17 [report-hate-crime-laws.pdf](https://www.lgbtmap.org/file/2021-report-hate-crime-laws.pdf).

18 As Petitioner Gonzalez illustrated in her opening brief, not having an identification that
19 accurately reflects a chosen name exacerbates the risks transgender and nonbinary people
20 already face because of their gender identity. As a result of showing an identification with a
21 name or gender that did not match their chosen name or gender presentation, respondents to the
22 2015 U.S. Transgender Survey reported being verbally harassed, denied services or benefits,
23 asked to leave a location or establishment, and assaulted or attacked. James et al., *2015 U.S.*
24 *Transgender Survey*, at 90. People of color and residents who are undocumented were even more
25 likely to report being assaulted or attacked for using incongruous IDs. *Id.* at 90. As such, denying
26 transgender Washingtonians the ability to petition for a legal name change because of the

1 inability to pay a recording fee can have serious impacts on the personal safety and security of
2 some of Washington’s most vulnerable residents.

3 Third, removing barriers to the legal name change process, rather than constructing them,
4 has positive impacts on the mental health of transgender and gender-expansive individuals.
5 Studies show that using a chosen name is linked to reduced depressive symptoms in transgender
6 people. *See* Stephen T. Russell et al., *Chosen Name Use Is Linked to Reduced Depressive*
7 *Symptoms, Suicidal Ideation, and Suicidal Behavior Among Transgender Youth*,
8 63 J. of Adolescent Health 503, 505 (Oct. 2018); *see also* Jody Herman et al., Williams Inst.,
9 *Suicide Risk and Prevention for Transgender People: Summary of Research Findings*,
10 (Sept. 2021), [https://williamsinstitute.law.ucla.edu/publications/trans-suicide-risk-prevent-](https://williamsinstitute.law.ucla.edu/publications/trans-suicide-risk-prevent-summary/)
11 [summary/](https://williamsinstitute.law.ucla.edu/publications/trans-suicide-risk-prevent-summary/). And ensuring that a legal name change is accessible to all Washingtonians, regardless
12 of the ability to pay, is consistent with Washington’s statutory obligation to provide government
13 services to all residents without discriminatory impact based on sex, gender identity, or gender
14 expression. RCW 49.60.030(1), .040(27); *accord* Transgender Law Ctr., *Black Trans Women*
15 *and Black Trans Femmes: Leading and Living Fiercely*, [https://transgenderlawcenter.org/black-](https://transgenderlawcenter.org/black-trans-women-black-trans-femmes-leading-living-fiercely)
16 [trans-women-black-trans-femmes-leading-living-fiercely](https://transgenderlawcenter.org/black-trans-women-black-trans-femmes-leading-living-fiercely) (last accessed: Nov. 22, 2021) (urging
17 gender identities be honored and protected in public and private spaces).

18 Finally, as noted above, Walla Walla County’s current practice of denying GR 34 waivers
19 for auditor fees in connection with legal name changes perpetuates the patchwork application of
20 this rule that the Attorney General’s outreach efforts have sought to eliminate. Although, the
21 Walla Walla District Court has indicated to the Attorney General’s Office that it “will fully
22 comply with SHB 1961 once it becomes effective” in July 2022, because SHB 1961 is a
23 clarification of existing law and obligations, there is no lawful basis to delay compliance. *See*
24 Appendix A at 2. This delay will only continue the ongoing harm experienced by indigent name
25 change petitioners in Walla Walla County. In the meantime, because Walla Walla County
26 officials have indicated they will not change this practice until the present appeal is resolved, a

1 correct interpretation of GR 34 in this instance is crucial for all indigent county residents who
2 may need to avail themselves of the legal name change process.

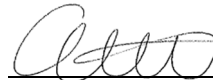
3 **VII. CONCLUSION**

4 The Attorney General respectfully requests that the Court construe GR 34 in a manner
5 that ensures all Washingtonians, and in this case, transgender and gender-expansive individuals,
6 have access to the legal name change process, regardless of ability to pay.

7
8 DATED this 1st day of June 2022.

9 Respectfully submitted,

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11 Attorney General of Washington

12 

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1 **CERTIFICATE OF SERVICE**

2 I certify that I caused a copy of this document to be served on all parties or their counsel of
3 record as follows:

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17 I certify under penalty of perjury under the laws of the state of Washington that the
18 foregoing is true and correct.

19 DATED this 1st day of June 2022 at Seattle, Washington.

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