

EXHIBIT 1

to Petition for Declaratory Order

Petitioners' Complaint in the Chancery Court of Davidson County

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

JANE DOE; and CHRISSEY)	
MILLER,)	
)	
Plaintiffs/Petitioners,)	Case No. 24-0503-III
)	
vs.)	
)	
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.)	

SECOND AMENDED VERIFIED COMPLAINT FOR
DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF AND
PETITION FOR JUDICIAL REVIEW

Pursuant to Tenn. R. Civ. P. 15, Plaintiff Jane Doe¹ ("Ms. Doe") and Plaintiff Chrissy Miller ("Ms. Miller"), (together "Plaintiffs"), through their undersigned attorneys, bring this First Amended Verified Complaint against Defendant Tennessee

¹ Jane Doe is proceeding under a pseudonym pursuant to the Court's Order Authorizing Movant to Proceed by Pseudonym, entered April 23, 2024. By its own terms, the order "is a temporary order that will need to be revisited after all the parties have an opportunity to brief the issues raised. It will automatically expire, on a self-executing basis, on June 28, 2024 at 3:00 p.m." Plaintiffs filed a Motion to Extend Order Authorizing Movant to Proceed by Pseudonym and Brief in Support on June 11, 2024.

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 state the following in support thereof:

1. Ms. Doe and Ms. Miller petition this Court for a common law writ of certiorari to review whether Defendants’ (1) exceeded its jurisdiction, (2) followed an unlawful procedure, (3) acted illegally, arbitrarily, or fraudulently, or (4) acted without material evidence to support its decision. *See* ¶¶ 99-104.

2. Ms. Doe and Ms. Miller ask this Court for a declaratory judgment that Defendants’ regulation DLP-302 is a “rule” under the Tennessee Uniform Administrative Procedures Act.

3. 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.

4. As a result of Defendants’ enforcement of the Redefinition of Sex Rule against Ms. Doe and Ms. Miller, they have experienced harm. The Redefinition of Sex Rule puts Ms. Doe, Ms. Miller, and other transgender people like them, at risk of physical harm, abuse, harassment, social stigma, and forces public disclosure of medical status.

5. Ms. Doe and Ms. Miller therefore ask this Court to declare that the Redefinition of Sex Rule is void and unenforceable as it violates the notice and comment

provisions of the Tennessee Uniform Administrative Procedures Act. Further, Plaintiffs ask the Court to declare Defendants’ denial of Ms. Doe’s and Ms. Miller’s requests to change the sex designator on their driver licenses to be an arbitrary and capricious decision in violation of the Tennessee Uniform Administrative Procedures Act.

6. Additionally, Ms. Miller seeks a Temporary Restraining Order pursuant to Tenn. R. Civ. P. 65.03, to enjoin Defendants from requiring her to surrender her driver license and revoking her driving privileges on May 16, 2024, due to enforcement of the Redefinition of Sex Rule.

INTRODUCTION

7. 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 regulation (the “Redefinition of Sex Rule”) that prevents transgender applicants, including Ms. Doe and Ms. Miller, from receiving licenses that accurately reflect their gender identity and sex characteristics.

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.

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 post July 1, 2023.

10. Ms. Doe 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. Ms. Miller has been harmed by the Redefinition of Sex Rule. Ms. Miller was granted a driver license on January 23, 2024, which correctly updated her sex designator to “female.” However, she received a letter on April 24, 2024 from Defendant Hogan that was dated April 16, 2024 and stated:

Failure to surrender your driver license issued January 23, 2024, within in [sic] thirty (30) days of this letter, will result in a cancellation of your driving privilege, until you apply for the correct driver license listing your gender as defined by Tennessee law.

See EXHIBIT C. Without this Court’s intervention, Ms. Miller will face the immediate and irreparable harm of the loss of her driving privileges due to the Redefinition of Sex Rule.

12. 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.

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

14. The Defendants' decision to ban any update of the sex designators for transgender people, including Ms. Doe and Ms. Miller, 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; Tenn. Code Ann. § 4-4-104; 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. Ms. Miller is a transgender woman living in Cocke County, Tennessee. Ms. Miller received an accurate driver license with the updated sex designator of “female” on January 23, 2024. However, based on the Redefinition of Sex Rule, Defendants sent a letter demanding Ms. Miller surrender her accurate driver license or face suspension of her driving privileges by May 16, 2024. *See* EXHIBIT C.

19. 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.

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

21. 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.

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

23. 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

24. 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).

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

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

27. Prior to passage of SB 1440, the Legislature had never defined sex uniformly in the code in Tennessee.

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

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

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

31. Since 1996, *see* Exhibit A.17, and 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.”

32. 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).

33. 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.” *See* EXHIBIT A.

34. 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.

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).

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.

35. Plaintiff Jane Doe and Plaintiff Chrissy Miller ask this Court to find that the Redefinition of Sex Rule is a “rule” under the Tennessee Uniform Administrative Procedures Act (“UAPA”).

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

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

38. In fact, Defendants made no public declaration or acknowledgment concerning the adoption of the Redefinition of Sex Rule, and a copy of the regulation was only obtained through a public records request.

39. 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. *See* EXHIBIT A.

40. 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.

41. 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.

42. 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.

43. 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, *and see* EXHIBIT C.

44. 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.

45. 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.

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

47. 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

48. 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.

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

50. 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.

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

52. 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.

53. 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.

54. 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.

55. 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).

56. 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.

57. 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.

58. 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.

59. 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.

60. 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.

61. 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.

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

63. 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.

64. 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.

65. 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.

66. 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

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

68. 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

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;

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.*

- 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.

69. 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.

70. 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, <https://williamsinstitute.law.ucla.edu/press/ncvs-trans-press-release/>.

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

71. 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.

72. 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 2022. Ms. Doe receives medical treatment for gender dysphoria through hormone therapy which causes her to have the same sex characteristics as other women.

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

74. 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

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>).

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.

75. 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.

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

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

78. 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.

79. 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.

80. 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.

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

IV. Allegations Specific to Chrissy Miller

82. Plaintiff Chrissy Miller is a thirty-eight-year-old woman who lives Cocke County, Tennessee. Ms. Miller was born in Ohio and has an Ohio birth certificate.

83. Ms. Miller is employed seasonally as a whitewater rafting guide. She has lived in Tennessee since she relocated for work in 2014.

84. Ms. Miller is transgender. She was assigned male at birth but has known that she is female since the age of five. She was diagnosed with gender dysphoria in 2023. Ms. Miller receives medical treatment for gender dysphoria through hormone therapy which causes her to have the same sex characteristics as other women.

85. To better reflect Ms. Miller’s identity and sex characteristics, Ms. Miller legally changed her name on September 21, 2023 in the Cocke County Circuit Court in Newport, Tennessee. Ms. Miller’s legal name is currently on her driver license.

86. Ms. Miller 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.

87. In or around mid-July of 2023, Ms. Miller went to the local driver license services center at 1220 Graduate Drive, in Sevierville, Tennessee, to request a change to the sex designator on her license from male to female.

88. An employee at the services center informed Ms. Miller that they could not grant her request “anymore” and that Ms. Miller would need a birth certificate that identified her sex as female if she wanted a sex designator of female on her driver license.

89. Ms. Miller then legally updated the sex designator on her Ohio birth certificate to “female” on November 28, 2023. EXHIBIT D. The Ohio probate court adjudicated her female and directed her birth certificate be updated accordingly—Ohio law recognizes that “[t]he new birth record, as well as any certified copies of it when properly authenticated by a duly authorized person, shall be prima-facie evidence in all courts and places of the facts therein stated.” Ohio Rev. Code Ann. § 3705.15(D)(1). And, “A certified copy of the birth record corrected or registered by court order as provided in this section shall have the same legal effect for all purposes as an original birth record.” Ohio Rev. Code Ann. § 3705.15(C).

90. After receiving her updated birth certificate, Ms. Miller set about updating her legal government records to reflect her correct sex designator as female. Ms. Miller’s United States passport correctly represents her sex as female. Ms. Miller has also updated her Social Security records to reflect her sex as female.

91. On January 22, 2024, Ms. Miller decided to update her Tennessee driver license as well and took her updated birth certificate to the Knoxville Driver Services and Reinstatement Center located at 209 Gore Road, Knoxville, TN.

92. The employees at the Knoxville driver service center were respectful to Ms. Miller when she appeared at the counter. However, after looking at Ms. Miller's paperwork and after she told them her request to update her sex designator to female, the employees' dispositions changed. The employees became very short with Ms. Miller and told her they could not grant her request.

93. About an hour or two after Ms. Miller left the Knoxville driver services center, the manager of the driver services center called her and told her they would not be able to update Ms. Miller's sex designator.

94. Ms. Miller was confused and so she returned to the Sevierville Driver Services Center at 1220 Graduate Drive, Sevierville, TN 37862 on January 23, 2024.

95. When Ms. Miller arrived at the Sevierville driver services center, she approached a clerk at the front desk and explained that she had her birth certificate updated and that she needed to update the sex designator on her driver license to match it. The clerk examined her birth certificate and accordingly issued her a driver license with the sex designator of female.

96. Ms. Miller was ecstatic to have all of her government identification documents reflect her accurate female sex characteristics. She quickly updated her license with her bank account and for her automobile and health insurance policies.

97. Ms. Miller had struggled to find work due to her driver license conflicting with her sex characteristics and appearance. She had taken career training to help bolster her resume, and she was relieved that her driver license now accurately reflected her sex characteristics and appearance so that she could continue applying for employment.

98. On April 24, 2024, Ms. Miller received a letter from Defendant Michael Hogan, dated April 16, 2024. The letter states:

On March 28, 2014, you applied for and were issued a Tennessee driver license using a birth certificate from the State of Ohio. The birth certificate listed your name as Christopher Lee Miller and your gender as a male. In addition to the birth certificate, you also surrendered a driver license from the State of Ohio listing your name as Christopher Lee Miller and your gender as male.

On January 23, 2024, you presented a birth certificate from the State of Ohio to change your gender from male to female. At the time of the transaction, you were asked if you had another birth certificate and you said, no. This was not correct based on the historical transaction and documentation from March 28, 2014.

Pursuant to Tennessee Code Annotated § 55-50-321(c)(1)(A), “each application for a driver license, instructional permit, intermediate driver license or photo identification license shall state the sex of applicant.”

Tennessee Code Annotated § 1-3-105(c), relevant to the term “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 there was already a birth certificate on file with a gender designation prior to the issuance of your current license on, January 23, 2024, the license was issued in error. You will need to visit a driver license center to surrender the current license and be issued a new driver license free of charge with the gender from your original birth certificate on the face.

Failure to surrender your driver license issued January 23, 2024, within in [sic] thirty (30) days of this letter, will result in a cancellation of your

driving privilege, until you apply for the correct driver license listing your gender as defined by Tennessee law.

EXHIBIT C.

PETITION FOR COMMON LAW WRIT OF CERTIORARI

99. The common law writ of certiorari is available “where an inferior tribunal, board, or officer, exercising judicial functions has exceeded the jurisdiction conferred, or is acting illegally, when, in the judgment of the court, there is no other plain, speedy, or adequate remedy.” Tennessee Code Annotated § 27-8-101; *and see* TN Const. Art 6, § 10 (“The Judges or Justices of the Inferior Courts of Law and Equity, shall have power in all civil cases, to issue writs of certiorari to remove any cause or the transcript of the record thereof, from any inferior jurisdiction, into such court of law, on sufficient cause, supported by oath or affirmation”).

100. The judicial review available under a common-law writ of certiorari is limited to determining whether the entity whose decision is being reviewed (1) exceeded its jurisdiction, (2) followed an unlawful procedure, (3) acted illegally, arbitrarily, or fraudulently, or (4) acted without material evidence to support its decision. *Heyne v. Metro. Nashville Bd. of Pub. Educ.*, 380 S.W.3d 715, 729 (Tenn. 2012).

101. The Tennessee Supreme Court has “explicitly approved the use of the common-law writ of certiorari to provide judicial relief from (1) fundamentally illegal rulings, (2) proceedings inconsistent with essential legal requirements, (3) proceedings that effectively deny parties their day in court, (4) decisions that are beyond the decision-

maker's authority, and (5) decisions that involve plain and palpable abuses of discretion.”
Id.

102. Defendants’ administrative action to enforce and apply a regulation that operates as a “rule” without undergoing the proper notice-and-comment rulemaking requirements and results in Defendants exceeding their jurisdiction and follows an unlawful procedure.

103. Defendants’ decisions denying Ms. Doe and Ms. Miller accurate driver licenses were fundamentally illegal, arbitrary, and fraudulent proceedings inconsistent with essential legal requirements. These decisions have no lawful process for meaningful agency appeal, and effectively deny Ms. Doe and Ms. Miller their right to have a court of record declare their legal sex. And these decisions are beyond Defendants’ decision-making authority and involve plain and palpable abuses of discretion.

104. Accordingly, Ms. Doe and Ms. Miller ask this Court to issue a common law writ of certiorari to review Defendants’ actions.

CAUSES OF ACTION

105. Ms. Doe and Ms. Miller ask the Court for a judgment declaring that 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. *See Emergency Med. Care Facilities, P.C. v. Div. of TennCare*, 671 S.W.3d 507 (Tenn. 2023); and *see Mandela v. Campbell*, 978 S.W.2d 531 (Tenn. 1998).

106. 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.

107. Further, the Defendants' decisions denying Ms. Doe and Ms. Miller an accurate driver license that reflects their 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

108. Plaintiffs incorporate all allegations of all preceding paragraphs as if fully set forth herein.

109. "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).

110. There is no other plain, adequate, and complete method for Ms. Doe and Ms. Miller to obtain the relief to which they are entitled without applying to this Court, and the language of Tenn. Code Ann. § 4-5-225(b) does not require Ms. Doe and Ms.

Miller to petition the agency for a declaratory order prior to coming to this Court.

Subsection (b) states that “A declaratory judgment shall not be rendered concerning the validity or applicability of a statute, rule or order unless the complainant has petitioned the agency for a declaratory order and the agency has refused to issue the order.” Here, the Defendants do not admit that regulation DLP-302 is a “rule.” They suggest that it is a “policy” instead which they have no authority under Tenn. Code Ann. § 4-5-225 to issue a declaratory order regarding as they do not interpret DLP-302 as a “statute, rule or order” subject to subsection (b). The exhaustion of administrative remedies doctrine is inapplicable under the circumstances of this case.

111. Nothing in Tenn. Code Ann. § 1-3-105(c) authorizes any action by Defendants. That definitional section states in full: “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.” Tenn. Code Ann. § 1-3-105(c). The statute does not require exhaustion of administrative remedies.

112. The exhaustion of administrative remedies doctrine has recognized exceptions based on “equitable considerations of fairness to litigants and institutional competence.” *Colonial Pipeline Co. v. Morgan*, 263 S.W.3d 827, 845 (Tenn. 2008). The Tennessee Supreme Court has outlined “three broad exceptions to the non-statutory

exhaustion requirement: (1) when the administrative remedy would cause undue prejudice to subsequent assertion of a claim in court; (2) when the administrative remedy would be inadequate ‘because of some doubt as to whether the agency was empowered to grant effective relief’; and (3) when the administrative agency has been shown to be biased or has predetermined the issue.” *Id.* (citing *McCarthy v. Madigan*, 503 U.S. 140, 146-49 (1992)).

113. First, requiring Ms. Doe and Ms. Miller to obtain a declaratory order or a denial of a declaratory order before bringing this claim would cause undue prejudice to subsequent assertion of a claim in court as they seek preliminary injunctive relief. Were Ms. Doe and Ms. Miller to petition Defendants for a declaratory order, the agency would have to either (a) convene a contested case hearing within sixty (60) days of being petitioned for the order, or (b) refuse to issue a declaratory order. *See* Tenn. Code Ann. § 4-5-223. Due to the emergent nature of Ms. Doe’s and Ms. Miller’s legal injuries, administrative exhaustion would cause undue prejudice to their rights to seek injunctive relief from this Court.

114. Second, a declaratory order would be inadequate because there is serious doubt as to whether Defendants are empowered to grant effective relief. Nothing in Tenn. Code Ann. § 1-3-105(c) authorizes any action by Defendants, including the authority to hold a contested case hearing regarding the legal sex of Ms. Doe or Ms. Miller. Defendants admit that there is no administrative appeal of their determination of Ms. Doe’s and Ms. Miller’s sex. *See* Exhibit B. It is based on their original birth certificates and there is no possibility of any relief. *Id.* “Exhaustion has not been required where the

challenge is to the adequacy of the agency procedure itself, such that [like here] the question of the adequacy of the administrative remedy is for all practical purposes identical with the merits of the plaintiff[s'] lawsuit. *McCarthy v. Madigan*, 503 U.S. 140, 148 (1992) (cleaned up). There is no administrative remedy available to Ms. Doe or Ms. Miller and that issue is identical with the merits of this lawsuit.

115. Third, Defendants have been shown to be biased or have predetermined the issue. They believe that their policy is lawful and valid. Defendants' legal interest is aligned with a declaratory order that declares the validity of their action. Defendants have declared that they will not change Ms. Doe's or Ms. Miller's sex designators. Defendants base their decision on a law [Tenn. Code Ann. § 1-3-105(c)] that contains no language authorizing them to act, there is no appeal, and to require administrative review "would be to demand a futile act." *See McCarthy*, 503 U.S. at 148-49; *and see State v. Yoakum*, 201 Tenn. 180, 195 (Tenn. 1956); *and see Cherokee Country Club, Inc. v. City of Knoxville*, 152 S.W.3d 466 (Tenn. 2004).

116. Ms. Doe and Ms. Miller seek a declaration from this Court that DLP-302 operates as a "rule" and thus must be promulgated through proper procedures under the UAPA before it can be enforced against them.

117. "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).

118. 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).

119. 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.

120. Any agency rule not adopted in compliance with these [notice and comment rulemaking] procedures is void and of no effect and shall not be effective against any person or party nor shall it be invoked by the agency for any purpose. Tenn. Code Ann. § 4-5-216.

121. 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 and Ms. Miller, 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 and Ms. Miller, 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). The procedures that should be available to Ms. Doe and Ms. Miller are outlined by the existing properly promulgated Rule 1340-01-13-.12(6) (published in Tenn. Comp. R. & Regs. (2023)), which allows a change of sex designator on a Tennessee driver license if an applicant submits “a statement from the attending physician that necessary medical procedures to accomplish the change in gender are complete.”

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

123. Plaintiffs incorporate all allegations of all preceding paragraphs as if fully set forth herein.

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

125. Defendants’ refusal to update Ms. Doe’s and Ms. Miller’s sex designator on their driver licenses 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 and Ms. Miller, 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.

126. Furthermore, Defendants act arbitrarily because there is no rational connection between which transgender people do get to have a driver license that accurately represents their sex characteristics, and transgender people who are denied such a license. For instance, if a transgender person applied for a sex designator change prior to July 1, 2023 and met the requirements, then they are allowed to have a sex designator that does not match their original birth certificate. Inconsistent application of the Definition of Sex Rule will necessarily happen when individuals from other states whose laws allow their birth certificates and driver licenses to reflect the holder's gender identity will be able to obtain Tennessee driver licenses that match their gender identity and sex characteristics when they move to Tennessee. It is only if a transgender person has a birth certificate on file with Defendants, with a sex designator that is different from the designation on their current license—or was born in Tennessee—and attempts to change their sex designator after July 1, 2023, where the Redefinition of Sex Rule will be enforced. There is no equally applied reasoning. If one happens to be born in a state that allows sex designator changes on a birth certificate, and has never lived in Tennessee and then moves here, then they would likely not be subject to the Redefinition of Sex Rule.

However, if a transgender person is born in Tennessee—the only state in the country which does not allow transgender people to change the sex designator on their birth certificate or (now) on their driver license, and that person applies to change their sex designator after July 1, 2023, then the Redefinition of Sex Rule applies. The rule is not applied consistently or in a rational way.

127. The decisions are arbitrary and capricious across-the-board denials for Ms. Doe and Ms. Miller, regardless of their individual situations, medical treatment, and/or whether they present and live their lives as women.

LACK OF LEGAL REMEDY

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

129. There is no other remedy available at law.

REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully pray that this Court:

(1) Issue a common law writ of certiorari to review whether Defendants (a) exceeded its jurisdiction, (b) followed an unlawful procedure, (c) acted illegally, arbitrarily, or fraudulently, or (d) acted without material evidence to support its decision;

(2) Enter a judgment declaring that DLP-302 is a rule that is subject to the notice-and-comment rulemaking requirements of the Tennessee Uniform Administrative Procedures Act;

(3) 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;

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

(5) Issue a temporary restraining order enjoining Defendants, their employees, agents and successors in office from requiring Chrissy Miller to surrender her current driver license, and from suspending Ms. Miller's driving privileges.

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

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

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

Respectfully submitted,

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VERIFICATION

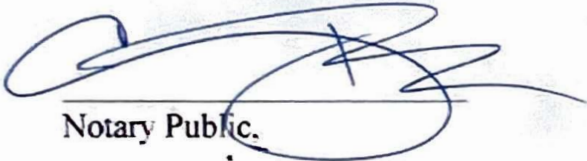
STATE OF TENNESSEE

COUNTY OF SHELBY

I, LUCAS CAMERON-VAUGHN, being duly sworn, on oath say that I am one of the attorneys for the Plaintiffs Jane Doe and Chrissy Miller; that I am authorized sign on behalf of the Plaintiffs; and that the statements contained in the foregoing Second Amended Verified Complaint for Declaratory and Injunctive Relief and Petition for Judicial Review are true.


LUCAS CAMERON-VAUGHN

Subscribed and sworn to before me this 17th day of June, 2024.


Notary Public.



CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Second Amended 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:

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DATE: August 13, 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 <u>original or certified documents with full name and date of birth</u>, 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
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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	<ul style="list-style-type: none"> ✦ 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) ✦ 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)
• Marriage Certificate	<p>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.</p>
• Federal Census Record	<ul style="list-style-type: none"> ✦ Must include the applicants full name and date of birth (age)
• Applicant's Own Child's Birth Certificate	<ul style="list-style-type: none"> ✦ 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	<ul style="list-style-type: none"> ✦ Must include the applicant's full name and date of birth
• Legal Change of Name (Divorce, etc.)	<ul style="list-style-type: none"> ✦ 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 after it was copied then it may be used.</u>
• Any confirmation of date of birth in court of law	<ul style="list-style-type: none"> ✦ 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 after being copied it may be used.</u>

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
• Computerized Check Stubs	✦ Must include the applicant's full name pre-printed on the stub.
• Union Membership Cards	✦ Must include the applicant's full name
• Work IDs	✦ Preferably with photo and/or SSN
• Financial Institution Documents	✦ Computer printouts of bank statements, savings account statements, loan documents, etc.
• Social Security Documents	✦ SS Card (original only not metal or plastic replicas) ✦ Printout or benefits statements, etc.
• Health Insurance cards/documents	✦ TennCare, Medicaid, Medicare, etc. ✦ Health Insurance Card ✦ Insurance Policies or payment statements
• IRS / state tax form	✦ W2 Forms, Property tax receipts, etc.
• Military Records	✦ Assignment orders, selective service cards, Leave & Earnings Statement, etc.
• Vehicle Documents	✦ 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:

(Policy and any supporting documentation)

List the titles of the attachments/any support documents here

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
Legal Division
Tennessee Tower, 25th Floor
Nashville, TN 37243
p. 615-251-5349
Lizbeth.Hale@tn.gov
tn.gov/safety

This e-mail message and any attachment contain information that may be legally privileged and confidential from the Legal Office of the Department of Safety. If you are not the intended recipient, you must not review, transmit, convert to hard copy, use or disseminate this e-mail or any attachments to it. If you have received this email in error, please immediately notify us by return e-mail or by telephone at 615-251-5296 and delete this message. Receipt by anyone other than the intended recipient is not a waiver of the attorney-client or work product privilege.

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

***** This is an EXTERNAL email. Please exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email - STS-Security. *****

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

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

P.O. Box 120160

Nashville, Tennessee 37212

615-320-7142

615-645-5067 (Direct line)

www.aclu-tn.org




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EXHIBIT C

Jeff Long
Commissioner

Bill Lee
Governor

April 16, 2024

Chrissy Miller


Dear Chrissy,

On March 28, 2014, you applied for and were issued a Tennessee driver license using a birth certificate from the State of Ohio. The birth certificate listed your name as Christopher Lee Miller and your gender as a male. In addition to the birth certificate, you also surrendered a driver license from the State of Ohio listing your name as Christopher Lee Miller and your gender as a male.

On January 23, 2024, you presented a birth certificate from the State of Ohio to change your gender from male to female. At the time of the transaction, you were asked if you had another birth certificate and you said, no. This was not correct based on the historical transaction and documentation from March 28, 2014.

Pursuant to Tennessee Code Annotated § 55-50-321(c)(1)(A), "each application for a driver license, instructional permit, intermediate driver license or photo identification license shall state the sex of applicant."

Tennessee Code Annotated § 1-3-105 (c), relevant to the term "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 there was already a birth certificate on file with a gender designation prior to the issuance of your current license on, January 23, 2024, the license was

C. Miller
April 16, 2024
Page 2 of 2

issued in error. You will need to visit a driver license center to surrender the current license and be issued a new driver license free of charge with the gender from your original birth certificate on the face.

Failure to surrender your driver license issued January 23, 2024, within in thirty (30) days of this letter, will result in a cancellation of your driving privilege, until you apply for the correct driver license listing your gender as defined by Tennessee law.

If you have questions or need additional information, please do not hesitate to contact me at 615.251.5140.

Sincerely,



Michael Hogan
Assistant Commissioner
Driver Services Division

MDH/th

EXHIBIT D

PROBATE COURT OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE

PDR

IN THE MATTER OF THE CORRECTION OF BIRTH RECORD OF:

Chrissy Lee Miller

CASE NO. BC 2023005124

APPLICATION FOR CORRECTION OF BIRTH RECORD
[R.C. 3705.15]

In the Probate Court of Hamilton County on the _____ day of _____, _____ appeared
Chrissy Lee Miller requesting that their birth record be corrected in accordance with Section 3705.15
of the Revised Code as follows:

Information recorded in this box should match information currently listed on the Birth Record			
Child's Information			
1. Full Name of Child <u>Chrissy Lee Miller</u>	2. Date of Birth [REDACTED]	3. Place of Birth (city and county) <u>Christ Hospital Cincinnati</u>	4. Sex <u>Male</u>
Information of parent(s) currently listed on the Birth Record			
5. Parent's Name [REDACTED]		6. Parent's Name [REDACTED]	
7. Place of Birth <u>Ohio</u>	8. Date of Birth [REDACTED]	9. Place of Birth <u>Maryland</u>	10. Date of Birth [REDACTED]

ITEMS TO BE CORRECTED OR ADDED

Box No. 4 ~~Sex~~ Reads as male Should Read Female
Box No. _____ Reads as _____ Should Read _____
Box No. _____ Reads as _____ Should Read _____
Box No. _____ Reads as _____ Should Read _____

The undersigned being first duly sworn, says the facts stated in the foregoing Application are true as they verily believe and pray that the Court order the correction of the registration of birth.

Signature of Registrant or Applicant
[REDACTED]

Address
[REDACTED]

City, State, Zip Code
[REDACTED]

Phone Number including Area Code
[REDACTED]

FILED
RALPH WINKLER, JUDGE

Sworn to before me and subscribed in my presence this 27 day of November, 2023.

HAMILTON COUNTY
PROBATE COURT

Lori Ann Mays
Notary ID: KYNP34692
Comm Exp: 08/10/2025

Notary Public/Deputy Clerk

Lori Ann Mays
Notary ID: KYNP34692
Comm Exp: 08/10/2025

JOURNAL ENTRY ORDERING CORRECTION OF BIRTH RECORD

The Court on consideration of the evidence submitted finds and orders that notice of hearing be dispensed with and the birth record of registrant be corrected in accordance with the facts set forth above and that a certified copy of the order of the Court be forthwith transmitted to the Director of Health as provided by law.

Ralph Winkler

Ralph Winkler, Probate Judge

By:

Paul D. Rattermann
Deputy Clerk

PAUL D. RATTERMANN
MAGISTRATE

STATE OF OHIO COUNTY OF HAMILTON
COURT OF COMMON PLEAS PROBATE DIVISION

THIS IS TO CERTIFY THAT THE FOREGOING IS A
TRUE AND CORRECT COPY OF THE DOCUMENT ON
FILE IN THIS OFFICE.

WITNESS MY HAND AND SEAL OF SAID COURT

THIS 28 DAY OF Nov, 2023

RALPH WINKLER, Judge & EX-Officio Clerk

Paul D. Rattermann
Deputy Clerk

EXHIBIT 2

to Petition for Declaratory Order

May 14, 2024 Order Granting Plaintiffs' Emergency Motion for
Temporary Restraining Order

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

JANE DOE; and)	
CHRISSY MILLER,)	
)	
Plaintiffs/Petitioners,)	Case No. 24-0503-III
)	
vs.)	
)	
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.)	

ORDER GRANTING PLAINTIFFS' EMERGENCY MOTION FOR
TEMPORARY RESTRAINING ORDER

THIS CAUSE came on this 13th day of May 2024, before this Honorable Court upon Plaintiffs' Emergency Motion for Temporary Restraining Order, Defendants response, and arguments of both parties. The Court GRANTS Plaintiffs' Motion pursuant to Tenn. R. Civ. P. 65.02 and 65.03 and hereby **ORDERS** that:

1. Defendants are ENJOINED from requiring Plaintiff Chrissy Miller to surrender her current driver license because it lists her sex designator as female until further orders of this Court.

2. Defendants are ENJOINED from suspending Plaintiff Chrissy Miller's driving privileges due to Ms. Miller's failure to surrender her current driver license because it lists her sex designator as female until further orders of this Court.

3. BOND is set in the amount of \$ 100.00.

4. A temporary injunction hearing in this Matter is set for May 29, 2024 at 9:30 A.M. Anything any party wishes the Court to review for the hearing must be filed by May 22, 2024. The hearing will be conducted upon affidavit or depositions pursuant to Local Rule 19.04.

SO ORDERED.

s/I'Ashea L. Myles
CHANCELLOR I'ASHEA L. MYLES

DATE: May 14, 2024 at 8:00 A.M.

CERTIFICATE OF SERVICE

It is hereby certified that a true and accurate copy of the foregoing Order Granting Plaintiffs' Emergency Motion for Temporary Restraining Order has been forwarded via electronic mail to the following this 14th day May of 2024.

Lucas Cameron-Vaughn (BPR No. 036284)
Stella Yarbrough (BPR No. 033637)
Jeff Preprtit (BPR No. 038451)
ACLU FOUNDATION OF TENNESSEE
P.O. Box 120160
Nashville, TN 37212
lucas@aclu-tn.org
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Maureen Truax Holland (BPR No. 15202)
HOLLAND AND ASSOCIATES, PC
1429 Madison Avenue
Memphis, TN 38104
maureen@hollandattorney.com

Attorneys for the Plaintiffs

Cody N. Brandon
Steven J. Griffin
Liz Evan
**OFFICE OF THE TENNESSEE ATTORNEY
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Cody.brandon@ag.tn.gov
Steven.griffin@ag.tn.gov
Liz.evan@ag.tn.gov

Attorneys for Defendants

EXHIBIT 3

to Petition for Declaratory Order

June 24, 2024 Order Granting In Part And Denying In Part
Plaintiffs' Motion for Temporary Injunction

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

JANE DOE; CHRISSY MILLER,)

Plaintiffs/Petitioners,)

v.)

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.)

Case No. 24-0503-III
Chancellor Myles

ORDER GRANTING IN PART AND DENYING IN PART
PLAINTIFFS' MOTION FOR TEMPORARY INJUNCTION

THIS CAUSE came to be heard before the Honorable I'ASHEA L. MYLES, Chancellor of Part III of the Chancery Court of Tennessee for the Twentieth Judicial District in Davidson County on June 6, 2024 upon Plaintiffs' Motion for Temporary Injunction, Defendants' Response in Opposition to Plaintiffs' Motion for a Temporary Injunction, together with Plaintiffs' declarations, arguments and memoranda of counsel, exhibits and the entire Record; all from which the Court finds and concludes as follows:

1. The requirements of Tennessee Rule of Civil Procedure 65.04 have been met with respect to the issuance of this Temporary Injunction as to Plaintiff Chrissy Miller.

2. Plaintiff Chrissy Miller has established that irreparable injury would result to her if injunctive relief is not awarded pending resolution of Defendants' Motion to Dismiss. Defendants have issued Ms. Miller a driver license that lists her sex as female. If Ms. Miller is wrongly forced to surrender her driver license or face suspension of her driving privileges, her harm is uncompensable.

3. Plaintiff Jane Doe has not satisfied the Court that irreparable injury would result to her if injunctive relief is not awarded as she does not currently have a driver license that lists her sex as female.

~~4. In balancing the potential harms, the Court finds that no Party will be harmed by the issuance of the Temporary Injunction as outlined herein, and that in order to preserve the status quo, a Temporary Injunction should issue enjoining Defendants from requiring Ms. Miller to surrender her current driver license because it lists her sex as female, and enjoining Defendants from suspending Ms. Miller's driving privileges for failure to surrender her current driver license because it lists her sex as female.~~

ALM

~~5. It is in the public's interest to ensure that proper administrative procedures are followed.~~

~~6. There is a likelihood that Plaintiff Chrissy Miller will ultimately succeed on the merits of this case.~~

7. Accordingly, the Court issues a Temporary Injunction barring Defendants from requiring Chrissy Miller to surrender her current driver license or suspending Chrissy Miller's driving privileges for failure to surrender her current driver license because it lists her sex as female.

8. The One Hundred Dollar (\$100) bond previously posted by Plaintiffs shall remain in place.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiffs' Motion for Temporary Injunction is GRANTED as to Plaintiff Chrissy Miller and DENIED as to Plaintiff Jane Doe pending this Courts' Ruling on Defendants' Motion to Dismiss.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that accordingly:

- a. Defendants are ENJOINED from requiring Plaintiff Chrissy Miller to surrender her current driver license because it lists her sex designator as female;
- b. Defendants are ENJOINED from suspending Plaintiff Chrissy Miller's driving privileges due to Ms. Miller's failure to surrender her current driver license because it lists her sex designator as female.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the One Hundred Dollar (\$100) bond previously posted by Plaintiffs shall remain in place.

SO ORDERED this 24th day of June, 2024, at the hour 11 a.m. p.m.

s/I'Ashea L. Myles
HON. I'ASHEA L. MYLES
CHANCELLOR, PART III

AGREED AS TO FORM:

/s/ Lucas Cameron-Vaughn

LUCAS CAMERON-VAUGHN (BPR# 036284)

STELLA YARBROUGH (BPR# 033637)

JEFF PREPTIT (BPR# 038451)

P.O. Box 120160

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syarbrough@aclu-tn.org

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/s/ Maureen T. Holland

MAUREEN TRUAX HOLLAND, (BPR# 015202)

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Attorneys for Plaintiffs

JONATHAN SKRMETTI

Attorney General and Reporter

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(615) 532-7400

Cody.Brandon@ag.tn.gov

Steven.Griffin@ag.tn.gov

Liz.Evan@ag.tn.gov

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing proposed Order Granting in Part and Denying in Part Plaintiffs' Motion for Temporary Injunction has been filed and served upon the following by operation of the court's electronic filing system, with courtesy copies provided by email, on this the 14th day of June, 2024:

JONATHAN SKRMETTI
Attorney General and Reporter
CODY N. BRANDON
STEVEN J. GRIFFIN
LIZ EVAN
Office of the Tennessee
Attorney General and Reporter
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(615) 532-7400
Cody.Brandon@ag.tn.gov
Steven.Griffin@ag.tn.gov
Liz.Evan@ag.tn.gov

/s/ Lucas Cameron-Vaughn
LUCAS CAMERON-VAUGHN

EXHIBIT 4
to Petition for Declaratory Order

September 17, 2024 Chancellor's Order Staying Case

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

JANE DOE; CHRISSY MILLER;

Plaintiffs,

v.

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.

Case No. 24-0503-III
Chancellor Myles

CHANCELLOR'S ORDER STAYING CASE

This matter came before the Court on Defendants' Motion to Dismiss, Defendants' Supplemental Motion to Dismiss, the parties' responses and replies, and oral argument of the parties. Defendants seek dismissal of all three counts of Plaintiffs' Second Amended Complaint on multiple grounds, including because Plaintiffs have failed to exhaust their remedies as required by Tenn. Code Ann. § 4-5-225.

In light of the filings and arguments of the parties, the Court hereby **ORDERS**:

1. This case is stayed for 60 days, until November 12, 2024, to allow Plaintiffs to attempt to exhaust their administrative remedies and the Defendant to respond to Plaintiffs attempts, if any.

2. If Plaintiffs wish to request a declaratory order from the Department of Safety and Homeland Security, they must do so no later than September 20, 2024. Plaintiffs shall file any request made as an exhibit to a notice of filing in this case.

3. The UAPA provides the Department with 60 days after receipt of a petition for declaratory order to respond to the petition. Tenn. Code Ann. § 4-5-223(c). Notwithstanding that statutory period, the Court encourages the Department to respond expeditiously to any request made by Plaintiffs.

4. Should the Defendant respond to Plaintiffs' actions sooner than the statutory sixty (60) days or if Plaintiffs fail to exhaust their administrative remedies as set forth in this Order, the Defendants shall set an earlier status conference with the Court acquainting it of such status and the needs of the case.

5. The temporary injunction entered in favor of Plaintiff Miller on April 24, 2024, remains in effect during the pendency of the stay.

6. The Parties are ORDERED to appear at a status conference on November 15, 2024, counsel for the parties shall request a status conference to apprise the Court of the needs of the case at that time.

IT IS SO ORDERED this _____ day of September 2024.

/s/ I'Ashea L. Myles
HON. I'ASHEA L. MYLES
CHANCELLOR, PART III

Jeff Preptit
Stella Yarbrough
Lucas Cameron-Vaughn
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Attorneys for Defendants