

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

JANE DOE; CHRISSY MILLER,)
)
Plaintiffs/Petitioners,)
)
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.)

No. 24-0503-III
CHANCELLOR MYLES

RENEWED PETITION FOR JUDICIAL REVIEW AND DECLARATORY JUDGMENT

Petitioners Jane Doe¹ and Chrissy Miller, by and through counsel, respectfully petition this Court for judicial review of the Tennessee Department of Safety and Homeland Security's Declaratory Order in TDOSHS Case No. 2024-02, dated March 14, 2025, and for declaratory judgment pursuant to Tennessee Code Annotated §§ 4-5-225 and -322. In support of their Petition, Petitioner-Plaintiffs state as follows²:

¹ Jane Doe is proceeding under a pseudonym pursuant to the Court’s Order Authorizing Movant to Proceed by Pseudonym, entered April 23, 2024; and Agreed Order Authorizing Movant to Proceed by Pseudonym, entered June 28, 2024.

² The filing of this renewed petition is made without waiver, and with express reservation, of any and all rights, claims, defenses, objections, and arguments previously set forth in Petitioners’ Second Amended Verified Complaint for Declaratory Judgment and Injunctive Relief and Petition for Judicial Review dated August 13, 2024. This renewed petition incorporates by reference all supporting documentation, exhibits, facts and arguments contained in the original petition as if

BACKGROUND

1. This is an action arising out of the Respondent-Defendants' ("Department's") refusal to issue accurate driver licenses to Petitioners and other Tennesseans because they are transgender.

2. For at least 27 years before July 1, 2023, the Department allowed transgender applicants to obtain driver licenses that accurately reflected the sex they live as upon the statement of their physician.

3. An accurate driver license is far more than a document for operating a vehicle—it is a cornerstone of daily life and identity. For transgender people, having identification that reflects their lived sex is essential for safety as well as the practical necessities of life.³

4. The dangers transgender people face due to inaccurate identification documents are both pervasive and severe. When presenting identification that conflicts with their lived sex, transgender people encounter situations that range from uncomfortable to life-threatening.⁴ During routine traffic stops, TSA screenings, or any interaction where identification is required, an identity document such as a driver license that contradicts one's appearance can trigger suspicion, invasive questioning, and even accusations of fraud. These encounters frequently escalate to public

fully set forth herein. Nothing contained in this renewed petition shall be construed as a waiver, abandonment, or relinquishment of any right, claim, defense, or position previously asserted, or any objection previously raised, in connection with the original petition or any related proceedings.

³ Megan B. Maier, *Altering Gender Markers on Government Identity Documents: Unpredictable, Burdensome, and Oppressive*, 23 U. Pa. J.L. & Soc. Change 203 (2020), <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1245&context=jlasc> (last accessed May 11, 2025).

⁴ Human Rights Campaign Foundation, *The Epidemic of Violence Against the Transgender & Gender-Expansive Community in the U.S.: The 2024 Report* (Nov. 2024), <https://reports.hrc.org/an-epidemic-of-violence-2024> (last accessed May 11, 2025).

humiliation, verbal harassment, or detention—and potentially can lead to physical assault or even death.⁵

5. When applying for jobs, housing, or financial services, mismatched documents can force transgender people to disclose their transgender status to strangers, leaving them vulnerable to discrimination in areas fundamental to survival and stability.

6. Anxiety about potential confrontations, the repeated need to explain personal medical history to strangers, and the institutional erasure of one’s identity contribute to heightened rates of stress, depression, and suicidal ideation among transgender people with inaccurate identification documents.⁶ This persistent state of vulnerability creates barriers to full participation in public life, effectively forcing many transgender individuals to limit their daily activities or accept risks to their safety and wellbeing that others never have to consider.

7. In recent years, the Tennessee General Assembly has taken aim at transgender people by passing laws which attempt to punish them and declare that the state does not recognize them as equal people worthy of the same dignity as others.

8. In 2023, the Tennessee General Assembly passed a bill in an attempt to define for the residents of Tennessee who qualifies as a man and who qualifies as a woman under the code of Tennessee.

9. No legislature up until that point had found it necessary to define “sex” throughout the Tennessee Code since the founding of the state.

⁵ *Id.*

⁶ Ayden Scheim et al., *Gender-concordant identity documents and mental health among transgender adults in the USA: a cross-sectional study*, *The Lancet. Public health*, 5(4), e196–e203 (2020), [https://doi.org/10.1016/S2468-2667\(20\)30032-3](https://doi.org/10.1016/S2468-2667(20)30032-3) (last accessed May 11, 2025).

10. Tennessee Code Annotated § 1-3-105(c) went into effect on July 1, 2023, stating: “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.”

11. With this definition, lawmakers attempted to codify an ideology that despises the existence of transgender people and seeks to write them out of legal recognition because, they insist, sex is “immutable,” and therefore, transgender people cannot really be the sex that they live as. Further, the definition demands that a person’s lifelong sex must be determined by “anatomy and genetics existing at the time of birth,” although most people do not have biological proof of their own anatomy and genetics at the time of birth⁷, and such a statement denies the medical fact that some intersex⁸ people are born with anatomy or genetics that do not fit traditional notions about male or female bodies.

12. Importantly, the definitional law does not authorize any agency action and does provide that there are exceptions to an original birth certificate as the only “evidence of a person’s biological sex.”

⁷ See Julie A. Greenberg, *Defining Male and Female: Intersexuality and the Collision Between Law and Biology*, 41 Ariz. L. Rev. 265 (1999), <https://ssrn.com/abstract=896307> (last accessed May 11, 2025).

⁸ United Nations Free & Equal, “Intersex People,” Office of the United Nations High Commissioner for Human Rights 1 (2024), <https://www.unfe.org/sites/default/files/download/Intersex%20factsheet%202024%20EN%20-%20CLEARED.pdf> (last accessed May 11, 2025).

13. Despite having no enabling language, the Department quietly implemented a non-public directive, DLP-302(E)(3), addressed only to its employees, that categorically prohibits transgender individuals from obtaining accurate driver licenses—and attempts to justify the categorical ban by claiming it is required by Tennessee Code Annotated § 1-3-105(c).

14. The immediate and direct result of the Department’s categorical ban is that transgender driver license applicants in Tennessee have been injured, including Petitioners. For many who are barred from receiving a driver license unless they accept the Department’s inaccurate sex designation, they are forced to disclose their private information over and over again, exposing them to increased discrimination, harassment, and even violence during routine interactions where accurate identification is required.

15. Petitioners ask the Court to review the actions of the Department and determine whether they are legally valid; or if they violate statutory provisions, are in excess of the agency’s statutory authority, were made upon unlawful procedure, are arbitrary and capricious, and/or unsupported by evidence that is both substantial and material.

JURISDICTION AND VENUE

16. This Court has jurisdiction over this matter pursuant to Tennessee Code Annotated § 4-5-225, which provides for judicial review of the legal validity or applicability of a statute, rule or order of an agency to specified circumstances; and Tennessee Code Annotated § 4-5-322, which provides for judicial review of final decisions in contested cases.

17. Venue is proper in this Court pursuant to Tennessee Code Annotated §§ 4-5-225, and -322(b)(1)(A).

PARTIES

18. 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.

19. 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 DLP-302(E)(3), Defendants sent a letter demanding Ms. Miller surrender her accurate driver license or face suspension of her driving privileges by May 16, 2024. (*See* Complaint Ex. C).

20. 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.

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

22. 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.

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

24. 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.

PROCEDURAL HISTORY

25. Petitioners filed a Complaint for Declaratory Judgment and Injunctive Relief and Petition for Judicial Review in this matter on April 23, 2024.

26. This Court enjoined the Department from requiring Ms. Miller to surrender her current driver license or suspending her driving privileges for failure to surrender her current driver license because it lists her sex as female.

27. The Court stayed the case to allow Petitioners to file a petition for declaratory order with the Department, and for the Department to respond.

28. On September 20, 2024, Petitioners filed a Petition for Declaratory Order with the Tennessee Department of Safety and Homeland Security pursuant to Tennessee Code Annotated § 4-5-223.

29. On October 1, 2024, Commissioner Long appointed Dustin Brandon as the Commissioner's Designee and Hearing Officer.

30. A contested case hearing was held at the Department on January 13, 2025.

31. Hearing Officer Brandon issued a Declaratory Order, dated March 14, 2025, which denied Petitioners' requested relief and determined that, "(1) the Department is legally bound to define 'sex' pursuant to Tenn. Code Ann. § 1-3-105(c); (2) The enactment of Tenn. Code Ann. § 1-3-105(c) nullified Department rule 1340-01-13-.12(6); (3) DLP-302(E)(3) is a policy pursuant to Tenn. Code Ann. § 4-5-102(2) and does not need to be promulgated as a rule; and (4) the Department possesses the legal authority to deny the Petitioners' requested sex designator changes and to required [sic] the surrender of issued licenses that contain errors or defects." (Exhibit A).

32. On March 24, 2025, Petitioners petitioned the Department for a stay of the declaratory order pursuant to Tennessee Code Annotated § 4-5-316. (Exhibit B).

33. The Department responded to the petition for a stay.

34. On April 28, 2025, Petitioners' counsel requested a timeframe for the Hearing Officer to issue a decision on the petition for a stay.

35. On April 30, 2025, the Hearing Officer advised the decision would issue by May 2, 2025.

36. However, to date, the Department has failed to issue a decision on the petition for a stay.

37. This Petition for Judicial Review and Declaratory Judgment is timely filed within sixty (60) days after entry of the Department's declaratory order pursuant to Tennessee Code Annotated § 4-5-322(b)(1)(A)(iv).

STATEMENT OF FACTS

I. LEGAL FRAMEWORK

A. STATUTORY BACKGROUND

38. Tennessee Code Annotated § 1-3-105(c), states in pertinent part:

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.

39. There is no enforcement mechanism contained in Tenn. Code Ann. § 1-3-105(c), nor is there language directing agency action.

40. There is no Tennessee statute explicitly requiring individuals to provide a birth certificate to change a sex designation on a Tennessee driver license.

B. PRIOR DEPARTMENT RULE

41. Since 1996 (Complaint Ex. A.17), the Department, 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.”

II. THE CHALLENGED AGENCY ACTION

A. CREATION AND IMPLEMENTATION OF DLP-302(E)(3)

42. On July 3, 2023, the Department issued a document to employees titled “Guidelines to Proof of Identity” and referenced as DLP-302(E)(3) which indicates that the Department will no longer “accept requests for gender marker changes that are inconsistent with someone’s designated sex on their original birth certificate.” (Complaint Ex. A).

43. DLP-302(E)(3) reads:

3. Gender Changes: Pursuant to Public Chapter 486 As [sic] used in this code, unless the context otherwise requires, “sex” means a person’s immutable biological sex as determined by anatomy and genetics existing at the time of birth and evidence of a person’s biological sex. As used in this subsection (c), “Evidence of a person’s biological sex” includes, but is not limited to, a government-issued identification document that accurately reflects a person’s sex listed on the person’s original birth certificate.

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

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

44. The Department has not updated, repealed, or promulgated new rules related to Rule 1340-01-13-.12(6).

45. DLP-302(E)(3) was created, distributed, and enforced by the Department.

B. PROCEDURAL DEFICIENCIES

46. DLP-302(E)(3) was never promulgated by notice-and-comment rulemaking procedures under the UAPA.

47. In fact, the Department made no public declaration or acknowledgment concerning the adoption of DLP-302(E)(3).

48. A copy of the regulation was only obtained through a public records request.

49. Petitioners assert that DLP-302(E)(3) is a “rule” under the UAPA.

C. IMPACT AND IMPLEMENTATION OF DLP-302(E)(3)

50. Under DLP-302(E)(3), there is no uniform procedure for determining what is considered an original birth certificate.

51. Amended birth certificates cannot be used to determine sex designators on Tennessee driver licenses.

52. Employees are instructed to send documents presenting conflicting information to the legal department for review.

53. The legal department will reject applicants’ requests to update sex designators when documentation has conflicting information.

54. No process exists for administrative appeal of the Department’s decisions to reject applications for updated sex designators.

55. As a result of DLP-302(E)(3), transgender applicants are categorically banned from obtaining a Tennessee driver license that accurately lists their lived sex.

III. PETITIONER JANE DOE’S EXPERIENCE

A. PERSONAL BACKGROUND

56. Petitioner Jane Doe is a thirty-three-year-old woman who has been living in Monroe County, Tennessee for approximately eight years.

57. Ms. Doe was born in Florida and has a Florida birth certificate.

58. Ms. Doe is transgender. She was diagnosed with gender dysphoria in May 2022.

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

60. Ms. Doe legally changed her name in November 2022 in the Probate Court for Monroe County, Tennessee.

61. 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.

62. Ms. Doe submitted a statement from her attending physician that “necessary medical procedures to accomplish the change in gender are complete.” (Jan. 13, 2025 Contested Case Hearing Record).

B. HARM EXPERIENCED DUE TO DLP-302(E)(3)

63. Ms. Doe is forced to disclose her transgender status whenever she shows a third-party her driver license.

64. This disclosure causes significant distress by negatively affecting her gender dysphoria and creating fear of discrimination, harassment and violence.

65. As a result of the anxiety providing her driver license causes, Ms. Doe avoids use of the license whenever possible.

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

67. Ms. Doe sought to update her existing Tennessee driver license to reflect her lived sex of female.

68. Despite being addressed as a woman with appropriate pronouns by employees, Ms. Doe was denied a sex designator change due to DLP-302(E)(3).

69. Employees indicated that even with an amended birth certificate, the change would be impossible.

70. The same employee who denied the sex designator change accepted Ms. Doe's request to change her eye color without documentation or questions.

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

IV. PETITIONER CHRISSEY MILLER'S EXPERIENCE

A. PERSONAL BACKGROUND

72. Chrissy Miller is a thirty-eight-year-year-old woman who lives in Cocke County, Tennessee.

73. Ms. Miller was born in Ohio and has an Ohio birth certificate.

74. Ms. Miller is transgender. She was diagnosed with gender dysphoria in 2023.

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

76. Ms. Miller legally changed her name on September 21, 2023 in the Cocke County Circuit Court in Newport, Tennessee.

77. 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.

78. Ms. Miller has a statement from her attending physician that “necessary medical procedures to accomplish the change in gender are complete.” (Jan. 13, 2025 Contested Case Hearing Record).

B. HARM EXPERIENCED DUE TO DLP-302(E)(3)

79. In mid-July 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.

80. 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.

81. Ms. Miller then legally updated the sex designator on her Ohio birth certificate to female on November 28, 2023. (Complaint Ex. 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).

82. 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.

83. 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 Center located at 209 Gore Road, Knoxville, TN, but was denied due to DLP-302(E)(3).

84. Ms. Miller was confused because she was told earlier at the Sevierville Driver Services Center that all she needed was a birth certificate that designated her as female and so she went back to the Sevierville Driver Services Center on January 23, 2024.

85. 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.

86. Ms. Miller updated her license with her bank account and for her automobile and health insurance policies.

87. 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.

88. 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.

(Complaint Ex. C).

GROUND FOR REVIEW

89. Petitioners seek judicial review the actions of the Department as Petitioners’ legal rights, duties, and privileges have been prejudiced by the Department's agency action. As set forth below, the Departments’ actions and Declaratory Order are invalid because they: (1) violate statutory provisions; (2) exceed the Department's statutory authority; (3) were made upon unlawful procedure; (4) are arbitrary and capricious; and (5) unsupported by evidence that is both substantial and material in light of the entire record pursuant to Tennessee Code Annotated §§4-5-225 and - 322.

I. VIOLATION OF STATUTORY PROVISIONS AND EXCEEDING AGENCY AUTHORITY

90. Petitioners incorporate all allegations of all preceding paragraphs as if fully set forth herein.

91. The Department erroneously concluded that Tennessee Code Annotated § 1-3-105(c) automatically nullified their duly promulgated Rule 1340-01-13-.12(6) without any affirmative agency action, in violation of the UAPA.

92. The Department failed to follow the UAPA, which requires specific procedures to repeal existing rules.

93. The UAPA defines a “rule” to include “an amendment or repeal of a prior rule,” meaning proper procedures must be followed to change existing rules.

94. The Department’s interpretation exceeds its statutory authority by usurping the principle in Tennessee law that disfavors implicit repeal of a rule where a reasonable construction of a new law and an old law can stand together. *See Bailey v. State*, 150 Tenn. 598, 266 S.W. 122, 122 (1924). The legislature did not repeal Rule 1340-01-13-.12(6) when enacting Tennessee Code Annotated § 1-3-105(c).

95. The Department incorrectly classified DLP-302(E)(3) as a "policy" rather than a "rule" requiring formal promulgation, violating the statutory definition in Tenn. Code Ann. § 4-5-102.

96. DLP-302(E)(3) introduces new substantive requirements beyond Tenn. Code Ann. § 1-3-105(c), including prohibiting the use of lawfully amended birth certificates and creating a new “legal review” process for transgender applicants.

97. No statute expressly grants the Department the power to determine an applicant's sex based solely on their original birth certificate. Rather, Tennessee Code Ann. § 55-50-321 only

specifies that applications "shall state the...sex..." of the applicant, and the Commissioner can only require documentation "established by rules."

II. PROCEDURAL VIOLATIONS

98. Petitioners incorporate all allegations of all preceding paragraphs as if fully set forth herein.

99. The Department implemented DLP-302(E)(3) without following the rulemaking procedures required by Tenn. Code Ann. § 4-5-202, which mandates notice, public comment periods, and other procedural safeguards. Instead, the policy was implemented immediately on July 3, 2023.

100. The Department's claim that Rule 1340-01-13-.12(6) was automatically abrogated creates a procedurally unlawful situation where the rule remains officially in effect in published rules, yet the Department refuses to follow it.

101. The Department unlawfully applied its new interpretation to Ms. Miller, requiring surrender of an already-issued license, without proper notice or procedure.

III. ARBITRARY AND CAPRICIOUS DECISION-MAKING

101. Petitioners incorporate all allegations of all preceding paragraphs as if fully set forth herein.

102. The Department failed to provide a satisfactory explanation for why Tenn. Code Ann. § 1-3-105(c) automatically nullified Rule 1340-01-13-.12(6).

103. The Department acknowledges that the "context otherwise requires" exception in § 1-3-105(c) applies in some cases, but arbitrarily refuses to consider whether this exception might apply to driver license sex designators.

104. The Department's interpretation is internally inconsistent. It acknowledges that the term "sex" is "polysemous" with multiple meanings, yet fails to analyze whether the context of driver's licenses might require a different interpretation than provided in § 1-3-105(c).

105. The Department's conclusion that there is "no right to change one's sex designator on a driver license" arbitrarily ignores the Department's own longstanding rule explicitly providing a procedure for such changes.

IV. LACK OF SUBSTANTIAL AND MATERIAL EVIDENCE

106. Petitioners incorporate all allegations of all preceding paragraphs as if fully set forth herein.

107. The Department provided no evidence that the legislature intended Tenn. Code Ann. § 1-3-105(c) to automatically nullify existing administrative rules, citing no legislative history or other evidence supporting this claim of implied repeal.

108. The Department's conclusion that DLP-302(E)(3) "does not affect the private rights of citizens" is contradicted by the Department's own actions against Petitioners, which directly affect their rights to accurate identification documents.

109. The Department provided no substantial evidence that the definition in Tenn. Code Ann. § 1-3-105(c) was intended to apply specifically to driver's licenses in a way that would override the Department's specific regulatory authority.

110. The Department's conclusion that its actions were "not punitive" lacks evidentiary support, as the threatened cancellation of Ms. Miller's license and driving privileges constitutes a serious punitive consequence.

V. INTERFERENCE WITH PETITIONERS' LEGAL RIGHTS

111. Petitioners incorporate all allegations of all preceding paragraphs as if fully set forth herein.

112. The Department's Declaratory Order substantially interferes with and impairs the legal rights of Petitioners by:

113. Depriving Petitioners of accurate government identification documents that reflect their lived identities, impairing their ability to navigate daily life without being misgendered or outed as transgender.

114. Retroactively invalidating Petitioner Miller's legally issued driver's license without due process, threatening her with loss of driving privileges essential to employment, healthcare access, and other fundamental activities.

115. Denying Petitioners the benefit of Rule 1340-01-13-.12(6), which establishes a clear procedure for changing sex designators that has not been formally repealed.

116. Exposing Petitioners to potential discrimination, harassment, and safety risks by forcing them to carry identification documents that contradict their lived identity.

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully request that this Court:

1. Issue an order requiring the Department to file the complete record of the contested case within forty-five (45) days of service of this Petition, pursuant to Tennessee Code Annotated § 4-5-322(d);
2. Review the Department's Declaratory Order and determine that it is in excess of statutory authority, made upon unlawful procedure, arbitrary and capricious, and/or unsupported by substantial and material evidence;

3. Reverse or modify the Department's Declaratory Order;
4. Order the Department to allow Petitioners to update the sex designators on their driver licenses to match their lived sex of female;
5. Order the Department to discontinue enforcement of DLP-302(E)(3);
6. Award Petitioners their reasonable attorneys' fees and costs incurred in this action; and
7. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

/s/ Lucas Cameron-Vaughn

Lucas Cameron-Vaughn (36284)

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing has been sent by U.S. Mail, postage pre-paid, or via electronic mail to the following:

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DATE: May 12, 2025

/s/ Lucas Cameron-Vaughn
Lucas Cameron-Vaughn

EXHIBIT A
Declaratory Order

BEFORE THE COMMISSIONER OF THE TENNESSEE DEPARTMENT OF SAFETY

IN THE MATTER OF:)
)
IN RE: PETITION FOR) **TDOSHS CASE No. 2024-02**
DECLARATORY ORDER)
BY JANE DOE AND CHRISSY)
MILLER)
)

DECLARATORY ORDER

A contested case hearing was held in this matter on January 13, 2025, pursuant to Tenn. Code Ann. § 4-5-223, before Dustin Brandon, Commissioner’s Designee, sitting for the Commissioner of the Tennessee Department of Safety. This case is the result of a Petition for Declaratory Order filed by Petitioners on September 20, 2024. The Petitioners were represented by attorneys Lucas Cameron-Vaughn, Stella Yarbrough, and Maureen T. Holland. The Department was represented by attorneys Lizabeth Hale, Elizabeth Stroecker, and Karen Litwin.

Findings of Fact¹

1. The Department of Safety and Homeland Security (“Department”) oversees the establishment and enforcement of rules and policies with respect to issuing driver licenses to Tennessee drivers.
2. The Department administers the Uniform Classified and Commercial Driver License Act and oversees every application for a driver license. Tenn. Code Ann. § 55-50-201.

¹ Counsel for the Petitioners and the Department submitted an agreed upon Stipulation of Facts on December 10, 2024. These Findings of Fact are based on the December 10, 2024, stipulation unless inconsistent with established in the record.

3. The Department is authorized by Tennessee law to promulgate rules necessary to administer driver license. Tenn. Code Ann. § 55-50-202.
4. Jeff Long (the “Commissioner”) is the appointed Commissioner of the Department and oversees the Tennessee Driver Service Division as part of his responsibilities.
5. Commissioner Long is authorized to establish administrative rules and regulations concerning the licensing of persons to operate motor vehicles in Tennessee.
6. On April 21, 2023, the Tennessee General Assembly passed a bill (“SB 1440”) which defines “sex” throughout the Tennessee Code, “unless the context otherwise requires,” as “a person’s immutable biological sex as determined by anatomy and genetics existing at the time of birth” and further indicates that “evidence of a person’s biological sex includes, but is not limited to, a government issued document that accurately reflects a person’s sex listed on the person’s original birth certificate.”
7. On May 17, 2023, SB 1440 was signed into law by Governor Bill Lee and was published as 2024 Public Chapter No. 486.
8. On July 1, 2023, 2024 Public Chapter No. 486 became effective and is codified at Tenn. Code Ann. § 1-3-105(c).
9. Prior to passage of 2024 Public Chapter No. 486, the General Assembly had not passed a uniform definition of “sex” in the Tennessee code.
10. Since 1996, and prior to the enactment of 2024 Public Chapter No. 486, the Department, as part of Rule 1340-01-13-.12(6), 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.”

11. The Department has not updated Rule 1340-01-13-.12(6) since 2024 Public Chapter No. 486 has been enacted, nor have they repealed the rule or promulgated new rules related to 1340-01-13-.12(6).
12. On July 3, 2023, the Department updated its internal policy to comply with Tenn. Code Ann. § 1-3-105(c) and issued a document to employees titled “Guidelines to Proof of Identity.” This internal policy, referenced as DLP-302(E)(3), stated that the Department will no longer “accept requests for gender marker changes that are inconsistent with someone’s designated sex on their original birth certificate.”
13. The Department is primarily responsible for the creation, distribution, and enforcement of DLP-302(E)(3).
14. The text of DLP-302(E)(3) states 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.”
15. Petitioner Chrissy Miller is a thirty-eight-year-old person who lives in Cocke County, Tennessee. Petitioner Miller was born in Ohio and has an Ohio birth certificate.
16. Petitioner Miller is transgender and was assigned male at birth.
17. Petitioner Miller has lived in Tennessee since 2014.
18. Petitioner Miller legally changed Petitioner Miller’s name on September 21, 2023, in the Cocke County Circuit Court in Newport, Tennessee. Petitioner Miller’s legal name is currently on Petitioner Miller’s driver license.
19. On January 22, 2023, Petitioner Miller attempted to obtain a new driver license with a different “sex” designator. Petitioner Miller submitted an updated birth certificate from

Ohio to the Knoxville Driver Services and Reinstatement Center located at 209 Gore Road, Knoxville, Tennessee.

20. About an hour or two after Petitioner Miller left the Knoxville driver services center, the manager of the driver services center called Petitioner Miller and advised that they would not be able to update Petitioner Miller's sex designator.
21. Petitioner Miller then went to the Sevierville Driver Services Center located at 1220 Graduate Drive, Sevierville, Tennessee, on January 23, 2024, after being informed the previous day that a driver license with an updated sex designator would not be able to be updated.
22. At the Sevierville Driver Services Center, a clerk issued Petitioner Miller a driver license with the sex designator of female.
23. On April 24, 2024, Petitioner Miller received a letter from then Assistant Commissioner 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 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 the 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 [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.

24. Petitioner Jane Doe² is transgender and lives in Monroe County, Tennessee.
25. Petitioner Doe’s request to update Petitioner Doe’s sex designator to female was denied by the Department.
26. Petitioners filed a Complaint for Declaratory Judgment and Injunctive Relief and Petition for Judicial Review in the Chancery Court of Davidson County, Tennessee on April 23, 2024, seeking relief from the actions of the Department.
27. Chancellor Myles in Part III of the Chancery Court of Davidson County enjoined the Department and its commissioners from requiring Petitioner Miller to surrender Petitioner Miller’s current driver license or cancelling Petitioner Miller’s driver license for failure to surrender the driver license issued on January 23, 2024.³

² Petitioner Doe is proceeding under a pseudonym, subject to a protective order in the related matter of *Jane Doe et. al. vs. Tennessee Department of Safety and Homeland Security et. al.*, Davidson County Chancery Court No. 24-0503-III.

³ Counsel’s stipulated fact number twelve (in the Stipulated Facts pleading) indicates that the failure of Petitioner Miller to surrender the driver license issued on January 23, 2024, would result in a “suspension” of Petitioner Miller’s driving privileges; however, the letter from Assistant Commissioner Hogan dated April 16, 2024, indicates that the driver license issued on January 23, 2024, would be “cancelled.” It is important to distinguish a “cancellation” versus a “suspension.” “Cancellation of a driver license means the annulment or termination by formal action of the department of a person’s driver license because of some error of defect in the license or application or because the licensee is no longer entitled to *that* license.” (*emphasis added*). Tenn. Code Ann. § 55-50-201(5). “Suspension of a driver license means the temporary withdrawal by formal action of the department of a person’s driver license or privilege to operate a motor vehicle on the public highways, *which temporary withdrawal shall be for a period specifically designated by the department, not to exceed six (6) months for any first offense, except as provided otherwise under law.*” (*emphasis added*). Tenn. Code Ann. 55-50-102(55).

28. The Chancery Court stayed the case to allow Petitioners to file a Petition for Declaratory Order, and for the Department to respond.
29. On September 20, 2024, Petitioners filed a Petition for Declaratory Order with the Tennessee Department of Safety.
30. On October 1, 2024, Commissioner Long appointed Dustin Brandon as the Hearing Officer to hold a contested case hearing to issue a Declaratory Order.

LEGAL ANALYSIS

I. Separation of Powers

The Tennessee Constitution mirrors the United States Constitution regarding the separation of powers for the executive, legislative, and judicial branches of government. “The powers of the Government shall be divided into three distinct departments: Legislative, Executive, and Judicial.” Tenn. Const. art. II, § 1. “No person or persons belonging to one of these departments shall exercise any of the powers properly belonging to either of the others, except in the cases herein directed or permitted.” Tenn. Const. art. II, § 2. In general, the “legislative” power” is the authority to make, order, and repeal law; the “executive power” is the authority to administer and enforce law; and the “judicial power” is the authority to interpret and apply law. The Tennessee constitutional provision prohibits an encroachment by any of the departments upon the powers, functions, and prerogatives of the others. Richardson v. Young, 125 S.W. 664 (1910).

The Tennessee Constitution bestows power in the legislative branch to pass bills to become law. “A bill shall become law when it has been considered and passed on three different days in each House and on third and final consideration has received the assent of a majority of all members to which each House is entitled under this Constitution, when the respective

speakers have signed the bill with the date of such signing appearing in the Journal, and when the bill has been approved by the Governor or otherwise passed under the provisions of this Constitution.” Tenn. Const. art. II, § 18.

The Tennessee Constitution bestows power in the executive branch to execute the laws passed by the legislature. “The Supreme Executive power of this state shall be vested in a Governor.” Tenn. Const. art. III, §1. “He shall take care that the laws be faithfully executed.” Tenn. Const. art. III, § 10. “There shall be a chief executive officer of each of the administrative departments of state government created by § 4-3-101.” Tenn. Code Ann. § 4-3-111. “The commissioners of the administrative departments shall constitute a cabinet or advisory staff to the governor on all matters of state administration.” Tenn. Code Ann. § 4-3-122(a). “These departments shall be vested respectively with such powers and required to perform such duties as are set forth in this chapter and shall be charged with the administration, execution and performance of such laws as the general assembly may enact from time to time.” Tenn. Code Ann. § 4-3-103.

II. Tenn. Code. Ann. § 1-3-105(c)

Prior to passage of 2024 Public Chapter No. 486, the Tennessee General Assembly had not passed a uniform definition of “sex” in the Tennessee Code. On April 21, 2023, the Tennessee General Assembly passed “SB 1440.” “SB 1440” was signed into law by Governor Bill Lee on May 17, 2023, and was published as 2024 Public Chapter No. 486. 2024 Public Chapter No. 486 went into effect July 1, 2023, and is codified at Tenn. Code Ann. § 1-3-105(c).

Tenn. Code Ann. § 1-3-105(c) provides, “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 persons biological sex” includes, but is not limited to, a government-issued identification document that accurately reflects a person’s sex listed on their original birth certificate.” To date, Tenn. Code Ann. § 1-3-105(c) has not been amended, repealed, or overturned, thus it is controlling law.

The enactment of Tenn. Code Ann. § 1-3-105(c) created a new definition of “sex” in the Tennessee Code, from July 1, 2023, forward, to be used “*in this code.*” Tenn. Code Ann. § 1-3-105(c) (emphasis added). In passing and enacting Tenn. Code Ann. § 1-3-105(c), the Tennessee General Assembly intended for this definition of “sex” to apply to every usage of the word “sex” in the Tennessee Code, unless “the context otherwise requires.” *Id.* The placement of this definition in Tenn. Code Ann. § 1-3-105(c), “Definitions of terms used in this code” is clear intent that the General Assembly intended for this definition to apply to the use of “sex” throughout the entire code. If the General Assembly had intended for this definition to apply to a narrower portion of the Tennessee Code, they had the ability to specify where it applied. See, e.g., Tenn. Code Ann. § 4-5-102 (“As used in this chapter, unless the context otherwise requires . . .”); Tenn. Code Ann. § 39-11-106 (“As used in this title, unless the context requires otherwise . . .”); Tenn. Code Ann. § 55-8-101 (“As used in this chapter and chapter 10, parts 1-5, of this title, unless the context otherwise requires . . .”); Tenn. Code Ann. § 55-50-102 (“As used in this chapter, unless the context otherwise requires . . .”).

The enactment of a code-wide definition is of itself enabling legislation for state agencies to have that definition apply to terms within the agency’s statutory purview. In this instance, the enactment of Tenn. Code Ann. § 1-3-105(c) meant as of its effective date, it was the controlling definition of “sex” in the Tennessee Code and applied to all Tennessee agencies. It is important to point out that “The States have considerable discretion in defining the terms used in their own

laws and in deciding what records to keep.” Gore v. Lee, 107 F.4th 548, 560 (6th Cir. 2024).

Once Tenn. Code Ann. § 1-3-105© went into effect on July 1, 2023, it not only became state law for the purposes of defining “sex;” it also superseded any regulations already promulgated that did not comply with the statute.

The term “sex” is polysemous and is defined as, “(1)(a) either of the two major forms of individuals that occur in many species and that are distinguished respectively as female or male especially on the basis of their reproductive organs and structures; (b) the sum of structural, functional, and sometimes behavioral characteristics of organisms that distinguish males and females; (c) the state of being male or female; (d) males or females considered as a group; (2)(a) sexually motivated phenomena or behavior; (b) sexual intercourse.” “Sex.” *Merriam-Webster.com Dictionary*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/sex>. Accessed 14 Mar. 2025.

“Context” is defined as “the interrelated conditions in which something exists or occurs: environment, setting.” “Context.” *Merriam-Webster.com Dictionary*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/context>. Accessed 14 Mar. 2025. There are several instances in the Tennessee Code where this definition would not be appropriate, for example, Tenn. Code Ann. § 39-13-309 sets out the offense for trafficking a person for a commercial sex act. While the word sex is used, the context would not invite the term used in Tenn. Code Ann. § 1-3-105(c), and the General Assembly has also provided context through defining a “commercial sex act” in Tenn. Code Ann. § 39-13-301(4). Context does not mean that if there is an existing rule that is in contravention to a new statute, then a state agency should ignore the statute in favor of its existing rules.

In addition to Tenn. Code Ann. § 39-13-309 and § 39-13-304, the term “sex” is used in Tenn. Code Ann. § 55-50-353, which provides:

- (a) When the department issues or renews a driver license or photo identification card to a sexual offender, violent sexual offender or violent juvenile sexual offender as required by § 40-39-213, the driver license or photo identification card shall bear a designation sufficient to enable a law enforcement officer to identify the bearer of the license or card as a sexual offender, violent sexual offender, or violent juvenile sexual offender.
- (b) When the department issues or renews a driver license or photo identification license to a person convicted of a human trafficking offense, as defined in § 39-13-314, the driver license or photo identification license must bear a designation sufficient to enable a law enforcement officer to identify the bearer of the license as a person who has been convicted of a human trafficking offense.

“Sex” as used in Tenn. Code Ann. § 55-50-353 would be an exception to “or as otherwise required” set out in Tenn. Code Ann. § 1-3-105(c). The term “sex” in this context is not being used to distinguish between male or female, but rather, distinguish that a licensee has been convicted of a criminal offense that was “sexual” in nature and been adjudicated as a “sexual offender.”

The Tennessee Supreme Court has consistently held that in order to carry out the intent of the General Assembly, the plain meaning of the language should be given full effect. When dealing with statutory interpretation, well-defined precepts apply. “In construing legislative enactments, we presume that every word in a statute has meaning and purpose and should be given full effect if the obvious intention of the General Assembly is not violated by so doing. In re C.K.G., 173 S.W.3d 714, 722 (Tenn.2005). When a statute is clear, we apply the plain meaning without complicating the task. Eastman Chem. Co. v. Johnson, 151 S.W.3d 503, 507 (Tenn.2004). Our obligation is simply to enforce the written language. Abels ex rel. Hunt v. Genie Indus. Inc., 202 S.W.3d 99, 102 (Tenn.2006). When a statute is ambiguous, however, we

may reference the broader statutory scheme, the history of the legislation, or other sources. Parks v. Tenn. Mun. League Risk Mgmt. Pool, 974 S.W.2d 677, 679 (Tenn.1998). We presume the General Assembly was aware of its prior enactments at the time it passed the legislation. Owens v. State, 908 S.W.2d 923, 926 (Tenn.1995).” Colonial Pipeline Co. v. Morgan, 263 S.W.3d 827, 836 (2008).

III. Uniform Commercial Driver License Act

“The commissioner is authorized to establish administrative rules and regulations concerning the licensing of persons to operate motor vehicles, in this state, for the purpose of ensuring the safety and welfare of the traveling public....” Tenn. Code Ann. § 55-50-502(2). The Department has promulgated the rules contained in Rule 1340-01-13-.01 through .25 to assist in the administration of the Act.

Tenn. Code Ann. § 55-50-321(c)(1)(A) requires every application for a driver license to state the “full name, date and place of birth, sex, county of residence, residence address...” of the applicant. In 1996, when promulgating the rules to administer the Act, the Department included what is currently Rule 1340-01-13-.12(6), which states that:

The following document is required for gender changes:

- (a) A statement from the attending physician that necessary medical procedures to accomplish the change in gender are complete.

Prior to July 1, 2023, this rule promulgated by the Department allowed it to change a person’s sex designator on their driver license, when presented with the required documentation.

Tenn. Code Ann. § 55-50-321(c)(1)(A) requires every application for a driver license to state the “full name, date and place of birth, sex, county of residence, residence address...” of the applicant. Prior to the passage of Tenn. Code Ann. § 1-3-105(c), there was no definition in the

Tennessee Code of “sex” overall, nor in Tenn. Code Ann. § 55-50-102, which contains definitions specific to the Act. However, once Tenn. Code Ann. § 1-3-105(c) went into effect on July 1, 2023, the context of the term “sex” required that “sex” mean 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. It further required the Department, when determining the appropriate sex marker, to rely on documents that “accurately reflect a person’s sex listed on their original birth certificate.

IV. Driver License Policy 302

DLP-302(E)(3) states:

3. Gender Changes: Pursuant to Public Chapter 486 [sic] 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.

The General Assembly has defined both “rule” and “policy” for the purposes of the Uniform Administrative Procedures Act (“UAPA”). Under the UAPA, a “rule” is “any agency regulation, standard, statement, or document of general applicability that is not a policy,” but excludes, *inter alia*, intra-agency memoranda and general policy statements that are substantially

repetitious of existing law. Tenn. Code Ann. § 4-5-102(12). A “policy” is any statement, document, or guideline prepared or issued by any agency pursuant to its delegated authority that merely defines or explains the meaning of a statute or a rule. Tenn. Code Ann. § 4-5-102(10).

“As defined in the UAPA, a “policy” is “a set of decisions, procedures and practices pertaining to the *internal operation* or actions of an agency.” Tenn.Code Ann. § 4-5-102(10) (emphasis added). By contrast, a “rule” means “each agency statement of general applicability that implements or prescribes law or policy,” expressly including an “amendment or repeal of a prior rule ... [,]” but **excluding “[g]eneral policy statements that are substantially repetitious of existing law”** and “[s]tatements concerning only internal management of state government and not affecting private rights, privileges or procedures available to the public.” *Id.* §§ 4-5-12, 12(A) (emphases added), and 12(D). Thus, “a policy is not a rule under the UAPA if the policy concerns internal management of state government and if the policy does not affect the private rights, privileges, or procedures available to the public.” Mandela v. Campbell, 978 S.W.2d 531, 534 (Tenn.1998)” *Occupy Nashville v. Haslam, 949 F.Supp.2d 777, 794.*

The language of DLP-302(E)(3) is substantially repetitious of Tenn. Code Ann. § 1-3-105(c) that requires the use of a “a government-issued identification document that accurately reflects a person’s sex listed on the person’s original birth certificate” as evidence of a person’s sex. Subpart “b” is merely internal policy to be applied if a Department employee has a question regarding any documentation or information required by statute, to protect the driver license examiners in the event of concerns regarding the information presented on the documents and to ensure that all applicants are being reviewed and treated consistently per the law.

Tenn. Code Ann. § 1-3-105(c), as a state statute, supersedes any rule that may have been promulgated by the Department and controls the Department’s actions with regard to the driver

license, and DLP-302 is merely a policy which is restating that statute. Rule 1340-01-13-.12(6) has been rendered null by the passage of Tenn. Code Ann. § 1-3-105(c) and cannot be used to change a person's sex designator.

CONCLUSIONS OF LAW

1. The enactment of Tenn. Code Ann. § 1-3-105(c) established a new definition of "sex" in the Tennessee Code.
2. The definition of "sex" pursuant to Tenn. Code Ann. § 1-3-105(c) encompasses Title 55 of the Tennessee Code, which was previously undefined.
3. The plain language of Tenn. Code Ann. § 1-3-305(c) is clear and unambiguous in its application to Title 55 of the Tennessee Code by defining "sex" as:

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.

4. The context of "sex" as written in Title 55, excluding Tenn. Code Ann. § 55-50-353(e), is in fact consistent with Tenn. Code Ann. § 1-3-305(c), to distinguish between male and female listed on a driver license application and driver license as required by Tenn. Code Ann. § 55-50-301(b)(1).
5. The context of "sex" as written in Tenn. Code Ann. § 55-50-353(e) is not to distinguish between male or female, but rather, to distinguish that a licensee has been convicted of a criminal offense that was "sexual" in nature and has been adjudicated as a "sexual offender."

Tenn. Code Ann. § 55-50-321 requires that any applicant for a Tennessee driver license must place their sex on the application. This is then placed onto their driver license. This

use of the term “sex” is subject to the definition set forth in Tenn. Code Ann. § 1-3-105(c), meaning that the sex placed on the application and the license must be the person’s immutable biological sex as determined by anatomy and genetics at the time of birth.

6. The Department did not arbitrarily make decisions to “ban” or prevent Petitioners or anyone from obtaining a driver license. The Department, as legally required, complied with Tenn. Code Ann. § 1-3-105(c).
7. Department rule 1340-01-13-.12(6) was abrogated by the enactment of Tenn. Code Ann. § 1-3-305(c), making Tenn. Code Ann. § 1-3-105(c) the prevailing authority to define “sex” throughout the Tennessee Code, including Title 55.
8. Department Rule 1340-01-13-.12(6) is obsolete through the passage of Tenn. Code Ann. § 1-3-105(c). As the Tennessee Supreme Court has noted, “any administrative rule ... must give way to a statute in express contravention”. Hobbs v. Hobbs, 27 S.W.3d 900, 903 n. 1 (Tenn.2000). See also, Wright v. Tennessee Peace Officer Standards and Training Commission, 227 S.W. 3d 1 (Tenn. Ct. App. 2008) (“administrative regulations cannot overrule a statute”).
9. Tenn. Code Ann. § 1-3-105(c), as a state statute, supersedes any rule that may have been promulgated by the Department and controls the Department’s actions with regard to the driver license. Rule 1340-01-13-.12(6) has been rendered null by the passage of Tenn. Code Ann. § 1-3-105(c).
10. While Petitioners argue “there is no triggering mechanism contained in Tenn. Code Ann. § 1-3-105(c)” the plain language of Tenn. Code Ann. § 1-3-105(c) directs that beginning July 1, 2023, the definition applies to “any place the word “sex” is used in the Tennessee

Code.” The enactment of a code-wide definition is of itself enabling legislation for state agencies to have that definition to apply to terms within the agency’s statutory purview.

11. DLP-302(E)(3) is a policy pursuant to Tenn. Code Ann. § 4-5-102 because it is substantially repetitious of Tenn. Code Ann. § 1-3-105(c) and is merely an internal policy of the Department’s internal operations.
12. DLP-302(E)(3) does not affect the private rights of citizens, as there is no “right” to change one’s sex designator on a driver license. In addition, DLP-302 does not provide any special benefits to applicants due to their sex. It does not impose one rule for males and another for females. Nor does it prefer one sex over another when individuals request to change the sex indicator on their driver license. The policy treats the sexes equally.
13. The rulemaking process pursuant to Title 4, Chapter 2 is not applicable because DLP-302 is a policy, not a rule.
14. The Department did not exceed its statutory by implementing DLP-302. Instead, the Department complied with statutory requirements by applying the definition of “sex” pursuant to Tenn. Code Ann. § 1-3-105(c).
15. The Department took the appropriate action in denying Petitioner Doe’s request to change the sex designator on Petitioner Doe’s driver license. Petitioner Doe failed to produce an original birth certificate listing the immutable biological sex as determined by anatomy and genetics existing at the time of birth.
16. Petitioner Miller failed to produce an original birth certificate listing the immutable biological sex as determined by anatomy and genetics existing at the time of birth.

17. The Department took appropriate action pursuant to Tenn. Code Ann. § 55-50-201(5) in requiring Petitioner Miller to correct the information listed on the driver license issued in error on January 23, 2024. The actions by the Department were not punitive. Contrarily, in the April 16, 2024, letter issued by then Director Hogan, Petitioner Miller was advised that a new driver license with the correct information would be issued “free of charge.”

CONCLUSION

Based on the foregoing findings of fact and conclusions of law, it is determined that: (1) the Department is legally bound to define “sex” pursuant to Tenn. Code Ann. § 1-3-105(c); (2) The enactment of Tenn. Code Ann. § 1-3-105(c) nullified Department rule 1340-01-13-.12(6); (3) DLP-302(E)(3) is a policy pursuant to Tenn. Code Ann. § 4-5-102(2) and does not need to be promulgated as a rule; and (4) the Department possesses the legal authority to deny the Petitioners’ requested sex designator changes and to required the surrender of issued licenses that contain errors or defects. Petitioners’ requested relief is **DENIED**.

It so ordered: March 14, 2025



Dustin Brandon
Commissioner’s Designee
State of Tennessee Dept. of Safety
And Homeland Security

CERTIFICATE OF SERVICE

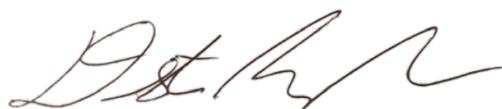
Comes now the Commissioner's Designee of the Tennessee Department of Safety, by and through the undersigned, and certifies that a true and correct copy of the above Declaratory Order has been sent to all known interested parties.

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On this the 14th day of March, 2025.



Dustin Brandon
Commissioner's Designee
State of Tennessee Dept. of Safety
And Homeland Security

EXHIBIT B
Petition for Stay

BEFORE THE COMMISSIONER OF THE TENNESSEE DEPARTMENT OF SAFETY

IN THE MATTER OF:)
)
IN RE: PETITION FOR) **TDOSHS CASE No. 2024-02**
DECLARATORY ORDER)
BY JANE DOE AND CHRISSEY)
MILLER)
)

**PETITION FOR STAY OF DECLARATORY ORDER
AND MEMORANDUM IN SUPPORT**

Petitioners Jane Doe and Chrissy Miller hereby petition the Tennessee Department of Safety for a stay of the Declaratory Order issued on March 14, 2025, pursuant to Tennessee Code Annotated § 4-5-316.

Before the Petitioners can ask the Chancery Court for a stay of the Declaratory Order, they must first ask the agency. *See* Tenn. Code Ann. § 4-5-322(c). A stay of the agency’s order is warranted because Petitioners are likely to prevail on the merits at judicial review, Petitioners will be irreparably harmed absent a stay, no others will be harmed if the Department grants the stay, and it is in the public interest to grant the stay. Petitioners, and other transgender people in Tennessee, face irreparable harm in being denied a correct and accurate driver license. And the public has a strong interest in agencies following the required procedures when those procedures affect their rights and present no harm to the Department. These factors warrant a stay. The Commissioner’s Designee should rule on this Petition for Stay as soon as possible.

BACKGROUND

1. Petitioners Jane Doe and Chrissy Miller are transgender women who seek to update the sex designators on their Tennessee driver licenses to reflect their medical and lived sex as female. *See* Decl. Order ¶¶ 15-25.

2. For decades, from 1996 and prior to July 1, 2023, Department Rule 1340-01-13-.12(6) 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.” *See* Decl. Order ¶ 10.

3. On July 1, 2023, Tennessee Code Annotated § 1-3-105(c) went into effect, stating: “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.” *See* Decl. Order ¶¶ 6-8, *cf.* Tenn. Code Ann. § 1-3-105(c) (including full language).

4. There is no language in Tennessee Code Annotated § 1-3-105(c) directing agency action. *See* Tenn. Code Ann. § 1-3-105(c).

5. Subsequently, on July 3, 2023, the Department issued a document to employees titled “Guidelines to Proof of Identity,” referenced as DLP-302(E)(3), which states:

3. Gender Changes: Pursuant to Public Chapter 486 As [sic] used in this code, unless the context otherwise requires, “sex” means a person’s immutable biological sex as determined by anatomy and genetics existing at the time of birth and evidence of a person’s biological sex. As used in this subsection (c), “Evidence of a person’s biological sex” includes, but is not limited to, a government-issued identification document that accurately reflects a person’s sex listed on the person’s original birth certificate.

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

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

Decl. Order p. 12.

6. The Department has not updated Rule 1340-01-13-.12(6) since [Tenn. Code Ann. § 1-3-105(c)] has been enacted, nor have they repealed the rule or promulgated new rules related to 1340-01-13-.12(6). Decl. Order ¶ 11.

7. Petitioner Chrissy Miller's request to update her sex designator to female was approved at the Sevierville Driver Services Center, where a clerk issued her a driver license with the sex designator of female on January 23, 2024. *See* Decl. Order ¶¶ 21-22, 27.

8. On April 16, 2024, Assistant Commissioner Michael Hogan sent Ms. Miller a letter stating that her license was issued in error because it contained a female sex designator and requiring her to surrender it within thirty (30) days or face cancellation of her driving privileges. *See* Decl. Order ¶ 23.

9. Petitioner Jane Doe's request to update her sex designator to female was denied by the Department. *See* Decl. Order ¶ 26.

10. Petitioners filed a Complaint for Declaratory Judgment and Injunctive Relief and Petition for Judicial Review in the Chancery Court of Davidson County, Tennessee on April 23, 2024, seeking relief from the actions of the Department. Decl. Order ¶ 26.

11. Chancellor Myles in Part III of the Chancery Court of Davidson County enjoined the Department and its commissioners from requiring Ms. Miller to surrender her driver license or cancelling her driver license for failure to surrender the license. *See* Decl. Order ¶ 27.

12. The Chancery Court stayed the case to allow Petitioners to file a Petition for Declaratory Order, and for the Department to respond. Decl. Order ¶ 28.

13. On September 20, 2024, Petitioners filed a Petition for Declaratory Order with the Tennessee Department of Safety. Decl. Order ¶ 29.

14. On January 13, 2025, a contested case hearing was held in front of Dustin Brandon, Commissioner's Designee. Decl. Order p. 1.

15. On March 14, 2025, Commissioner's Designee Brandon issued a Declaratory Order, determining that:

(1) the Department is legally bound to define "sex" pursuant to Tenn. Code Ann. § 1-3-105(c); (2) The enactment of Tenn. Code Ann. § 1-3-105(c) nullified Department rule 1340-01-13-.12(6); (3) DLP-302(E)(3) is a policy pursuant to Tenn. Code Ann. § 4-5-102(2) and does not need to be promulgated as a rule; and (4) the Department possesses the legal authority to deny the Petitioners' requested sex designator changes and to required [sic] the surrender of issued licenses that contain errors or defects.

ARGUMENT

The decision to stay an agency's order is based on a four-factor balancing test. *State of Ohio ex rel. Celebrezze v. Nuclear Regul. Comm'n*, 812 F.2d 288, 290 (6th Cir. 1987). These factors are:

(1) the likelihood that the party seeking the stay will prevail on the merits of the appeal; (2) the likelihood that the moving party will be irreparably harmed absent a stay; (3) the prospect that others will be harmed if the court grants the stay; and (4) the public interest in granting the stay.

Id. These factors are not prerequisites that must be met but are interrelated considerations that must be balanced together. *SawariMedia, LLC v. Whitmer*, 963 F.3d 595, 596 (6th Cir. 2020) (internal citations omitted). At a minimum, Petitioners must show "serious questions going to the merits and irreparable harm which decidedly outweighs any potential harm to the defendant if a [stay] is issued." *Ohio*, 812 F.2d at 290. Here, the balance of these factors warrants a stay.

I. Petitioners are likely to succeed on the merits, and at minimum, present serious questions on the merits.

A. No statute expressly authorizes the Department to deny sex marker changes to transgender applicants. Petitioners are likely to succeed on the merits of their claim, and at a minimum present serious questions, that the Department and Commissioner lack the authority to deny them updated sex designators on their driver licenses. Administrative agencies are creatures of statute, *Nat'l Fed'n of Indep. Bus. v. Dep't of Lab., Occupational Safety & Health Admin.*, 595 U.S. 109, 117 (2022), and must conform their actions to their enabling legislation. *BellSouth Telecommunications, Inc. v. Greer*, 972 S.W.2d 663, 680 (Tenn. Ct. App. 1997) (citing *Tennessee Pub. Serv. Comm'n v. Southern Ry.*, 554 S.W.2d 612, 613 (Tenn. 1977); *Pharr v. Nashville, C. & St. L. Ry.*, 208 S.W.2d 1013, 1016 (Tenn. 1948)). Any authority exercised by [an agency] must be as the result of an express grant of authority by statute or arise by necessary implication from the expressed statutory grant of power. *Tennessee Pub. Serv. Comm'n v. S. Ry. Co.*, 554 S.W.2d 612, 613 (Tenn. 1977) (citing *Pharr*, 208 S.W.2d at 1016). The grant of power to an agency is strictly construed. *Id.* No statute expressly grants the Department the power to determine an applicant's sex based solely on their original birth certificate.

Every application for a driver license “shall state the ... sex ...” of the applicant. Tenn. Code Ann. § 55-50-321. “The applicant shall make certification on the application as to the applicant's age and identification, and, in addition, shall submit to the driver license examiner other documentation meeting the criteria established by rules promulgated by the commissioner as proof of age and identification, or present to the driver license examiner one (1) person who possesses a valid driver license issued in this state who shall attest, in writing, under oath, that the applicant has truthfully identified the applicant in the applicant's affidavit.” Tenn. Code Ann. § 55-50-321(b).

Therefore, to establish identity (including sex), the Commissioner can only require documentation “established by rules” unless another license holder can attest to the person’s identity.

Further, the Commissioner is only authorized to establish rules that “ensur[e] the safety and welfare of the traveling public,” Tenn. Code Ann. 55-50-202(a), including those persons who travel using a driver license. Listing the assigned sex on the original birth certificate for transgender license holders when they live and present as a different sex today does nothing to “ensure the safety and welfare of the traveling public”—and actually harms and endangers the Petitioners and other transgender license holders like them. *See* Section II, *infra*.

B. Acknowledging that the Department’s enabling legislation does not authorize the blanket denial of accurate driver licenses to transgender people, the Department attempts to rely on Tennessee Code Annotated § 1-3-105(c) to justify its actions. However, Petitioners are likely to succeed and can at least show serious questions going to the merits of their claim, that the plain language of Tennessee Code Annotated § 1-3-105(c) does not authorize the Department to deny all sex designator changes for transgender people, including Petitioners.

Every word in a statute is presumed to have meaning and purpose. *Keen v. State*, 398 S.W.3d 594, 610 (Tenn. 2012) (quoting *U.S. Bank, N.A. v. Tennessee Farmers Mut. Ins. Co.*, 277 S.W.3d 381, 386 (Tenn. 2009)). No word is “inoperative, superfluous, void or insignificant.” *State v. Deberry*, 651 S.W.3d 918, 925 (Tenn. 2022). Accordingly, Tennessee Code Annotated § 1-3-105(c) states:

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.

The words in a statute are as crucial as the words that are absent from it. Strangely, while Tennessee Code Annotated § 1-3-105(c) is a definitional statute, it also purports to describe certain evidence which may prove a person’s sex in some *unspecified* instances but not all. *See* Tenn. Code Ann. § 1-3-105(c) (“evidence of a person’s biological sex’ includes, but is not limited to [...]”). And it gives exceptions to those evidential considerations. *See* Tenn. Code Ann. § 1-3-105(c) (“unless the context otherwise requires [...]”). What it expressly *does not do* is delegate authority to the Department to ban all sex designator changes for transgender people and a court must credit this absent language. *See Eastman Chemical Co. v. Johnson*, 151 S.W.3d 503, 507 (Tenn. 2004).

Despite Commissioner Designee’s assertions that “[t]he enactment of a code-wide definition is of itself enabling legislation for state agencies...,” Decl. Order p. 8, Tennessee law mandates that “[a]ny authority exercised by [an agency] must be as the result of an express grant of authority by statute.” *Tennessee Pub. Serv. Comm’n v. S. Ry. Co.*, 554 S.W.2d 612, 613 (Tenn. 1977) (citing *Pharr*, 208 S.W.2d at 1016). There must be a delegation. And that delegation must “contain[] sufficient standards or guidelines to enable both the agency and the courts to determine if the agency is carrying out the legislature's intent.” *Bean v. McWherter*, 953 S.W.2d 197, 199 (Tenn. 1997).

That is not the case here. The Declaratory Order’s novel assertion that a statute that does not expressly direct agency action instead automatically “supersedes any rule that may have been promulgated by the Department and controls the Department’s actions ...” Decl. Order p. 13, contradicts well-established Tennessee law. *See Keen*, 398 S.W.3d at 610; *Deberry*, 651 S.W.3d at 925; *Bean*, 953 S.W.2d at 197. Here, the enabling legislation commands that the Commissioner may only require documentation “established by rules” unless another license holder can attest to the person’s identity. Tenn. Code Ann. § 55-50-321(b). Furthermore, the conclusion that Section

1-3-105(c) operates upon the Department by some invisible mechanism, unknown to other statutes and without express language, is without support in caselaw and the Declaratory Order relies on no authority to support this contention.¹

The Declaratory Order grapples with the phrase “unless the context otherwise requires” in Section 1-3-105(c) by analyzing the word “context” through its definition in Merriam-Webster as “the interrelated conditions in which something exists or occurs: environment, setting.” Decl. Order p. 9. The Order construes this exception to apply only to “several instances in the Tennessee Code where this definition [of “sex”] would not be appropriate,” *id.*, where its use is not “to distinguish between male or female.” *See* Decl. Order p. 14, ¶ 4-5. However, the Declaratory Order offers no reasoned analysis of why “context” means “statutory context” and not the real-world circumstances where a determination of sex is required. The Department’s interpretation is flawed. The statute includes the qualifying language “unless the context otherwise requires,” indicating

¹ Commissioner’s Designee attempts to ground the Department’s claim in another case, *Gore v. Lee*, 107 F.4th 548, 560 (6th Cir. 2024). *See* Decl. Order p. 9. However, that case is distinguishable in several important ways. Namely, *Gore* was a constitutional challenge, not a challenge under the UAPA, and concerned a statute with an explicit grant of authority to an agency to prohibit an amendment of the sex on Tennessee birth certificates for transgender people. Tenn. Code Ann. § 68-3-203(d) (“The sex of an individual shall not be changed on the original certificate of birth as a result of sex change surgery”). Importantly, the *Gore* court disclaimed any application of that case to Tenn. Code Ann. 1-3-105(c). *Gore*, 107 F.4th at 560 (discussing whether the birth certificate amendment law violated rational basis review due to animus, the court declined to examine Tenn. Code Ann. § 1-3-105(c): “But the reality is that the plaintiffs did not challenge [Tenn. Code Ann. 1-3-105(c)] or any accompanying regulations in this case. The new law also does not speak to the validity of the Volunteer State’s birth certificate amendment policy”). Furthermore, the *Gore* court’s analysis hinged on the Tennessee Vital Records Act’s express restriction on birth certificates from public disclosure, treating them as confidential medical records that government officials are prohibited from revealing except in specific circumstances, Tenn. Code Ann. § 68-3-205(a). This is an entirely different function than driver licenses, which are specifically designed for regular public display and use as proof of identity in everyday life. *See Gore*, 107 F.4th at 563.

the legislature’s recognition that the definition would not be appropriate in all contexts. The context of driver licenses—which serve primarily as identification documents reflecting a person’s lived reality and identity rather than medical or biological historical records—requires a different interpretation.

Moreover, the Commissioner’s Designee does not account at all for the other qualifying language in the statute 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.” The Declaratory Order altogether bypasses any analysis of the phrase “but is not limited to.” This interpretation allows the Department to pick and choose which words in the statute have meaning and purpose without considering “every word.” *Keen*, 398 S.W.3d at 610. Lawful delegations require a “sufficient basic standard” accompanied by “a definite and certain policy and rule of action,” *Bean v. McWherter*, 953 S.W.2d 197, 199 (Tenn. 1997) (quoting *Lobelville Special School District v. McCanless*, 381 S.W.2d 273, 274 (Tenn. 1964), and must also “contain sufficient safeguards to prevent agencies from acting in an arbitrary manner.” *Id.* (citing *State v. Edwards*, 572 S.W.2d 917, 919 (Tenn.1978); *Tasco Developing and Building Corp. v. Long*, 212 Tenn. 96, 368 S.W.2d 65 (1963)).

Assuming, *in arguendo*, that DLP-302(E)(3) is authorized by Tenn. Code Ann. § 1-3-105(c) [which Petitioners do not agree it is], the Commissioner’s Designee does not explain why DLP-302(E)(3) requires that the sex listed on a driver license can only reflect what is on an original birth certificate despite clear language in Tennessee Code Annotated § 1-3-105(c) that explicitly states that an original birth certificate is not the only “evidence of a person’s biological sex.” The Department uses selective language from the statute to support its actions without including the exceptions.

C. There are serious questions as to whether the Department exceeded its statutory authority by implementing DLP-302(E)(3) without following proper rulemaking procedures. Even if the Department had statutory authority to act [which Petitioners refute] the Tennessee Uniform Administrative Procedures Act (“UAPA”) “create[s] safeguards even narrower than the constitutional ones, against arbitrary official encroachment on private rights.” *Emergency Medical Care Facilities, P.C. v. Division of TennCare*, 671 S.W.3d 507, 509 (Tenn. 2023) (quoting *U.S. v. Morton Salt Co.*, 338 U.S. 632, 644 (1950)). Despite the Department’s enabling regulation that commands them to require documentation “established by rules” to prove identity (unless another license holder can attest to the person’s identity), Tenn. Code Ann. § 55-50-321(b), Commissioner’s Designee opines that DLP-302(E)(3) is a “policy” and not a “rule” under the UAPA, and thus does not require notice-and-comment procedures, because it is merely restating [Tenn. Code Ann. § 1-3-105(c)], Decl. Order p. 14, but this position misses the safeguards enshrined in the UAPA.

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. *Emergency Med. Care Facilities, P.C.*, 671 S.W.3d at 510; *see also* Tenn. Code Ann. §§ 4-5-202, -203, -204, -206, -211. “Any agency rule not adopted in compliance” with these procedures “shall be void and of no effect.” *Id.* (finding TennCare’s statutory authority did not exempt it from rulemaking requirements); *see also* Tenn. Code Ann. § 4-5-216.

A “rule” under the UAPA is:

any agency regulation, standard, statement, or document of general applicability that is not a policy [] that: (A) describes the procedure or practice requirements of an agency; or (B) implements, prescribes, or interprets an enactment of the general

assembly or congress or a regulation adopted by a federal agency. ‘Rule’ includes the establishment of a fee and the amendment or repeal of a prior rule...

Tenn. Code Ann. § 4-5-102(12). But the UAPA also enumerates certain exceptions to this definition. *Emergency Med. Care Facilities, P.C.*, 671 S.W.3d at 510. As relevant here, “policy” is defined as:

any statement, document, or guideline prepared or issued by any agency pursuant to its delegated authority that merely defines or explains the meaning of a statute or rule. ‘Policy’ also means any statement, document, or guideline concerning only the internal management of state government that does not affect private rights, privileges, or procedures available to the public...

Tenn. Code Ann. § 4-5-102(10). Thus, agency statements that fall within [the policy] exception need not be promulgated through the rulemaking process. *Emergency Med. Care Facilities, P.C.*, 671 S.W.3d at 510. The Declaratory Order asserts that DLP-302(E)(3) falls within the policy exception, for a few reasons.

The Declaratory Order opines that “[t]he rulemaking process pursuant to Title 4, Chapter 2 is not applicable because DLP-302 is a policy, not a rule.” Decl. Order p. 16 ¶ 13. And “DLP-302(E)(3) is a policy pursuant to Tenn. Code Ann. § 4-5-102 because it is substantially repetitious of Tenn. Code Ann. § 1-3-105(c) and is merely an internal policy of the Department’s internal operations.” Decl. Order p. 16 ¶ 11. Further, the Declaratory Order states “DLP-302(E)(3) does not affect the private rights of citizens, as there is no “right” to change one’s sex designator on a driver license...” Decl. Order p. 16 ¶ 12.

However, DLP-302(E)(3) is a “rule” subject to the rulemaking requirements of the UAPA, not a “policy” because it is a statement of general applicability that affects the “private rights, privileges, or procedures available to the public” to change the sex designation on their driver licenses under Rule 1340-01-13-.12(6). *See* Tenn. Code Ann. § 4-5-102. DLP-302(E)(3) meets the definition of a rule for two reasons:

- (1) It is a statement of general applicability that it is “capable of being applied or is relevant to an entire class or category.” *Emergency Med. Care Facilities, P.C.*, 671 S.W.3d at 514. The DLP-302(E)(3) ban on changes of sex designators applies to all people who wish to update the sex designator on their driver licenses—that is, transgender license applicants in Tennessee.
- (2) It affects the “private rights, privileges, or procedures available to the public.” The “procedures available to the public” were clear in Rule 1340-01-13-.12(6), which allowed a sex designator change on a driver license if an applicant submitted “a statement from the attending physician that necessary medical procedures to accomplish the change in gender are complete.”

DLP-302(E)(3) applies to a class of people and affects the “private rights, privileges, or procedures available to the public.” However, DLP-302(E)(3) was never promulgated through the rulemaking process although it abrogated the procedures available to the public in Rule 1340-01-13-.12(6). “An agency statement ‘concerns only the internal management of state government,’ [] when it relates only to the management or control of the State itself rather than to external parties or relationships with external parties.” *Emergency Med. Care Facilities, P.C.*, 671 S.W.3d at 515. Thus, under the UAPA, DLP-302(E)(3) operates as a rule and is “void and of no effect.” Tenn. Code Ann. § 4-5-216.

II. Petitioners will suffer irreparable harm absent a stay, while the Department will suffer no harm if a stay issues.

If not stayed, the Declaratory Order will cause immediate and concrete harm to the Petitioners Jane Doe and Chrissy Miller and other transgender driver license applicants. No money damages can compensate Ms. Doe and Ms. Miller for their injuries. *See Overstreet v. Lexington-Fayette Urb. Cnty. Gov't*, 305 F.3d 566, 578 (6th Cir. 2002). Ms. Doe and Ms. Miller will suffer

actual and imminent injury in the form of emotional and psychological harm in the absence of a stay—while the Department will suffer no harm if a stay issues. This is evidenced by the fact that the Department has operated under Rule 1340-01-13-.12(6) for decades since 1996 without issue.

Ms. Doe and Ms. Miller risk bodily harm, harassment, and discrimination every time they are forced to use a driver license that reveals their status as transgender women. Involuntary disclosure of a person’s transgender status “exposes transgender individuals to a substantial risk of stigma, discrimination, intimidation, violence, and danger.” *Arroyo Gonzalez v. Nevares*, 305 F.Supp.3d 327, 333 (D.P.R. 2018); *see also F.V. v. Barron*, 286 F. Supp. 3d 1131, 1137 (D. Idaho 2018), *decision clarified sub nom. F.V. v. Jeppesen*, 466 F. Supp. 3d 1110 (D. Idaho 2020), and *decision clarified sub nom. F.V. v. Jeppesen*, 477 F. Supp. 3d 1144 (D. Idaho 2020). As numerous courts have recognized, “[t]he hostility and discrimination that transgender individuals face in our society today is well documented.” *Brocksmith v. United States*, 99 A.3d 690, 698 n.8 (D.C. 2014); *see also Whitaker By Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ.*, 858 F.3d 1034, 1051 (7th Cir. 2017) (“There is no denying that transgender individuals face discrimination, harassment, and violence because of their gender identity.”); *Karnoski v. Trump*, 2018 WL 1784464, at *10 (W.D. Wash. Apr. 13, 2018) (“The history of discrimination and systemic oppression of transgender people in this country is long and well-recognized.”); *Love v. Johnson*, 146 F.Supp.3d 848, 856 (E.D. Mich. 2015) (noting “there is a great deal of animosity towards the transgender community”); *Adkins v. City of N.Y.*, 143 F. Supp. 3d 134, 139 (S.D.N.Y. 2015) (“[T]ransgender people have suffered a history of persecution and discrimination...this is ‘not much in debate.’) (citation omitted). Ms. Doe’s and Ms. Miller’s harms include other tangible harms such as the risk of bodily harm and harassment every time they use a driver license that reveals their status as transgender women or where the viewer of the license does not understand

why the sex listed on the license does not match the person in front of them. Further, without a stay, Ms. Doe and Ms. Miller will be forced to reveal private medical information and deeply personal information anytime they present their driver licenses.

Ms. Doe has had to live through harassing and deeply harmful conduct when forced to disclose her transgender status. Doe Decl. ¶¶ 19-23. Ms. Doe has been denied job opportunities, called slurs and been refused service. *Id.* She rightfully fears harassment, discrimination and violence because there is significant risk to her if her transgender status is revealed.

Ms. Miller has also personally experienced harassment and discrimination firsthand. Family members have rejected her. Miller Decl. ¶ 11. Coworkers and employers have discriminated against her at work. Miller Decl. ¶¶ 13-16. Her experience shows that she is harmed when she is forced to submit identification to strangers that conflicts with her appearance. *See* Miller Decl. ¶¶ 50. She has already used her driver license to update her personal accounts. Miller Decl. ¶ 52. Ms. Miller also has a birth certificate, United States passport, and social security record that all identify her correctly as female. Miller Decl. ¶¶ 17-23. Ms. Miller rightfully fears physical and violent altercations at otherwise seemingly inconsequential moments of her life if she is forced to use a driver license with the wrong sex designator that conflicts with her other government identification. Miller Decl. ¶ 51.

Without a driver license, Ms. Miller will be unable to access the necessities of daily life. Ms. Miller will not get a license that incorrectly identifies her as a man and will lose the ability to drive. The United States Supreme Court has recognized for forty-seven years that “driving an automobile [is] a virtual necessity for most Americans.” *Wooley v. Maynard*, 430 U.S. 705, 715 (1977). Driving is “a basic, pervasive, and often necessary mode of transportation to and from one’s home, workplace, and leisure activities.” *Delaware v. Prouse*, 440 U.S. 648, 662 (1979).

“Once [driver’s] licenses are issued...their continued possession may become essential in the pursuit of a livelihood.” *Bell v. Burson*, 402 U.S. 535, 539 (1971). And for Ms. Miller, it is the only option since she lives in a rural area. Miller Decl. ¶ 44. She must drive to the grocery store to buy food. *Id.* She must drive several hundred miles several times a month to obtain necessary medical care. *Id.* Without the use of a driver license, Ms. Miller will not be able to access the essential requirements of her daily life.

If a stay issues, the Department can identify drivers accurately within its licensing scheme and provide Petitioners with accurate sex designators. Accordingly, their harm is nonexistent, and has been. Indeed, the Chancery Court already enjoined the Department from requiring Ms. Miller to surrender her current driver license or cancelling it, demonstrating that a stay is practical and not harmful to the Department’s operations. Ms. Doe and Ms. Miller are subject to irreparable harm while the Department will suffer no harm. Thus, a stay is warranted.

III. The public interest favors a stay.

The public interest inherently favors the lawful application of statutory authority. That is why the legislature “established important guardrails for administrative agencies by enacting the Uniform Administrative Procedures Act.” *Emergency Med. Care Facilities, P.C. v. Div. of TennCare*, 671 S.W.3d 507, 509 (Tenn. 2023). One of those guardrails is that agencies engage in mandatory notice-and-comment rulemaking, a process that gives the public and other affected parties an opportunity to weigh in. *Id.* Furthermore, the legislature has established that courts may reverse or modify an agency decision if the rights of the petitioner have been prejudiced by an agency action “(1) in violation of constitutional or statutory provisions; (2) in excess of the statutory authority of the agency; (3) made upon unlawful procedure; (4) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or (5) []

unsupported by evidence that is both substantial and material in the light of the entire record...”
See Tenn. Code Ann. § 4-5-322(h). Ms. Doe, Ms. Miller, and all Tennessee citizens have a paramount interest in government agencies acting within their prescribed authority. Allowing transgender individuals to have identification documents that accurately reflect their lived sex enhances public safety by reducing the potential for confusion, suspicion, harassment, or violence when identification documents are presented. Thus, a stay is warranted here.

CONCLUSION

For all the above reasons among others, the Commissioner’s Designee should stay the Declaratory Order until the Chancery Court decides whether a stay pending judicial review is appropriate.

Dated: March 24, 2025

Respectfully submitted,

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EXHIBIT A

Declaration of Jane Doe

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

JANE DOE,)
)
Plaintiff/Petitioner,) Case No. **24-0503-IV**
)
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.)

DECLARATION OF JANE DOE

I, JANE DOE, pursuant to Tenn. R. Civ. P. 72, declare as follows:

1. I am a Plaintiff in this action. I offer this Declaration in support of Plaintiff’s Motion for Temporary Injunction. I have personal knowledge of the facts set forth in this Declaration and could and would testify competently to those facts if called as a witness.
2. I am a thirty-three-year-old woman and I live in Monroe County, Tennessee.
3. I am employed as a critical care Paramedic.

4. I moved to Monroe County, Tennessee approximately eight (8) years ago to be closer to my parents.

5. I was born in Florida and I have a Florida birth certificate.

6. I am a transgender woman. I was assigned male at birth but I have known I am female since the age of three (3).

7. I originally began my social transition when I was younger, in late 2012. I began using female pronouns and changed my appearance. I began wearing makeup and dressing in traditionally feminine attire.

8. I originally sought medical care as a young person before I left Massachusetts. However, when my mother learned I was planning to move to Tennessee, she stressed to me that it was a dangerous place for transgender people. Her concern for my safety caused me to abandon my earlier plans to undergo medical transition because I was afraid of violence in Tennessee.

9. After establishing myself in Tennessee, I continued to experience extreme gender dysphoria which caused me great distress and anxiety and again led me to seek out medical care. I was diagnosed with gender dysphoria in May 2022. Since that time, I have received treatment for gender dysphoria through hormone therapy which is monitored by my doctor. This medication causes me to have the same secondary sex characteristics as other women.

10. I began socially transitioning a few months before my diagnosis of gender dysphoria. I wore my hair in a traditionally female manner and began dressing in a more traditionally female way. Patients began correctly referring to me by female pronouns

although I didn't ask them to. This caused some of my coworkers to make jokes at my expense. Ultimately, I came out to my coworkers as being a transgender woman. I introduced myself consistently as "Jane" and asked people who already knew me to call me by that name.

11. I legally changed my name in November 2022 in the Probate Court for Monroe County, Tennessee, to better reflect my sex characteristics, including my gender identity, as female. When the court granted my name change, I felt ecstatic. I was finally being seen for who I am.

12. Since my legal name change, I began to update my name and gender on my government records. My United States passport now reflects my legal name and my sex characteristics, including my gender identity, as female. I've also updated my records with Social Security.

13. When I received my updated passport, I felt excited, proud and happy. I try to use it as much as I can because otherwise, I fear harm, harassment, and discrimination for being transgender if I show my Tennessee driver license.

14. I needed to update the sex designator on my Tennessee driver license, and so on February 23, 2024, I visited my local driver services center located at 150 Plaza Circle, Athens, TN 37303. The clerk at the driver license center referred to me correctly as a woman and treated me with courtesy and respect. I presented my old driver license, my United States passport, and two proofs of residency to the clerk and told her that I would like to renew my license and change my sex designator, as well as my eye color, on my Tennessee driver license.

15. The clerk spoke with her manager and then told me they could update my eye color on my driver license, but they could not update my sex designator due to a new Tennessee law that went into effect on July 1, 2023, despite my federal REAL ID compliant passport designating me as female. The clerk mentioned that they already had a copy of my birth certificate on file which designated my sex as male at birth, and so they could not change the sex designator to female on my driver license, even if I brought in a corrected birth certificate or a letter from my doctor.

16. I felt humiliated when I left the driver services center because my own state refused to issue me an accurate driver license that correctly reflected me as female. I felt upset that I couldn't have an accurate driver license like other people in Tennessee because of a private and personal medical condition. And I feared that the state did not seek to protect me due to the well-known violence and stigma that I face as a transgender woman, and I felt that the state's message to me was that I was not worth of protecting from harm and did not deserve the same dignity afforded to other driver license holders.

17. Without an accurate driver license, I don't believe it is possible for me to stay in Tennessee permanently without sacrificing my integrity, safety, privacy, autonomy, and dignity.

18. Most people in Monroe County know me because it is a small community, and so they know that I have transitioned. But it is very difficult to navigate through the rest of Tennessee or travel to another state because I am terrified of being targeted because I am transgender.

19. I have been harassed in the past when people learned I am transgender. I applied for a job before I legally changed my name and when I showed up for the interview and the interviewer saw that I am female but my identification didn't reflect that fact, the interview turned sour. The interviewer did not ask me any more questions and tried to end the interview as soon as possible.

20. I've consistently been called slurs during my life because of my female gender identity and my feminine characteristics.

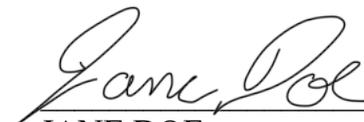
21. I've been discriminated in the past many times for showing my driver license. As an example, one time I went to a liquor store and attempted to buy a product. When the store clerk saw my driver license, she refused to serve me. She told another store clerk that he could serve me, and referred to me using male pronouns, but said she would not sell to me. The other store clerk came over and finished my transaction. I felt humiliated and embarrassed that the store clerk was so offended by my existence that she would not interact with me or simply sell me the product like any other customer. I was also deeply embarrassed that this interaction happened in public within earshot of other customers.

22. I would like to keep my transgender status confidential in situations where I feel there is significant risk, such as being pulled over by the police in another county or having to use my identification to obtain medical care in another county. I would be afraid to produce my driver license in public outside of Monroe County. I try to use my passport wherever I can because it correctly lists my sex as female.

23. I am afraid that if I have to show my driver license to people, I might face violence. For instance, if I was alone and a stranger saw my driver license, I'm afraid that they would get violent and physically harm me or assault me. I also fear interacting with law enforcement in other places in Tennessee or in another state. I worry that I might be harassed if I was pulled over. I worry about strangers seeing my driver license and groping me to try to determine my sex because there is an inconsistency between my secondary sex characteristics and the sex designator on my driver license.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: April 22, 2024



JANE DOE

EXHIBIT B

Declaration of Chrissy Miller

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

JANE DOE;)	
CHRISSEY L. 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.)	

DECLARATION OF CHRISSEY MILLER

I, Chrissy Lee Miller, pursuant to Tenn. R. Civ. P. 72, declare as follows:

1. I filed an amended complaint to join my co-Plaintiff, Jane Doe, as a Plaintiff in this action.
2. I offer this Declaration in support of my Emergency Motion for a Temporary Restraining Order. I have personal knowledge of the facts set forth in this Declaration and can testify competently to those facts if called as a witness.
3. I am a thirty-eight-year-old woman, and I live in a rural area outside Del Rio, Tennessee, in Cocke County.

4. I work seasonally as a white-water river rafting guide in the Great Smokey Mountains. Below is a picture of me working as a guide. I am the woman wearing a black helmet in the picture.



5. I am a transgender woman. I was assigned male at birth, but I have known I am female since around the age of five (5).

Social History

6. I was born in Cincinnati, Ohio and have an Ohio birth certificate.

7. I moved to Tennessee in 2014 and obtained a Tennessee driver license that same year.

8. I began publicly living as a woman in March 2023. At this time, I started using she/her pronouns, going by the name Chrissy, dressing and styling myself in a traditionally feminine way, and disclosing my identity as a woman to my social circle.

9. I have been diagnosed with gender dysphoria and am currently under the care of a licensed medical provider and licensed professional counselor.

10. I started receiving gender-affirming health care in the form of hormonal therapy in April 2023. This medication causes me to have the same secondary sex characteristics as other women, and more generally speaking, appear in a more traditionally feminine manner.

11. While I have known I was a woman since I was very young, my immediate family reacted negatively when I would display feminine traits as a child; as a result, it took me many years to finally tell my loved ones, including friends and co-workers, about my gender identity.

12. At the time I started to socially transition, I worked for an outdoor event-planning company. I worked for this company for nearly six years, in addition to my seasonal work as a river guide.

13. Many of my coworkers at the event-planning company reacted very negatively to my transition. One coworker told me not to transition because if I did, I “would have a death marker on my head.” Another coworker told me: “I can’t believe you are doing this.”

14. As I started to transition, people I interacted with became less friendly and avoided me.

15. Most harmfully, after I started to transition, the event-planning company moved me from working in the field during events, where I could engage with event

attendees, to working in the warehouse, which was not open to the public or event attendees. I was paid less for working in the warehouse.

16. Feeling like I had no other options, I quit this job. It made me incredibly sad to quit a job I loved, but I did not think I could continue working as a transgender woman in this hostile environment.

Efforts to Correct Legal Documentation of Sex

17. I legally changed my name to Chrissy Lee Miller in Cocke County Circuit Court on September 21, 2023.

18. On November 28, 2023, I petitioned the Probate Court of Hamilton County, Ohio for a correction of my birth record to change my sex designation from male to female.

19. As a result of my successful petition, I received an Ohio birth certificate listing my sex as female.

20. Nothing on the corrected birth certificate indicates that it has been amended, changed, or corrected at any time.

21. To the best of my knowledge, I should only use the birth certificate with the sex designation female in circumstances that require me to produce a birth certificate; the previous birth certificate with the sex designation male is now void and is kept under seal.

22. Correcting my birth certificate was part of a years-long legal process to change sex designations on all of my identifying documents to female.

23. To date, my United States passport, and social security card all identify me as female.

Efforts to Obtain Driver License in Tennessee

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

25. I presented two letters—one from my medical provider and one from my counselor in support of my request.

26. An employee at the services center informed me that they could not grant my request “anymore” and that I would need a birth certificate that identified my sex as female if I wanted a sex designator of female on my driver license.

27. I left the services center feeling dejected but determined to take the necessary steps to obtain a correct driver license.

28. I undertook the difficult task of educating myself on the legal process to apply for a corrected birth certificate in Ohio. I traveled to Ohio and appeared in probate court on my own behalf without the assistance of a lawyer. The Court granted my petition, and I was given a birth certificate that identifies my sex as female.

29. On January 22, 2024, I went to the driver services center at 209 Gore Road in Knoxville. This time, I presented my birth certificate that identified my sex as female. I requested a corrected driver license with a sex designator of female.

30. The driver services employee initially began to process my request after seeing my corrected birth certificate.

31. Another employee approached and stopped the first employee from processing my request. I became upset at this point and do not recall exactly what the employees at the

driver services location were saying to me about my request because I was so upset. I recall, however, that they said I could not change the sex designator on my driver license. I left the services center.

32. An hour or two after I left the services center, a woman called my cell phone and identified herself as the manager of the driver services center. She addressed me with a hostile and accusatory tone.

33. The woman told me that she “saw” my previous birth certificate that identified my sex as male. The birth certificate had, according to her, been scanned into some database or electronic record-keeping system in 2014 when I originally applied for a Tennessee driver license.

34. I was extremely upset and scared by this phone call. I felt like I was being accused of having done something wrong, possibly criminal, by having requested a corrected driver license. I did not understand why the manager felt compelled to call my cell phone after I had already left.

35. The next day, on January 23, 2024, I went back to the driver services center in Sevierville, located at 1220 Graduate Drive. I showed my birth certificate that identified my sex as female and requested a correct driver license with the sex designator of female.

36. The employee at the Sevierville driver service center quickly processed my request without any issue.

37. I left the driver service center feeling elated—like I was floating after a huge weight had been lifted. My driver license was the last form of government-issued

identification that listed my sex as male. Clearing this final hurdle was one of the best moments of my life. I felt so confident in myself and my identity.

Threat to Cancel Driving Privileges

38. On April 24, 2024, three months after obtaining my driver license, I received a letter in the mail from Defendant Michael Hogan in his role as assistant commissioner of the driver services division.

39. The letter was dated April 16, 2024. It stated that my driver license was “issued in error” and that I had to surrender my driver license “within thirty (30) days of this letter” [sic].

40. If I do not surrender my license, the letter states that such failure will result in “cancellation of [my] driving privilege.”

41. I do not know whether I have thirty days from when I received the letter or thirty days from when the letter was dated to surrender my license. But I assume that I have at least until May 16, 2024—thirty days after the letter was issued—to surrender my license.

42. When I read the letter from Mr. Hogan, I was speechless. I have wept off and on for days because of how distraught I feel.

Need for Correct Driver License

43. I need a driver license and will face significant hardship without one. My daily life will become impossible to live without the ability to drive.

44. As I live in a rural area, I drive thirty minutes' distance to work every day and fifteen minutes' distance to buy food at the nearest grocery store. I drive several times a month to Nashville for medical treatment.

45. I had planned to apply for fulltime employment with my correct driver license in the next few weeks.

46. I recently attended a career workshop specifically created for transgender people that was hosted by the Orlando Pride Center. There, I learned about how to do things like update my resume and use LinkedIn.

47. Having a driver license with the sex designator of female will allow me to finally apply for jobs without having to disclose my transgender status.

48. Because I encountered hostility as a transgender woman at my last job, not disclosing my transgender status is extremely important to me when applying for new jobs.

49. If I surrender my correct driver license, I fear the confusion that could result because all of my other forms of government-issued identification list my sex as female. I worry how others will view me and worry they will think I am lying when I present conflicting documents.

50. I especially worry about being stopped by a police officer and having conflicting documentation as to my sex.

51. If I surrender my correct driver license, I fear physical and violent altercations might arise at any of the seemingly inconsequential moments I will have to use my driver license with the wrong sex designator—checking into a hotel, renting a car, ordering a

drink, entering a bar—and having to disclose my transgender identity, something that is deeply personal, whether I want to or not.

52. I have already updated my driver insurance, health insurance, and other official documents that require a driver license number with my driver license that was issued on January 23, 2024. If I surrender my license, I will have to change or update all of this information.

I declare under penalty of perjury that the foregoing is true and correct.

Chrissy miller

CHRISSEY MILLER

Dated: May 1, 2024

Signature: 
Chrissy Miller (May 1, 2024 15:27 EDT)

Email: _____@gmail.com

CERTIFICATE OF SERVICE

I certify that I have sent a true and correct copy of the foregoing via email to the following:

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Elizabeth Stroecker
Karen Litwin
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Attorneys for Respondents

/s/ Lucas Cameron-Vaughn
Lucas Cameron-Vaughn

Dated: March 24, 2025