

**IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY**

JANE DOE,)	
)	
Plaintiff/Petitioner,)	Case No.
)	
vs.)	FIRST APPLICATION FOR
)	EXTRAORDINARY RELIEF
TENNESSEE DEPARTMENT OF)	
SAFETY AND HOMELAND)	
SECURITY; JEFF LONG, in his)	
official capacity as the Commissioner)	
of Tennessee’s Department of Safety)	
and Homeland Security; and MICHAEL)	
HOGAN, in his official capacity as the)	
Assistant Commissioner of the Driver)	
Services Division for Tennessee’s)	
Department of Safety and Homeland)	
Security,)	
)	
Defendants/Respondents.)	

**VERIFIED COMPLAINT FOR DECLARATORY JUDGMENT AND
INJUNCTIVE RELIEF AND PETITION FOR JUDICIAL REVIEW**

Plaintiff Jane Doe (“Ms. Doe” and “Plaintiff”), through her undersigned attorneys, brings this Verified Complaint against Defendant Tennessee Department of Safety and Homeland Security; Defendant Jeff Long, in his official capacity as Commissioner of Tennessee’s Department of Safety and Homeland Security; and Michael Hogan in his official capacity as the Assistant Commissioner of the Driver Services Division for Tennessee’s Department of Safety and Homeland Security (“Defendants”); and states the following in support thereof:

1. This action challenges the improper promulgation of an administrative rule (the “Redefinition of Sex Rule”) by Defendants. Defendants ignored the statutory mandate to follow notice-and-comment rulemaking procedures under the Tennessee Uniform Administrative Procedures Act. Instead, in furtherance of an ideological and political agenda, the Defendants unlawfully directed that no driver licenses shall issue that accurately identify the gender identity and sex characteristics of transgender people because transgender people’s speech about their sex is a message that Defendants disagree with.

2. As a result of Defendants’ enforcement of the Redefinition of Sex Rule against Ms. Doe, she has experienced harmful and discriminatory treatment because she is transgender. The Redefinition of Sex Rule unconstitutionally discriminates against Ms. Doe as it violates her rights to privacy, free speech, equal protection, and procedural due process under the Tennessee Constitution. The Redefinition of Sex Rule puts Ms. Doe and other transgender people like her at risk of physical harm, abuse, harassment, social stigma, and forces public disclosure of medical status.

3. Ms. Doe therefore asks this Court to declare that the Redefinition of Sex Rule is void and unenforceable as it violates the Tennessee Uniform Administrative Procedures Act as well as Ms. Doe’s Tennessee constitutional rights to privacy, free speech, equal protection, and procedural due process. Further, Ms. Doe asks the Court to declare Defendants’ denial of Ms. Doe’s request to change the sex designator on her driver license to be an arbitrary and capricious decision in violation of the Tennessee Uniform Administrative Procedures Act.

INTRODUCTION

4. The Defendants oversee the establishment and enforcement of rules and policies with respect to issuing driver licenses to Tennessee drivers and are responsible for the current rule (the “Redefinition of Sex Rule”) that prevents transgender applicants, including Ms. Doe, from receiving licenses that accurately reflect their gender identity and sex characteristics.

5. The Redefinition of Sex Rule enforces an ideological government message against Ms. Doe, and other transgender driver license applicants like her, that “sex” means only what Defendants refer to as “immutable biological sex” as designated at birth, which is a highly controversial statement regularly used by those who oppose and seek to restrict and eliminate the legal recognition and protection of transgender people.¹

6. The use of the word “sex” in the fields of science and medicine, as well as Ms. Doe’s sincerely held beliefs about herself, reflect differing interpretations that are inconsistent with the State’s redefinition.

7. Jane Doe’s sex characteristics, including her gender identity, are inconsistent with Defendants’ redefinition of sex.

8. Under Defendants’ Redefinition of Sex Rule, a sex designator on a driver license must match the sex designator on an original birth certificate, precluding transgender drivers from obtaining licenses with the correct sex designator.

¹ The text of the Redefinition of Sex Rule is available at ¶ 33.

9. The text of the Redefinition of Sex Rule does not define any uniform process for Defendants to determine the applicable sex for driver licenses, indicating only that “‘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,” and provides that any conflicting information provided by applicants is to be sent to “legal for review.” *See* Exhibit A. The effect of the Redefinition of Sex Rule is the denial of all transgender applicants’ requests to update a sex designator on driver licenses.

10. Plaintiff has been harmed by this new rule. Ms. Doe's request to update her sex designator to female was rejected by Defendants despite her having an official passport card that accurately describes her sex as female, having female sex characteristics, and a female gender identity. As a result, Ms. Doe is forced to choose between carrying a driver license with the incorrect sex designator or not driving at all.

11. The Defendants violated the Tennessee Uniform Administrative Procedures Act by failing to promulgate the Redefinition of Sex Rule through the proper notice-and-comment process.

12. As such, the Redefinition of Sex Rule is void, of no effect, and unenforceable.

13. Further, the Redefinition of Sex Rule violates Ms. Doe’s rights under the Tennessee Constitution—including the right to privacy, right to free speech, right to equal protection, and right to procedural due process.

14. The Defendants' decision to ban any update of the sex designators for transgender people, including Ms. Doe, because they are transgender is arbitrary and capricious and violates the Tennessee Uniform Administrative Procedures Act.

JURISDICTION AND VENUE

15. This Court has jurisdiction over this action pursuant to Tenn. Code Ann. §§ 4-5-225, -322(h); Tenn. Code Ann. § 16-11-101, et seq.; as well as Tenn. Code Ann. § 1-3-121; Tenn. Code Ann. § 29-1-101; and Tenn. Code Ann. § 29-14-101, et seq., and Tenn. R. Civ. P. 65.

16. Venue is proper in this judicial district pursuant to Tenn. Code Ann. §§ 4-5-225, -322 and Tenn. Code Ann. § 20-4-101(a).

PARTIES

17. Ms. Doe is a transgender woman living in Monroe County Tennessee, which she moved to approximately eight years ago from Massachusetts. She has been unable to receive a Tennessee driver license accurately listing her sex as female despite living her life as female, her passport card reflecting her sex as female, and her medical diagnosis of gender dysphoria.

18. Defendant Tennessee Department of Safety and Homeland Security administers the Uniform Classified and Commercial Driver License Act and oversees every application for a driver license.

19. The Tennessee Department of Safety and Homeland Security is authorized by Tennessee law to promulgate rules necessary to administer driver licenses.

20. Defendant Jeff Long is the appointed Commissioner of the Tennessee Department of Safety and Homeland Security and oversees the Department's three main divisions: The Tennessee Highway Patrol, the Tennessee Driver Service Division, and the Tennessee Office of Homeland Security.

21. Defendant Jeff Long is authorized to establish administrative rules and regulations concerning the licensing of persons to operate motor vehicles in Tennessee.

22. Defendant Michael Hogan is the appointed Assistant Commissioner of the Driver Services Division of the Tennessee Department of Safety and Homeland Security and is authorized as an agent of Defendant Jeff Long.

FACTUAL ALLEGATIONS

I. Defendants Issued the Redefinition of Sex Rule in Violation of the Notice and Comment Requirements Under the Tennessee Uniform Administrative Procedures Act

23. On April 21, 2023, the Tennessee General Assembly passed a bill ("SB 1440") which defines "sex" throughout the Tennessee Code as "a person's immutable biological sex as determined by anatomy and genetics existing at time of birth" and further indicates that "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." (Emphasis added).

24. SB 1440 was signed into law by Governor Bill Lee on May 17, 2023, and was published as Public Chapter No. 486.

25. SB 1440 became effective on July 1, 2023.

26. Prior to passage of SB 1440, the Legislature had not ever defined sex uniformly in the code ever in Tennessee.

27. There is no enforcement mechanism contained in SB 1440.

28. SB 1440 does not authorize or direct action by the Defendants.

29. There is no Tennessee statute requiring individuals to provide a birth certificate to change a Tennessee driver license to document a person's sex.

30. Prior to the enactment of SB 1440, the Defendants, as part of Rule 1340-01-13-.12(6) (published in Tenn. Comp. R. & Regs. (2023)), allowed a change of sex designator on a Tennessee driver license if an applicant submitted "a statement from the attending physician that necessary medical procedures to accomplish the change in gender are complete."

31. The Defendants have not updated Rule 1340-01-13-.12(6) since SB 1440 has been enacted, nor have they repealed the rule or promulgated new rules related to 1340-01-13-.12(6).

32. On July 3, 2023, the Defendants issued a document to employees titled "Guidelines to Proof of Identity" and referenced as DLP-302(E)(3) ("the Redefinition of Sex Rule") indicating that the Defendants will no longer "accept requests for gender marker changes that are inconsistent with someone's designated sex on their original birth certificate." EXHIBIT A.

33. The Redefinition of Sex Rule reads:²

3. **Gender Changes**: Pursuant to Public Chapter 486 As [sic] used in this code, unless the context otherwise requires, “sex” means 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. As used in this subsection (c), “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.

a. Starting July 1, 2023, the Department of Safety does not accept requests for gender marker changes that are inconsistent with someone’s designated sex on their original birth certificate. This means any amended birth certificates cannot be used for determining the gender on their credential without legal being consulted.

b. Special circumstances, where the documents presented have conflicting information (a birth certificate and credential from another government agency that do not have matching information for example) or are unsure how to process someone based on the documents presented, please send to legal for review and guidance.

34. The Redefinition of Sex Rule is a “rule” under the Tennessee Uniform Administrative Procedures Act (“UAPA”).

35. The Defendants are primarily responsible for the creation, distribution, and enforcement of the Redefinition of Sex Rule.

² The rule is under a section titled “*Gender Changes*,” and uses the terms “sex” and “gender” interchangeably. It discusses the definition of “sex” under SB 1440 but directs that the Department of Safety “does not accept requests for *gender marker* changes...” and “...any amended birth certificates cannot be used for determining the *gender*...” (emphasis added).

36. The Redefinition of Sex Rule was never promulgated by notice-and-comment rulemaking procedures under the UAPA.

37. Under the Redefinition of Sex Rule, there is no uniform procedure for determining what is considered an original birth certificate, the Defendants do not allow an amended birth certificate to be used for determining the applicant's sex on Tennessee driver licenses, and employees are instructed to send documents presenting conflicting information to the legal department for review. EXHIBIT A.

38. Upon information and belief, the Defendants' legal department will reject applicants' requests to update a sex designator when documentation provided as part of the application has conflicting information.

39. A transgender applicant who wishes to update the sex designator on an existing license will present conflicting documentation if the birth certificate provided as part of their application contains their desired sex designator.

40. Upon information and belief, the Defendants' legal department assumes a birth certificate that has a sex designation that conflicts with an applicant's current driver license has been amended for the purposes of the Redefinition of Sex Rule and will reject an application for an updated sex designator on a driver license containing such a discrepancy.

41. There is no process by which an applicant can administratively appeal Defendants' decision to reject an application for an updated sex designator on a driver license. EXHIBIT B.

42. As a result of the Redefinition of Sex Rule, there is no existing mechanism in Tennessee that will allow a transgender applicant to change the sex designator on their driver license to reflect the sex they embody and live in their day-to-day lives.

43. The Redefinition of Sex Rule, which denies all transgender applicants accurate driver licenses, and is in direct contrast with the decisions of the federal government and multiple states to allow transgender individuals to self-identify their sex on identification documents. The self-identification policy is in line with the current medical standard for treating persons diagnosed with gender dysphoria.

44. Many states allow transgender individuals to amend their birth certificates to accurately reflect their gender identity.

45. The American Association of Motor Vehicle Administrators instructs states to accept a variety of documents to recognize gender identity including passports, birth certificates, or other identification cards from governments. American Association of Motor Vehicle Administrators, *Resource Guide on Gender Designation on Driver's Licenses and Identification Cards* (2016), <https://www.aamva.org/getmedia/e0069691-e7cf-4a21-aac7-98a9118f63bd/Resource-Guide-on-Gender-Designation-on-Driver-s-Licenses.pdf>

II. Transgender People and Gender Dysphoria

46. Gender identity refers to a person's core sense of belonging to a particular sex such as male or female. Every person has a gender identity.

47. Living in a manner consistent with one's identity is critical to the health and well-being of any person, including transgender people.

48. Although the precise origin of gender identity is unknown, a person's gender identity is a fundamental aspect of human development. There is a general medical consensus that there are significant biological roots to gender identity.

49. Gender identity cannot be altered through medical intervention or other means.

50. A person's gender identity in most cases matches the sex they were designated at birth based on the appearance of their external genitalia. The terms "sex designated at birth" or "sex assigned at birth" are more precise than the term "biological sex" because all of the physiological aspects of a person's sex are not always aligned with each other. For these reasons, the Endocrine Society, an international medical organization representing over 18,000 endocrinology researchers and clinicians, warns practitioners that the terms "biological sex" and "biological male or female" are imprecise and should be avoided.

51. Most people are designated male or female at birth respectively based on the appearance of their external genital anatomy at birth. But transgender people have a gender identity that differs from the sex they were designated at birth. For instance, a transgender man is someone who has a male gender identity but was designated as having a female sex at birth. A transgender woman is someone who has a female gender identity but was designated as having a male sex at birth.

52. Research has identified that determination of sex is far more complex than what is seen on genital exam. Instead, sex is a complex compilation of multiple factors including one's chromosomal makeup (typically XX for those designated female at birth,

XY for those designated male at birth), gonadal sex (presence of ovaries or testes), fetal hormonal sex (production of sex hormones by the fetus or exogenous exposure of sex hormones to the developing fetus), pubertal hormonal sex (the change in hormonal milieu that results in the development of secondary sexual characteristics—including facial hair and deep voice for those designated male at birth, and breasts and menstrual cycles for those designated female), hypothalamic sex (variations in brain structure and function as a result of embryonal exposure of sex hormones), and gender identity.

53. Gender dysphoria is the clinical diagnosis for the significant distress that results from the incongruity between one’s gender identity and the sex one was designated at birth. It is a serious medical condition, and it is codified in the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5-TR) (DSM-5 released in 2013 and DSM-5-TR released in 2022).

54. Being transgender is not itself a medical condition to be cured. But gender dysphoria is a serious medical condition that, if left untreated, can result in debilitating anxiety, severe depression, self-harm, and suicide.

55. The World Professional Association for Transgender Health (“WPATH”) has issued Standards of Care for the Health of Transgender and Gender Diverse People (“WPATH Standards of Care”) since 1979. The current version of the WPATH Standards of Care is version 8 (“SOC 8”), published in 2022. The WPATH Standards of Care provide guidelines for multidisciplinary care of transgender individuals and describe criteria for medical interventions to treat gender dysphoria—including hormone

treatment, and when medically indicated, surgery. Every major medical organization in the United States recognizes that these treatments can be medically necessary to treat gender dysphoria.

56. The SOC 8 is based upon a rigorous and methodological evidence-based approach. Its recommendations are informed by a systematic review of evidence and an assessment of the benefits and harms of alternative care options, as well as expert consensus. The SOC 8 incorporates recommendations on clinical practice guideline development from the National Academies of Medicine and the World Health Organization. SOC 8's recommendations were graded using a modified GRADE (Grading of Recommendations, Assessment, Development, and Evaluations) methodology considering the available evidence supporting interventions, risks and harms, and feasibility and acceptability.

57. A clinical practice guideline from the Endocrine Society (the "Endocrine Society Guideline") provides protocols for the medically necessary treatment of gender dysphoria similar to those outlined in the WPATH Standards of Care.

58. The WPATH Standards of Care recommend that, for many transgender individuals, engaging in social transition may be very beneficial. Social transition involves altering one's presentation and social markers to be consistent with their gender identity. Typically, social transition involves some or all of the following:

- a. Change in clothing, hair, or appearance;
- b. Change of name;
- c. Change in pronouns (i.e., "she" "he" or "they");

- d. Change in participating in gender-specific activities, events, or spaces; and
- e. Change of the sex designator on identifying documents, including driver license, passport, and birth certificate.

59. In addition to social transition, transgender individuals often seek medical or surgical intervention in healthcare settings as part of a medical transition. Medical transition often includes the prescription of hormones so that the transgender person can develop secondary sexual characteristics of the sex with which they identify. This may mean that a transgender man (or someone who was designated as female at birth but knows themselves to be male) may grow facial hair and develop a much deeper voice as a result of testosterone treatment. Alternatively, transgender women (designated male at birth but knows themselves to be female), may develop breast tissue and a more feminine body fat distribution as a result of estrogen and progesterone that may be prescribed by a clinician.

60. Some transgender patients seek surgical transition. These surgical procedures further change the patient's anatomy to match more closely with their gender identity.

61. Under the WPATH Standards of Care, if a transgender individual has gender dysphoria, medically accepted treatment for that condition includes living their life consistently with their gender identity, including the use of identity documents to reflect their gender identity.

62. Forcing transgender individuals to use identity documents that state their assigned sex at birth rather than their gender identity is inconsistent with medical

protocols and can cause anxiety and distress to the individual. For individuals with gender dysphoria, it can interfere with the treatment of, and worsen, their gender dysphoria.

63. Driver licenses are a critically important form of identification. For many people, a driver license makes it possible for them to secure a job and otherwise care for their needs and the needs of their family. This is especially true in places like Tennessee where most people need to drive every day to go to work, school, stores, doctors' offices, or visits with friends and family, and where identification is required to vote.

64. It is estimated that 1.6 million people identify as transgender in the United States, or 1.9% of the population.³ Approximately 30,800 Tennesseans are estimated to be transgender.⁴

65. Transgender people often risk harassment, harm, and social stigma when others learn they are transgender.

66. Individuals who are transgender are more likely to suffer abuse, harassment, discrimination, and violence than the population at large. The 2022 U.S. Trans Survey conducted by the National Center for Transgender Equality—the largest survey of transgender individuals in the U.S. ever conducted (available at

³ Herman, J.L., Flores, A.R., O'Neill, K.K. (2022). How Many Adults and Youth Identify as Transgender in the United States? The Williams Institute, UCLA School of Law (available at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Trans-Pop-Update-Jun-2022.pdf>).

⁴ *Id.*

[https://transequality.org/sites/default/files/2024-](https://transequality.org/sites/default/files/2024-02/2022%20USTS%20Early%20Insights%20Report_FINAL.pdf)

[02/2022%20USTS%20Early%20Insights%20Report_FINAL.pdf](https://transequality.org/sites/default/files/2024-02/2022%20USTS%20Early%20Insights%20Report_FINAL.pdf)) found that:

- a. Approximately 44% of respondents experienced serious psychological distress in the previous 30 days;
- b. Nearly one in ten (9%) respondents reported that they were denied equal treatment or service in the last 12 months because of their gender identity or expression;
- c. Nearly one-third (30%) of respondents reported that they were verbally harassed in the last 12 months because of their gender identity or expression;
- d. More than one-third (39%) of respondents reported that they were harassed online in the last 12 months because of their gender identity or expression;
- e. Three percent (3%) of respondents reported that they were physically attacked in the last 12 months because of their gender identity or expression; and
- f. Twenty-two percent (22%) of all respondents reported being verbally harassed, assaulted, asked to leave a location, or denied services when they have shown someone an ID with a name or sex marker that did not match their presentation.
- g. Sixty-two percent (62%) of respondents reported that they were “very uncomfortable” or “somewhat uncomfortable” asking for help from police when needed because of their gender identity or expression.

67. Indeed, numerous individuals have been murdered in Tennessee because they are transgender, *see, e.g.,* Madeleine Roberts, *HRC Mourns Angel Unique, Black Trans Woman Killed in Memphis, Tenn.*, Human Rights Campaign, Nov. 2, 2020, <https://www.hrc.org/news/hrc-mourns-angel-unique-black-trans-woman-killed-in->

memphis-tenn; Jose Soto, *Remembering Danyale Thompson, Black Trans Woman Tragically Killed*, Human Rights Campaign, Nov. 22, 2021, <https://www.hrc.org/news/remembering-danyale-thompson-black-trans-woman-tragically-killed>; Meghan Olson, *A Beloved Friend and Loving Dog Mom*, *HRC Remembers the Life of Kitty Monroe*, Human Rights Campaign, June 30, 2022, https://www.hrc.org/news/a-beloved-friend-and-loving-dog-mom-hrc-remembers-the-life-of-kitty-monroe?_ga=2.122811275.1477492128.1711568041-1305210819.1709569008.

68. Transgender people are over four times more likely than cisgender⁵ people to experience violent victimization. UCLA School of Law, Williams Institute, *Transgender People Over Four Times More Likely Than Cisgender People to be Victims of Violent Crime*, March 23, 2021, [Transgender people over four times more likely than cisgender people to be victims of violent crime - Williams Institute \(ucla.edu\)](#).

III. Jane Doe Has Experienced Harm as a Direct Result of the Redefinition of Sex Rule

69. Plaintiff Jane Doe is a thirty-three-year-old woman who has been living in Monroe County, Tennessee for approximately eight years. Ms. Doe was born in Florida and has a Florida birth certificate.

70. Ms. Doe is transgender. She was assigned male at birth but has known that she is female since the age of three. She was diagnosed with gender dysphoria in May

⁵ “Cisgender” is defined by Merriam-Webster Dictionary as: of, relating to, or being a person whose gender identity corresponds with the sex the person was identified as having at birth. (Available at <https://www.merriam-webster.com/dictionary/cisgender>).

2022. Ms. Doe receives medical treatment for gender dysphoria through hormone therapy which causes her to have the same sex characteristics as other women.

71. Ms. Doe legally changed her name to the one currently on her license in November 2022 in the Probate Court for Monroe County, Tennessee.

72. Ms. Doe lives as a woman in her day-to-day life and is perceived by members of the community as a woman because of her female sex characteristics. As such, Ms. Doe is forced to disclose her transgender status whenever she shows a third-party her driver license, which gives her significant distress both because of the negative effects it has on her gender dysphoria and because she fears discrimination, harassment and violence based on her status as a transgender woman.

73. As a result of the anxiety providing her driver license causes, Ms. Doe avoids use of the license whenever possible, and instead tries to use her passport card if feasible. However, a driver license is often required for voting, applying for housing, obtaining employment, making certain large purchases, ordering alcohol, attending certain healthcare appointments, and other activities requiring identification.

74. On February 23, 2024, Ms. Doe visited the driver license office located at 150 Plaza Circle, Athens, TN 37303.

75. Ms. Doe sought to update her existing Tennessee driver license to reflect her correct gender identity of female.

76. Upon arrival at the driver license office, Ms. Doe was greeted by an employee who addressed her as a woman with appropriate she/her pronouns based on her sex characteristics.

77. Ms. Doe informed the employee at the counter that she would like to update the sex designator on her driver license and presented her previous driver license, passport card, and two proofs of residency. The employee consulted with her manager to determine the correct course of action. The employee indicated to Ms. Doe that she would be unable to change Ms. Doe's sex designator because of the Redefinition of Sex Rule that was in effect as of July 1, 2023, making it impossible for transgender people to change sex designators on driver licenses based on Tennessee's new law SB 1440. The employee indicated that this would remain true even if Ms. Doe received an amended birth certificate that reflected an updated sex designator.

78. The Driver Services employee accepted Ms. Doe's request to change her eye color on the driver's license from grey to green without any documentation or questions.

79. Ms. Doe fears she can no longer reside in Tennessee without sacrificing her safety, privacy, and dignity.

CAUSES OF ACTION

80. The Redefinition of Sex Rule is a "rule" under the Tennessee Uniform Administrative Procedures Act because it is an agency statement of general applicability since it is capable of being applied to every member of a class: transgender people seeking to change sex designators on their driver licenses after July 1, 2023; and it "affects private rights, privileges or procedures available to the public" because it affects the rights, privileges, or procedures available to transgender license applicants who wish

to have a sex designator on their driver license that matches their gender identity when it is different from the sex they were assigned at birth.

81. As a rule, the Redefinition of Sex Rule is void and of no effect because it was not properly promulgated under the Tennessee Uniform Administrative Procedures Act procedures for rulemaking.

82. The Defendants' application of SB 1440 to implement the Redefinition of Sex Rule violates Ms. Doe's constitutional rights under the Tennessee Constitution, namely, her rights to privacy, free speech, equal protection, and procedural due process.

83. Further, the Defendants' decision denying Ms. Doe an accurate driver license that reflects her correct gender identity violates the Tennessee Uniform Administrative Procedures Act because they acted arbitrarily and capriciously.

COUNT I

The Redefinition of Sex Rule is a Void Rule Adopted in Violation of the Tennessee Uniform Administrative Procedures Act's Rulemaking Requirements

84. Plaintiff incorporates all allegations of all preceding paragraphs as if fully set forth herein.

85. "The legal validity or applicability of a statute, rule or order of an agency to specified circumstances may be determined in a suit for a declaratory judgment...if the court finds that the statute, rule or order, or its threatened application, interferes with or impairs, or threatens to interfere with or impair, the legal rights or privileges of the complainant." Tenn. Code Ann. § 4-5-225(a).

86. “In passing on the legal validity of a rule or order, the court shall declare the rule or order invalid [] if it finds that it...was adopted without compliance with the rulemaking procedures provided for [in the UAPA]...” Tenn. Code Ann. § 4-5-225(c).

87. Defendants are an agency subject to the requirements of rulemaking under the Tennessee Uniform Administrative Procedures Act. Tenn. Code Ann. §§ 55-50-202(b), -321(i)(2). “Agency” means each state board, commission, committee, department, officer, or any other unit of state government authorized or required by any statute or constitutional provision to make rules or to determine contested cases. Tenn. Code Ann. § 4-5-102(2).

88. The UAPA requires agencies to promulgate rules in accordance with its uniform procedures—namely, public notice, a public hearing, an opportunity for public comment, approval by the Attorney General, and filing with the Secretary of State. Tenn. Code Ann. §§ 4-5-202, -203, -204, -206, -211.

89. Any agency rule not adopted in compliance with these procedures is void and of no effect. Tenn. Code Ann. § 4-5-216.

90. The Redefinition of Sex Rule operates as a “rule” under the UAPA because it:

a. is an "agency statement of general applicability that implements or prescribes law or policy or describes the procedures or practice requirements of any agency” as it implements SB 1440 and is capable of being applied to every member of a class, Tenn. Code Ann. § 4-5-102: that is, transgender people, including Ms. Doe, who seek to change the sex designator on their driver licenses after July 1, 2023; and

b. it “affects private rights, privileges or procedures available to the public” because it affects the rights, privileges, or procedures available to transgender driver license applicants, including Ms. Doe, who wish to have a sex designator on their driver license that matches their gender identity, but is different from the sex they were assigned at birth. Tenn. Code Ann. § 4-5-102(12)(A).

91. The Redefinition of Sex Rule was not adopted in compliance with the procedures for rulemaking under the UAPA and is thus void and of no effect.

COUNT II

The Redefinition of Sex Rule is an Unconstitutional Application of SB 1440 in Violation of the Tennessee Uniform Administrative Procedures Act

92. Plaintiff incorporates all allegations of all preceding paragraphs as if fully set forth herein.

93. “The legal validity or applicability of a statute, rule or order of an agency to specified circumstances may be determined in a suit for a declaratory judgment...if the court finds that the statute, rule or order, or its threatened application, interferes with or impairs, or threatens to interfere with or impair, the legal rights or privileges of the complainant.” Tenn. Code Ann. § 4-5-225(a).

94. “In passing on the legal validity of a rule or order, the court shall declare the rule or order invalid only if it finds that it violates constitutional provisions...” Tenn. Code Ann. § 4-5-225(c).

I. The Redefinition of Sex Rule Violates the Tennessee Constitution

95. The Redefinition of Sex Rule violates provisions of the Tennessee Constitution.

A. Right to Privacy

96. Plaintiff incorporates all allegations of all preceding paragraphs as if fully set forth herein.

97. The Right to Privacy arises from Sections 3, 7, 19, and 27 of the Declaration of Rights contained in Article I of the Tennessee Constitution.

98. Tennessee's Constitution protects the right to privacy of adults, including Ms. Doe, to maintain as private information that (1) could subject them to danger of bodily harm and (2) is of highly personal and intimate nature.

99. Requiring transgender individuals, including Ms. Doe, to reveal their transgender status by forcing them to display a driver license that conflicts with their sex characteristics places them in danger of bodily harm.

100. That one is transgender and/or has gender dysphoria is information that is highly personal and intimate.

101. The Redefinition of Sex Rule applies SB 1440 to transgender people seeking to have a sex designator that reflects their gender identity, including Ms. Doe, by stating that "Starting July 1, 2023, the Department of Safety does not accept requests for gender marker changes that are inconsistent with someone's designated sex on their original birth certificate. This means any amended birth certificates cannot be used for determining the gender on their credential without legal being consulted." EXHIBIT A. According to the text of Rule, this is due to Defendants' application of HB 1440: "[p]ursuant to Public Chapter 486 [a]s used in this code, unless the context otherwise requires, 'sex' means 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. As used in this subsection (c), '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." EXHIBIT A.

102. Ms. Doe's right to privacy was violated by the Redefinition of Sex Rule because Ms. Doe is required to either (i) not use a driver license, or (ii) reveal to third parties that she is transgender and/or has been diagnosed with gender dysphoria.

103. The Redefinition of Sex Rule is not narrowly tailored to serve a compelling government interest, nor is it even rationally related to any legitimate government interest.

104. The Redefinition of Sex Rule violates the fundamental privacy rights of Ms. Doe.

B. Freedom of Speech

105. Plaintiff incorporates all allegations of all preceding paragraphs as if fully set forth herein.

106. Article I, § 19 of Tennessee's Constitution protects both the right to speak freely and the right to refrain from being compelled to voice a government's message.

107. The Redefinition of Sex Rule infringes upon Ms. Doe's freedom of speech by forcing her to carry a government document that is routinely required to be presented to others and states an ideological message and viewpoint that the State defines her as the sex she was assigned on her original birth certificate, despite medical science, her current sex characteristics, and her own conscience and identity indicating she is a different sex

than she was assigned on her original birth certificate. Ms. Doe vehemently disagrees with the States' ideological message and viewpoint with respect to sex.

108. The Redefinition of Sex Rule is not narrowly tailored to serve a compelling government interest, nor is it even rationally related to any legitimate government interest.

C. Equal Protection

109. Plaintiff incorporates all allegations of all preceding paragraphs as if fully set forth herein.

110. Article XI, § 8 of Tennessee's Constitution protects Ms. Doe's right to equal protection under the law.

111. The Redefinition of Sex Rule prohibits driver licenses that reflect the driver license holder's accurate gender identity when that driver license holder is transgender while permitting driver licenses that accurately display the holder's gender identity for driver license holders whose sex assigned at birth matches their gender identity.

112. In doing so, the Redefinition of Sex Rule explicitly discriminates against transgender applicants, including Ms. Doe, based on their transgender status and sex, including their failure to conform to stereotypes and expected behavior associated with their sex designated at birth.

113. In addition to facially discriminating based on sex and transgender status, the Redefinition of Sex Rule was issued because of its effect on transgender people, not in spite of it.

114. Discrimination based on transgender status and sex is subject to heightened scrutiny under the equal protection provisions of the Tennessee Constitution and is therefore presumptively unconstitutional, placing a demanding burden of justification upon the Defendants to provide at least an exceedingly persuasive justification for the differential treatment.

115. Transgender people have obvious, immutable, and distinguishing characteristics that define the class as a discrete group. The characteristics bear no relation to transgender people's abilities to perform in, or contribute to, society.

116. Transgender people have historically been subject to discrimination in Tennessee and across the country and remain a very small minority of the American and Tennessee population that lacks political power.

117. Gender identity is a core, defining trait that cannot be changed voluntarily or through medical intervention, and is so fundamental to one's identity and conscience that a person cannot be required to abandon it as a condition of equal treatment.

118. The Redefinition of Sex Rule's targeted prohibition on sex designator changes on driver licenses for transgender people, including Ms. Doe, is based on generalized fears, negative attitudes, stereotypes, and moral disapproval of transgender people, which are not legitimate bases for unequal treatment under any level of scrutiny.

119. The Redefinition of Sex Rule's discriminatory treatment of transgender applicants is not adequately tailored to any sufficiently important government interest, nor is it even rationally related to any legitimate governmental interest.

120. The Redefinition of Sex Rule violates the equal protection rights of Ms. Doe.

D. Procedural Due Process

121. Plaintiff incorporates all allegations of all preceding paragraphs as if fully set forth herein.

122. Article I, § 8 of Tennessee's Constitution establishes a right to procedural due process before Ms. Doe's liberty interests may be infringed.

123. The right to privacy is grounded in the concept of liberty in the Tennessee Constitution.

124. Transgender people seeking an accurate sex designator on their driver license that reflects their gender identity since July 1, 2023, including Ms. Doe, have a privacy interest entitled to due process protection.

125. Transgender people seeking an accurate sex designator on their driver license that reflects their gender identity since July 1, 2023, including Ms. Doe, are entitled to procedures to contest the Defendants' decision on whether they qualify to change the sex designator on their driver licenses.

126. There is no appeal process for the Defendants' blanket denials under the Redefinition of Sex Rule.

127. The Redefinition of Sex Rule is an outright ban against transgender people, including Ms. Doe, having accurate driver licenses with no procedural due process

protections and the Redefinition of Sex Rule is not narrowly tailored to serve a compelling government interest, nor is it rationally related to any legitimate government interest.

128. The Redefinition of Sex Rule violates Ms. Doe’s right to procedural due process.

COUNT III

The Defendants’ Denial Violates the Tennessee Uniform Administrative Procedures Act Because It Is Arbitrary and Capricious

129. Plaintiff incorporates all allegations of all preceding paragraphs as if fully set forth herein.

130. The UAPA authorizes this Court to reverse or modify Defendants’ decision denying Ms. Doe’s request to update her sex designator on her driver license under the Redefinition of Sex Rule if it is arbitrary and capricious. Tenn. Code Ann. § 4-5-322(h)(4).

131. Defendants’ refusal to update Ms. Doe’s sex designator on her driver license is not based on any course of reasoning or exercise of judgment, and disregards the facts or circumstances of the case without some basis that would lead a reasonable person to reach the same conclusion because it is an outright ban on any transgender person, including Ms. Doe, updating the sex designator on their driver licenses to reflect their accurate gender identity post-July 1, 2023—no matter what evidence is provided by the applicant. There are no considerations of evidence, for instance, of whether the person has socially or medically transitioned, or whether there has been a legal determination of sex made through some other mechanism, like a court order.

132. The decision is an arbitrary and capricious across-the-board denial for Ms. Doe and all transgender people seeking to change the sex designator on their driver license to reflect their gender identity post-July 1, 2023, regardless of their individual situation, medical treatment, and/or whether they present and live their lives in accordance with their gender identity.

LACK OF LEGAL REMEDY

133. Ms. Doe's, and other transgender applicants' harm is ongoing and cannot be alleviated except by injunctive relief.

134. There is no other remedy available at law.

REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully pray that this Court:

(1) Enter a judgment declaring that the Redefinition of Sex Rule violates the rulemaking procedures under the Tennessee Uniform Administrative Procedures Act, and is thus void and of no effect;

(2) Enter a judgment declaring that the Redefinition of Sex Rule violates Jane Doe's rights to privacy, free speech, equal protection, and procedural due process under the Tennessee Constitution;

(3) Reverse the decision of Defendants to deny any procedures to change the sex designator on Jane Doe's driver license, and remand to Defendants for further proceedings aligned with this Court's decision;

(4) Issue preliminary and permanent injunctions enjoining Defendants, their employees, agents and successors in office from enforcing the Redefinition of Sex Rule;

(5) Award Plaintiff her costs and expenses, including reasonable attorney's fees pursuant to Tenn. Code Ann. §§ 29-14-110 and -111; and

(6) Grant such other relief as the Court deems just and proper.

Respectfully submitted,

/s/ Lucas Cameron-Vaughn

Lucas Cameron-Vaughn (36284)

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Attorneys for Plaintiff Jane Doe

VERIFICATION

STATE OF TENNESSEE

COUNTY OF DAVIDSON

I, LUCAS CAMERON-VAUGHN, being duly sworn, on oath say that I am one of the attorneys for the plaintiff, Jane Doe; that Jane Doe contemporaneously moves to proceed under a pseudonym and is unavailable to make this affidavit by signature under her true name; that I am authorized to make the same on behalf of the plaintiff; and that the statements contained in the foregoing Verified Complaint for Declaratory and Injunctive Relief and Petition for Judicial Review are true.


LUCAS CAMERON-VAUGHN

Subscribed and sworn to before me this 16th day of April, 2024.


Notary Public,



CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Verified Complaint for Declaratory and Injunctive Relief and Petition for Judicial Review has been sent by U.S. Mail, postage pre-paid, or via electronic mail to the following:

Lizabeth Hale
Deputy General Counsel & Director of Legal Services
Legal Division
TENNESSEE DEPARTMENT OF SAFETY & HOMELAND SECURITY
Tennessee Tower, 25th Floor
Nashville, TN 37243
(615) 251-5349
Lizabeth.Hale@tn.gov

Attorney General for the State of Tennessee
Office of the Tennessee Attorney General and Reporter
500 Dr. Martin Luther King Jr. Blvd
Nashville, TN 37219

DATE: April 23, 2024

/s/ Lucas Cameron-Vaughn
Lucas Cameron-Vaughn

EXHIBIT A



PROOF OF IDENTITY

DLP- 302

Date of original issuance: 07/17/1996

Date of latest revision: 07/03/2023

OVERVIEW:

The Driver License Examiner will require positive proof of date of birth and identification of any person applying for any class of driver license (DL), commercial driver license (CDL), photo identification license (ID), or temporary driver license/identification (TDL/TID). In general, there are only three (3) legal options establish a person's name and identity; and, that is with a Certified Birth Certificate, a fully executed Court Order or a Naturalization Certificate issued to new U.S. Citizens. This policy will cover the types of Identification Documents that may be accepted as proof of an applicant's identity. **DO NOT confuse proof of Identity with proof of Citizenship or Legal Presence.**

GENERAL PRINCIPLES AND GUIDELINES:

A. Identification of Applicants: Driver License Issuance employees shall never process a transaction for testing or issuance of any DL, CDL, ID or TDL/TID until the identity of the applicant as been confirmed to the best of your abilities using the requirements defined in this policy.

1. For an **original or initial** driver license, identification card, or TDL/TID the applicant is required to submit at least one primary document and one secondary document from the tables below.
2. **Renewals or Duplicates** generally require two pieces of identification, either primary or secondary documents.
 - a. Identity documents may not be necessary *IF* the applicant has a digitized image on file and it is clear that the person in front of them is the same one shown on the DL record. Photo history is available within the Account Springboard; click on the image to see previous photos previously presented documents may be available for viewing using the Images tab in the Account Springboard.
 - b. For any duplicate *without* a digitized image on file, be sure to compare the physical characteristics (i.e. eye/hair color, height/weight, sex, race, etc.) of the applicant standing in front of you with those recorded previously on the driver's record and available by accessing document images available in [REDACTED].
 - c. **Pay close attention to those seeking duplicates who might not be 21 years of age, but who are seeking a duplicate of a license showing they are at**

least 21. Ask applicant some verifying questions such as, “What was your previous ZIP code?”; “What is your SSN?”; “What is your DOB?” etc. Always check photo images on file in [REDACTED]

- d. One (1) piece of identification may be acceptable if the applicant presents one of the photo ID documents listed as acceptable primary identification below.
- e. Often duplicates are being issued to citizens who have had their wallet lost or stolen. Most common forms of ID are carried in the wallet, therefore acceptable identification for duplicates may include such items as car registration, bank statements, and pay stubs.
- f. Credit cards and personal checks may not be used as primary or secondary identification because of their tendency to be used for identity theft.

3. Reinstatement Applicants who are in an “eligible” status and have a digitized image on file are not required to provide additional proof of identity. If re-test is required for any reason (expired, out of state) or holder of a Temporary credential, additional proof may be required.

B. Identification Documentation required for changes (other than those needed to correct clerical errors) in a licensee’s name, date of birth, or gender are set forth in the last section of this policy.

C. Translation of identification documents in foreign languages: Acceptable identification documents outlined below that were not originally issued in English must be accompanied by a certificate of accurate translation signed by the person who provided the translation of the document from the original language into English. The Examiner must see the original foreign language document along with the translated document and translation certificate. In these cases, a copy of all three documents (foreign, translated and certificate) must be scanned to the customer’s record and noted on the customer's application. For more in-depth information on foreign documents see DLP – 303 Proof of U.S. Citizenship, Lawful Permanent Residency, or Temporary Legal Presence.

D. Acceptable Documentation: There are two (2) basic types of identity documents that may be utilized for testing and issuance of a driver license, identification license, or temporary driver/identification license; and, these are called primary and secondary. The majority of documents provided for Proof of Lawful U.S. Citizenship, Lawful Permanent Resident of Temporary Legal Presence may be used as Identity documents as well.

1. Primary identity documents are required for establishing a test record or original/initial issuance of a Tennessee license. Primary documents are more reliable and are secure documents that have been issued by a federal, state or local government agency or court of law.

2. **Secondary identity documents** are used for transactions where the applicant already has been issued a Tennessee license or identification (NOT including history only records). Secondary documents are reliable sources (i.e. employer, school, insurance, financial, tax or vehicle records) but are not as secure as primary documents. Secondary documents may be used for duplicate, renewal and similar transactions. Secondary identity documents can also be used to corroborate information provided regarding an applicant’s name and other information as required or needed by the Examiner.

PRIMARY IDENTIFICATION DOCUMENTS	
<i>Acceptable primary identification includes but is not limited to original or certified documents with full name and date of birth, such as the following items:</i>	
Document	Notes
<ul style="list-style-type: none"> U.S. photo driver license or photo ID card or license from another country. Photo credential must be issued by a state or federal agency. 	<ul style="list-style-type: none"> May also include <u>photo</u> learner permits Licenses not issued in English must be translated and accompanied by a Certificate of Accurate Translation or a valid International Driving Permit
<ul style="list-style-type: none"> Certified Birth Certificate 	<ul style="list-style-type: none"> Must be a certified birth certificate with a seal and issued by an authorized government agency such as the Bureau of Vital Statistics or State Board of Health. Hospital issued original certificates, mother’s copies and baptismal certificates are not acceptable. Foreign birth certificates, not issued in English, must be translated and accompanied by a Certificate of Accurate Translation.
<ul style="list-style-type: none"> Military Identification 	<ul style="list-style-type: none"> Active Duty, Retiree or Reservist military ID card (DD Form 2 or 2A) Discharge papers (DD-214) Military Dependent ID card (spouse/children) U.S. Military Only (<i>Foreign military acceptable as secondary identity document but not primary.</i>)
<ul style="list-style-type: none"> Valid or unexpired United States Passport or U.S. Passport Card 	<ul style="list-style-type: none"> Must be valid passport /passport card
<ul style="list-style-type: none"> Passport (Valid) 	<ul style="list-style-type: none"> Passports must be valid; expired Passports cannot be accepted. Foreign passports not issued in English must be translated and accompanied by a Certificate of Accurate Translation.

• Immigration

✦ Certificate of Naturalization N-550, N-570, N-578

Acceptable **primary identification** includes but is not limited to **original or certified documents with full name and date of birth**, such as the following items:

Document	Notes
Naturalization Service documentation	✦ Certificate of Citizenship N-560, N-561, N-645
	✦ Employment Authorization Card (I-766, I-688A, I-688-B)
	✦ Northern Mariana Card
	✦ American Bureau of Indian Affairs Tribal Card
	✦ U.S. Citizen Identification Card (I-179, I-197)
• Marriage Certificate	✦ Temporary Resident Identification Card (I-688)
	✦ Resident Alien / Permanent Resident Card (I-551)
	✦ Travel Documents Record of Arrival and Departure (I- 94)
	✦ Nonimmigrant Visa/Border Crossing Card (DSP-150)
	✦ U.S. Re-entry Permit (I-327)
✦ Refugee I-94 Record of Arrival and Departure stamped "Refugee", not likely to be in a foreign passport	
✦ Refugee Travel Document (I-571)	
	Must include the applicant's full name AND date of birth. The certificate must be the registered copy after the marriage, NOT the license authorizing the union. Official documentation after the marriage may contain the official book and page number from the issuing entity. Anyone married prior to 1970, management must be consulted prior to turning applicant away, as documentation may be limited.
• Federal Census Record	✦ Must include the applicants full name and date of birth (age)
• Applicant's Own Child's Birth Certificate	✦ Must include the applicant's (i.e. parent's) full name and date of birth not just "age" of parent at child's birth.
• Adoptive Decree	✦ Must include the applicant's full name and date of birth
• Legal Change of Name (Divorce, etc.)	✦ As recorded in court decree with judge's signature and/or official court seal ✦ COPY of document with copied seal/signature NOT acceptable. If "copy" document has been <u>affixed with an original seal</u> after it was copied then it may be used.
• Any confirmation of date of birth in court of law	✦ As recorded in court document(s) with judge's original signature and/or official court seal ✦ COPY of document with copied seal/signature NOT acceptable. IF "copy" document has been <u>affixed with original seal</u> after being copied it may be used.

Any other documentary evidence that confirms to the satisfaction of the Department the identity and date of birth of the applicant.

If the Department has reason to question the authenticity of any document provided, further verification of the document may be required and if the authenticity cannot be confirmed to the Department's satisfaction the document shall not be accepted.

WARNINGS:

1. Be alert for any Tennessee birth certificates (or from any other state) that may have a statement at the bottom saying: **"This is not evidence of citizenship". Do NOT accept these as proof of United States Citizenship (USC) but you may accept them as proof of identity.** *These are sometimes issued for children born overseas or adopted children from other countries. These applicants should have federal documents proving their citizenship (i.e. Record of Birth Abroad, Certificate of Naturalization, etc.)*
2. Letters or actual birth certificates that say "no record found" or in any other way indicate that the person is not found in the files of the state from which the letter/certificate has been issued are **NOT ACCEPTABLE for any purposes.**

SECONDARY IDENTIFICATION DOCUMENTS

The following are examples of the most commonly acceptable forms of secondary identification. Remember these types of items may NOT be used as proof of primary identification under normal conditions.

Document	Notes
<ul style="list-style-type: none"> • Computerized Check Stubs 	<ul style="list-style-type: none"> ✦ Must include the applicant's full name pre-printed on the stub.
<ul style="list-style-type: none"> • Union Membership Cards 	<ul style="list-style-type: none"> ✦ Must include the applicant's full name
<ul style="list-style-type: none"> • Work IDs 	<ul style="list-style-type: none"> ✦ Preferably with photo and/or SSN
<ul style="list-style-type: none"> • Financial Institution Documents 	<ul style="list-style-type: none"> ✦ Computer printouts of bank statements, savings account statements, loan documents, etc.
<ul style="list-style-type: none"> • Social Security Documents 	<ul style="list-style-type: none"> ✦ SS Card (original only not metal or plastic replicas) ✦ Printout or benefits statements, etc.
<ul style="list-style-type: none"> • Health Insurance cards/documents 	<ul style="list-style-type: none"> ✦ TennCare, Medicaid, Medicare, etc. ✦ Health Insurance Card ✦ Insurance Policies or payment statements
<ul style="list-style-type: none"> • IRS / state tax form 	<ul style="list-style-type: none"> ✦ W2 Forms, Property tax receipts, etc.
<ul style="list-style-type: none"> • Military Records 	<ul style="list-style-type: none"> ✦ Assignment orders, selective service cards, Leave & Earnings Statement, etc.
<ul style="list-style-type: none"> • Vehicle Documents 	<ul style="list-style-type: none"> ✦ Registration or title ✦ Bill of Sale or purchase contract

E. Changing Information for Applicants: With the exception of address changes and simple descriptive information (i.e. hair, height, etc.) any change to an applicant's name, date of birth or gender as it appears on their birth certificate or other primary identity document must be verified before such change is allowed. Verification requires the applicant to provide a certified or original legal document confirming the nature of the requested change.

1. Name Changes: The point of documenting name changes is to be able to trace from the applicant's primary identification to their current name, when the two are different, so the applicant's identity can be confirmed. Circumstances for name changes vary enormously. Some applicants in the distant past were allowed to change their names with us by mail. Others with frequent marriages and divorces may have most, but not all, of the chain perfectly documented. Checking the first and middle names used in the documents they present can help us link the various documents together.

The following documents are acceptable for name changes, as long as a link between the name on file and the name desired to be on file are established:

- a.** Certified Marriage Certificate that has been filed properly with the local government agency (i.e. clerk's office, etc.)
 - With the 2015 Supreme Court Ruling, Tennessee will recognize all marriages.
 - **Name used / Hyphenated Names:** there are no current laws restricting the use of the surnames from a marriage certificate. The marriage certificate may be used to make surnames changes in various formats. *The following examples will use the sample names of: Wife: Mary Sue Brown / Husband: William John Smith.*
 - **Hyphenated Name:** the applicant may "choose" the format of the hyphenated last name. It may be with the wife's maiden name first and then the husband's surname or it may be used in the opposite format with the husband's surname first and the wife's maiden following the hyphen. Such as: Mary Sue Brown-Smith or Mary Sue Smith-Brown.
 - **Wife's Surname:** it is not mandatory that the only name change allowed involve taking the husband's surname. It is permissible for the husband to request to change his last name to that of the wife. Such as: William John Brown or William Smith Brown (using his "maiden" name in lieu of middle name same as allowed with females)
 - **Mr. Brown and Mrs. Smith:** there is no requirement that both parties assume the exact same version of the surname.
 - This means the husband could change his last name to the wife's AND she could change her last name to the husband's. Such as: Mr. William

John Brown and Mrs. Mary Sue Smith.

- This also means that they could have differing hyphenated last name combinations as well such as: Mr. William John Brown-Smith and Mrs. Mary Sue Smith-Brown.

b. Certified Court Order

c. Certified Divorce Decree

- For final decrees that do not specifically state the name to which the person is returning (i.e. “rights and privileges of an unmarried person”) it will be the Division’s policy to presume the person is returning to their maiden or given name. We shall require the applicant to provide the certified birth certificate with such name, unless their Tennessee license was previously in that name and it is currently on file under their AKA Information.
- If an applicant wishes to return to a former married name, the examiner should click the DEMOGRAPHICS tab located on Customer Account springboard, then, click the NAMES tab, then click the “show history” to see former names recorded in the system. The IMAGES tab may also be checked for documents that may have been scanned to the record on earlier transactions. If sufficient information is NOT found to support the name change, additional documentation may be required. **Check with the manager/EIC** before sending the customer for additional documents.
- Item
- If a previously divorced applicant changed their name back to the maiden/given name and indicates they wish to return to the former married name, (i.e. because children have that name, etc.) we may require them to provide **one** of the following **if** the above detailed steps cannot produce desired documents to review:
 - The original divorce decree to verify that there were no stipulations preventing the person from using the former married name.
 - An original/certified court order for name change.
- **Name Change Forms:** The following forms can be used in specific scenarios related to different names:
 - **Declaration of Different Name (SF-1636):** This document is to be used where the name on a birth certificate does not match the name the person goes by because the person is using a variation of the person’s first name or the person is using the middle name as a first name. Examples: Margaret Jones who goes by Peggy Jones, John

Edward Brown who goes by J. Edward Brown, or Timothy Lee Smith who goes by Lee Smith.

- **Declaration of Different Married Names (SF-1637):** This document is to be used in the case of **two (2) marriages** - when the name on a birth certificate does not match a person's current married name, does not match a person's previous married name, and the person cannot provide documentation of the previous married name.
- **Declaration of Unobtainable Marriage Certificate (SF-1638):** This document is to be used when the name on a birth certificate does not match a person's current married name and the person cannot provide a marriage certificate due to it being lost, destroyed, or otherwise unobtainable.

d. Military Identification

e. Passports

f. Driver License AKA Information may be found by accessing the DEMOGRAPHIC tab in [REDACTED] as described above.

- Using this information would require the discretionary approval of the Branch Manager.

g. AKA information obtained from the DEMOGRAPHICS tab in [REDACTED] may be used to "connect" the links in previous names (i.e. married-divorced-remarried, etc.) when the applicant doesn't have copies of every document. Consult with the Manager/EIC before sending the applicant for more documents. The examiner may also accept other documentary evidence that confirms to the satisfaction of the Department the applicant's name change with the approval of the Manager.

2. **Non-immigrant/foreign nationals** must have the name changed on their federal immigration documents **prior to** changing it on the Tennessee TDL/TID. Name changes can **ONLY** be made if the applicant has already changed the name on the federal immigration document and/or if they have a Notice of Action (I-797) confirming where an application requesting such name change has been received or is pending.

a. Unless the applicant has taken some action to correct the name on the federal document the Tennessee temporary driver credential or identification credential will be issued in the name as it appears on the federal document(s).

b. Even when the name on the federal document has been changed the applicant must provide the examiner with the certified document that allowed the name change (*i.e. marriage certificate, court order, divorce decree, final adoption decree, etc.*)

c. If you have questions about a person's name changes, let the manager evaluate the documentation and work with the applicant if

necessary

- 3. Gender Changes:** Pursuant to Public Chapter 486 As used in this code, unless the context otherwise requires, "sex" means 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. As used in this subsection (c), "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.
 - a.** Starting July 1, 2023, the Department of Safety does not accept requests for gender marker changes that are inconsistent with someone's designated sex on their original birth certificate. This means any amended birth certificates cannot be used for determining the gender on their credential without legal being consulted.
 - b.** Special circumstances, where the documents presented have conflicting information (a birth certificate and credential from another government agency that do not have matching information for example) or are unsure how to process someone based on the documents presented, please send to legal for review and guidance.

EXAMINER PROCEDURES:

1. The Examiner shall require the applicant to show the identification required by this policy **prior to** any [REDACTED] system inquiries and/or testing for a credential or ID Only transaction upon original or initial issuance.
 2. If the applicant states that they previously held a Tennessee driver license or Photo ID Only, then the Examiner may proceed with the [REDACTED] system inquiry to see if we have a digitized image on file for the applicant as this may assist in determining the amount of identification documents needed.
 3. The Examiner should look carefully at all identification documents presented to help ascertain that they are legitimate and acceptable documents.
 4. **Reconciling name differences on Citizenship documents and current or out-of-state driver licenses:** Examiners will use the following guidelines to ensure uniformity with recording and determining the correct name to be on the Tennessee license document.
 - a. **Out-of-state license in married name but birth certificate in maiden/given name:** Examiners will need to see the driver's marriage certificate to confirm the name change. Tennessee rule requires applicants to provide the legal [REDACTED]
-

instrument that “changed” the person’s name and the driver license is not a legal document that authorizes a name change.

- b. **Nickname or different spelling used on current license than shown on citizenship proof:** Examiners will need to employ the “rule of 3” to confirm that the applicant is the same person as named on the birth certificate. Ensure that the applicant has a minimum of 3 acceptable documents that all have the same date of birth and use the same name format with at least one of the names (i.e. first or middle) consistently matching what is shown on the citizenship proof. Such as:
1. Susie Mary Jones or John Ed Jones
 2. Susan Mary Jones or John Eddie Jones
 3. Sue Mary Jones or John Edward Jones
- The full name must be shown on the Tennessee driver license and record exactly as it appears on the citizenship proof.
- c. **Properly recording the different names on the Tennessee record:** Examiners will need to record name differences to ensure that we capture both versions on the applicant’s Tennessee driver license record. This will involve recording the name change to the citizenship proof version on the customer’s record:
- **Out-of-State licenses** – make sure that you enter the name in ██████ EXACTLY as it appears on the actual license from the other state. Tennessee licenses –enter name as presented on acceptable documents.
 - **Assumed names:** official procedure to be determined after review with legal. In the meantime, these cases will be handled on a case-by-case review with the District and Regional Managers.
5. If an examiner suspects a document is fraudulent, he/she should review the document further with the Manager or examiner in charge. In these cases, the Examiner may request additional documents, however if it appears reasonable that fraud is being attempted the *Examiner should following the directions as outlined in a separate policy DLP – 1501 Detection of Fraudulent Documents.*
6. Gender Marker-Please direct all inquiries or concerns to legal if any question regarding any documents presented, you must contact Legal for further review.

Key Legal Citations:

T.C.A. 55-50-321; Rules of Tennessee D.O.S., Division of Driver License Issuance #1340-1- 13.12



POLICY UPDATE FORM

DIVISION: DRIVER SERVICES DIVISION

POLICY BEING ADOPTED: DLP-302, PROOF OF IDENTITY

SUMMARY OF THE POLICY: This policy has been in place since 07/17/1996. The policy covers the types of Identification Documents that may be accepted as proof of an applicant's identity.

PURPOSE: Policy update to provide additional guidance/procedures to Driver Services Division staff regarding Gender changes.

JUSTIFICATION FOR ADOPTING A POLICY INSTEAD OF PROMULGATING A RULE:

Key Legal Citations: T.C.A. 55-50-321; Rules of Tennessee D.O.S., Division of Driver License Issuance #1340-1-13.12

ATTACHMENTS: List the titles of the attachments/any support documents here
(Policy and any supporting documentation)

1. DLP – 302 Proof of Identity
2. Name Change Declaration Forms

Policy Tracking Sheet			
Policy Name:	DLP – 302, PROOF OF IDENTITY		
Owner(s):	DRIVER SERVICES DIVISION ADMINISTRATIVE OFFICE DIRECTOR OF DRIVER SERVICES		
Developed by:	DRIVER SERVICES EXECUTIVE MGMT TEAM	Reviewer(s):	DS - EXECUTIVE MGMT LEGAL TEAM
Editor:	DRIVER SERVICES POLICY TEAM EDITOR		
Document Location: (upon approval)	[REDACTED]		

Requestor	Reason	Date:
Director Rochelle Bryant	Policy Update	01/04/2021

REVISION TRACKING					
No:	Change	Adopted Date	Approval Date	Approved by	Issue Date To Staff
1	Policy Update	09/01/2020	09/01/2020	DRIVER SERVICES EXECUTIVE MGMT	09/01/2020
2	Policy Update	01/04/2021	01/04/2021	Driver Services Executive MGMT	01/04/2021
3	Policy Update	07/01/2023			
4					

POLICY REVIEW	
Next Review Date: <i>(Maximum of two (2) years from last review, unless required sooner)</i>	09/01/2022
Additional Information: Policy update to provide additional guidance/procedures to Driver Services Division staff regarding marriages prior to 1970 and name change forms.	

EXHIBIT B

From: [Lizbeth Hale](#)
To: [Lucas Cameron-Vaughn](#)
Subject: RE: gender change question
Date: Monday, April 15, 2024 3:48:05 PM
Attachments: [image002.png](#)
[image003.png](#)

Good afternoon Mr. Cameron-Vaughn,

Tennessee Code Ann. §1-3-105(c) provides as follows: “(c) As used in this code, unless the context otherwise requires, “sex” means 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. As used in this subsection (c), “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.” Based upon information contained on the individual’s government issued birth certificate the change was denied.

There is no administrative appeal of the Department’s determination.

Sincerely,



Lizbeth Hale | Deputy General Counsel & Director of Legal Services
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From: Lucas Cameron-Vaughn <Lucas@aclu-tn.org>
Sent: Thursday, April 11, 2024 2:32 PM
To: Lizbeth Hale <Lizbeth.Hale@tn.gov>
Subject: [EXTERNAL] gender change question

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Good afternoon, Ms. Hale:

We have another client who was denied a change on her driver license. Her original birth certificate lists her sex as “male” but she would like it to be updated to “female.” She has a letter from her

EXHIBIT B.1

doctor and a U.S. passport that correctly lists her sex as “female.”

Can you confirm that she will not be able to change her sex designator to female and that there is no appeals process?

Thanks,

Lucas

Lucas Cameron-Vaughn (he/him)

Staff Attorney

American Civil Liberties Union Foundation of Tennessee

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