

# The “Definition of Sex” Law & How It Affects You

(Public Chapter 486, codified at Tennessee Code Annotated § 1-3-105(c) and § 49-2-802(4))

## — What does the “definition of sex” law do?

Public Chapter 486 was signed into law by Governor Lee on July 1, 2023. This law establishes the definition of the word “sex” throughout Tennessee state code as “a person’s immutable biological sex as determined by anatomy and genetics existing at the time of birth and evidence of a person’s biological sex.”

The law further states: “evidence of a person’s biological sex” includes, but is not limited to, “a government-issued identification document that accurately reflects a person’s sex listed on the person’s original birth certificate.”

## — What is the effect of this law?

Under a new policy, the Tennessee Department of Safety has stopped changing gender markers on drivers’ licenses to accurately reflect gender changes for transgender people even though the text of the law does not include any enforcement provision, nor any penalty provisions for failure to comply with the law.

The new policy also directs employees to send any questions about a person’s gender on their identification documents to their legal department, potentially exposing transgender Tennesseans’ information to an attorney general’s office that has sought to gather records on transgender people before.<sup>1</sup>

## — Why is this law dangerous to the civil liberties of Tennesseans?

Access to accurate identification is an important part of daily life, as it allows Tennesseans to open bank accounts, enroll in school, start new jobs, vote and travel. Not having accurate identity documents exposes transgender people to harassment, discrimination, violence, and negative mental health outcomes.<sup>2,3</sup>

Further, attempts to enforce this law could mean educators, state employees, and other folks (whether or not they are transgender) might face invasive physical inspection, searches, or blood draws if someone **suspects** they might be transgender.

Therefore, it is essential that all people, transgender or not, have access to official documents that accurately reflect who they are.



## — What can I do if I need an ID that accurately reflects my gender?

If you need a new or updated form of identification, you can obtain a passport book and/or **passport card**, which are alternatives to state-issued IDs.

The U.S. State Department currently does not require passport applicants to submit medical certification to change the gender marker on their passports. Therefore, applicants can self-select an M, F, or X gender marker for their passport.

This policy applies to both adults and minors; however, all minors must meet legal guardian consent requirements.

Furthermore, you can update the gender on your Social Security record by applying at your local Social Security office. For more information visit the Social Security website at <https://www.ssa.gov/people/lgbtq/gender-identity.html>.

**To register for one our Federal ID Clinics, where we’ll walk you through the process of applying for a federal ID, visit: <https://www.aclu-tn.org/federal-id-legal-clinics/>**

**If you have questions or have been denied a gender change on your Tennessee drivers’ license, please complete our legal intake form at: <https://www.aclu-tn.org/legal-assistance/>**

## ADDITIONAL RESOURCES:

— **Selecting your Gender Marker (state.gov)**

<https://travel.state.gov/content/travel/en/passports/need-passport/selecting-your-gender-marker.html>

— **Passports | National Center for Transgender Equality (transequality.org)**

<https://transequality.org/know-your-rights/passports>

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<sup>1</sup> <https://time.com/6289609/vanderbilt-transgender-records-patients-backlash/>

<sup>2</sup> Herman, J.L. & O’Neill, K. (2021). Gender Marker Changes on State ID Documents: State-level Policy Impacts. Los Angeles, CA: The Williams Institute.

<sup>3</sup> Restar A, Jin H, Breslow A, Reisner SL, Mimiaga M, Cahill S, Hughto JMW. Legal gender marker and name change is associated with lower negative emotional response to gender-based mistreatment and improve mental health outcomes among trans populations. *SSM Popul Health*. 2020 May 11;11:100595. doi: 10.1016/j.ssmph.2020.100595. PMID: 32435684; PMCID: PMC7229467.