

ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**

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Secretary of State
John Thurston
500 Woodlane, Suite 026
Little Rock, Arkansas 72201-1094
(501) 682-5070
www.sos.arkansas.gov



For Office Use Only:

Effective Date _____ Code Number _____

Name of Agency Department of Finance and Administration

Department Office of Driver Services

Contact Paul Gehring E-mail paul.gehring@dfa.arkansas.gov Phone 501-682-7030

Statutory Authority for Promulgating Rules Ark. Code Ann. §§ 25-8-102 and 27-16-1108

Rule Title: Gender Information Required to be Stated on a Driver's License or Identification Card

Intended Effective Date
(Check One)

- Emergency (ACA 25-15-204)
- 10 Days After Filing (ACA 25-15-204)
- Other _____
(Must be more than 10 days after filing date.)

	Date
Legal Notice Published	Not applicable
Final Date for Public Comment	Not applicable
Reviewed by Legislative Council	March 15, 2024
Adopted by State Agency	March 15, 2024

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

<u>Paul Gehring</u>	<u>paul.gehring@dfa.arkansas.gov</u>	<u>March 15, 2024</u>
Contact Person	E-mail Address	Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Paul Gehring
Signature

501-682-7030 paul.gehring@dfa.arkansas.gov
Phone Number E-mail Address

Assistant Commissioner of Revenue - Policy and Legal
Title

March 15, 2024
Date

(MARKED UP VERSION OF PROPOSED RULE)

DEPARTMENT OF FINANCE AND ADMINISTRATION –
OFFICE OF DRIVER SERVICES
RULES FOR GENDER INFORMATION REQUIRED TO BE DISPLAYED ON AN
ARKANSAS DRIVER’S LICENSE OR STATE IDENTIFICATION CARD

I. DEFINITIONS.

As used in these Rules:

- (1) (A) “Applicant” means a person that has applied to the Office of Driver Services for issuance or renewal of an Arkansas driver’s license or identification card.
(B) “Applicant” includes a person that has applied to the Office of Driver Services for an amendment of gender information contained on the person’s Arkansas driver’s license or state-issued identification card under Rule IV of these Rules.
- (2) “Driver’s license” means a commercial or non-commercial Arkansas driver’s license issued by the Office of the Driver Services.
- (3) “Gender information” means the sex of an Applicant as stated on the Applicant’s identity document.
- (4) “Identification card” means the card issued for identification purposes only by the Office of Driver Services under Ark. Code Ann. § 27-16-805.
- (5) “Identity document” means an Applicant’s:
 - (A) Original birth certificate;
 - (B) Amended birth certificate;
 - (C) Passport; or
 - (D) Identification document issued by the United States Department of Homeland Security.
- (6) “Office” means the Office of Driver Services of the Arkansas Department of Finance and Administration.

II. VERIFICATION OF APPLICANT INFORMATION UPON RENEWAL OF A DRIVER’S LICENSE OR IDENTIFICATION CARD.

An Applicant shall verify to the Office that the following information contained within records of the Office is correct upon the renewal of the Applicant’s driver’s license or identification card:

- (a) The Applicant’s full legal name;
- (b) The Applicant’s date of birth;

- (c) The Applicant's gender information; and
- (d) The Applicant's address of residence.

III. GENDER INFORMATION REQUIRED TO BE STATED ON A DRIVER'S LICENSE OR IDENTIFICATION CARD.

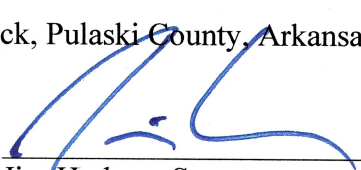
- (a) A driver's license or identification card issued by the Office shall state the Applicant's gender information as "M" (male) or "F" (female).
- (b) Except as provided under subsection (d)(1) of this Rule, a driver's license or identification card issued by the Office shall contain the same gender information as stated on the Applicant's identity document.
- (c) The Office shall not issue a driver's license or identification card that contains:
 - (1) Gender information stated as "X"; or
 - (2) No gender information.
- (d) (1) If an Applicant provides an identity document with an application for a driver's license or identification card that contains no gender information or gender information stated as "X", on a form provided by the Office, the Applicant shall state the Applicant's gender information as "M" (male) or "F" (female).
 - (2) (A) The Applicant's driver's license or identification card issued or renewed by the Office shall state the same gender information as the form completed by the Applicant under subsection (d)(1) of this Rule.
 - (B) The Applicant may subsequently amend the gender information contained on the Applicant's driver's license or identification card by submitting the form and documentation required under subsections (a)(1) and (a)(2) of Rule IV of these Rules.
 - (3) If the Applicant does not provide the Office with the completed form required under subsection (d)(1) of this Rule, the Office shall not issue the driver's license or identification card to the Applicant.

IV. AMENDMENT OF GENDER INFORMATION ON A DRIVER'S LICENSE OR IDENTIFICATION CARD.

- (a) (1) On a form provided by the Office, an Applicant may request the Office amend the gender information contained on the Applicant's driver's license or identification card.
- (2) The Applicant shall submit with the form an original or certified copy of an amended birth certificate issued by:
 - (A) The Arkansas Department of Health under Ark. Code Ann. § 20-18-307; or
 - (B) The vital records office of another state or governmental agency.

- (b) (1) The Office shall not grant an application for change of gender information unless the Applicant:
- (A) Completes the form provided under subsection (a)(1) of this Rule;
 - and
 - (B) Submits the documentation required by subsection (a)(2) of this Rule.
- (2) If the Office approves the application for amendment of gender information, the Office may issue to the Applicant an amended duplicate:
- (A) Driver's license upon the payment of the fee under Ark. Code Ann. § 27-16-806 provided that the Applicant's driving privileges are not currently suspended or revoked; or
 - (B) Identification card upon the payment of the fee provided under Ark. Code Ann. § 27-16-805.
- (c) If the Office denies an application to amend gender information submitted under this Rule, the Office shall state its reasons for the denial in writing and forward a copy of the denial letter to the Applicant via 1st Class U.S. Mail.
- (d) (1) If the records of the Office contain a record of an unexpired driver's license or identification card that has been issued with gender information stated as "X", the Office may amend the person's record to reflect gender information as "M" (male) or "F" (female) to correspond to the identity document records of the Applicant kept by the Office.
- (2) If the Office amends the gender information contained within a person's driver's license or identification card record under subsection (d)(1) of this Rule, the Office shall notify the person in writing via 1st Class U.S. Mail.
- (e) A driver's license or identification card that has been amended under this Rule shall contain the person's amended gender information upon the:
- (1) Renewal of the driver's license or identification card; or
 - (2) Issuance of a duplicate driver's license or identification card.

Issued this **7th** day of March in the City of Little Rock, Pulaski County, Arkansas.



Jim Hudson, Secretary
Department of Finance and Administration

**DEPARTMENT OF FINANCE AND ADMINISTRATION –
OFFICE OF DRIVER SERVICES
RULES FOR GENDER INFORMATION REQUIRED TO BE DISPLAYED ON AN
ARKANSAS DRIVER’S LICENSE OR STATE IDENTIFICATION CARD**

I. DEFINITIONS.

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- (1) (A) “Applicant” means a person that has applied to the Office of Driver Services for issuance or renewal of an Arkansas driver’s license or identification card.
(B) “Applicant” includes a person that has applied to the Office of Driver Services for an amendment of gender information contained on the person’s Arkansas driver’s license or state-issued identification card under Rule IV of these Rules.
- (2) “Driver’s license” means a commercial or non-commercial Arkansas driver’s license issued by the Office of the Driver Services.
- (3) “Gender information” means the sex of an Applicant as stated on the Applicant’s identity document.
- (4) “Identification card” means the card issued for identification purposes only by the Office of Driver Services under Ark. Code Ann. § 27-16-805.
- (5) “Identity document” means an Applicant’s:
 - (A) Original birth certificate;
 - (B) Amended birth certificate;
 - (C) Passport; or
 - (D) Identification document issued by the United States Department of Homeland Security.
- (6) “Office” means the Office of Driver Services of the Arkansas Department of Finance and Administration.

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An Applicant shall verify to the Office that the following information contained within records of the Office is correct upon the renewal of the Applicant’s driver’s license or identification card:

- (a) The Applicant’s full legal name;
- (b) The Applicant’s date of birth;
- (c) The Applicant’s gender information; and
- (d) The Applicant’s address of residence.

III. GENDER INFORMATION REQUIRED TO BE STATED ON A DRIVER'S LICENSE OR IDENTIFICATION CARD.

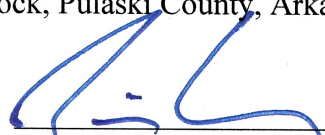
- (a) A driver's license or identification card issued by the Office shall state the Applicant's gender information as "M" (male) or "F" (female).
- (b) Except as provided under subsection (d)(1) of this Rule, a driver's license or identification card issued by the Office shall contain the same gender information as stated on the Applicant's identity document.
- (c) The Office shall not issue a driver's license or identification card that contains:
 - (1) Gender information stated as "X"; or
 - (2) No gender information.
- (d)
 - (1) If an Applicant provides an identity document with an application for a driver's license or identification card that contains no gender information or gender information stated as "X", on a form provided by the Office, the Applicant shall state the Applicant's gender information as "M" (male) or "F" (female).
 - (2)
 - (A) The Applicant's driver's license or identification card issued or renewed by the Office shall state the same gender information as the form completed by the Applicant under subsection (d)(1) of this Rule.
 - (B) The Applicant may subsequently amend the gender information contained on the Applicant's driver's license or identification card by submitting the form and documentation required under subsections (a)(1) and (a)(2) of Rule IV of these Rules.
 - (3) If the Applicant does not provide the Office with the completed form required under subsection (d)(1) of this Rule, the Office shall not issue the driver's license or identification card to the Applicant.

IV. AMENDMENT OF GENDER INFORMATION ON A DRIVER'S LICENSE OR IDENTIFICATION CARD.

- (a)
 - (1) On a form provided by the Office, an Applicant may request the Office amend the gender information contained on the Applicant's driver's license or identification card.
 - (2) The Applicant shall submit with the form an original or certified copy of an amended birth certificate issued by:
 - (A) The Arkansas Department of Health under Ark. Code Ann. § 20-18-307; or
 - (B) The vital records office of another state or governmental agency.
- (b)
 - (1) The Office shall not grant an application for change of gender information unless the Applicant:
 - (A) Completes the form provided under subsection (a)(1) of this Rule; and

- (B) Submits the documentation required by subsection (a)(2) of this Rule.
- (2) If the Office approves the application for amendment of gender information, the Office may issue to the Applicant an amended duplicate:
 - (A) Driver's license upon the payment of the fee under Ark. Code Ann. § 27-16-806 provided that the Applicant's driving privileges are not currently suspended or revoked; or
 - (B) Identification card upon the payment of the fee provided under Ark. Code Ann. § 27-16-805.
- (c) If the Office denies an application to amend gender information submitted under this Rule, the Office shall state its reasons for the denial in writing and forward a copy of the denial letter to the Applicant via 1st Class U.S. Mail.
- (d)
 - (1) If the records of the Office contain a record of an unexpired driver's license or identification card that has been issued with gender information stated as "X", the Office may amend the person's record to reflect gender information as "M" (male) or "F" (female) to correspond to the identity document records of the Applicant kept by the Office.
 - (2) If the Office amends the gender information contained within a person's driver's license or identification card record under subsection (d)(1) of this Rule, the Office shall notify the person in writing via 1st Class U.S. Mail.
- (e) A driver's license or identification card that has been amended under this Rule shall contain the person's amended gender information upon the:
 - (1) Renewal of the driver's license or identification card; or
 - (2) Issuance of a duplicate driver's license or identification card.

Issued this **7th** day of March in the City of Little Rock, Pulaski County, Arkansas.



Jim Hudson, Secretary
Department of Finance and Administration

March 7, 2024

Ms. Marty Garrity, Director
Arkansas Bureau of Legislative Research
State Capitol – Room 315
Little Rock, Arkansas 72201

Re: Proposed Emergency Rule – Gender Information Required to be Displayed on an Arkansas Driver’s License or State-Issued Identification Card

Ms. Garrity:

Enclosed is a proposed emergency rule with necessary attachments for the Office of Driver Services of the Department of Finance and Administration (Office). The effect of this rule would require that a driver’s license or state-issued identification card issued by the Office contain the person’s gender information stated as “M” (male) or “F” (female) and correspond with the gender information contained on the person’s birth certificate, passport, or identification document issued by the U.S. Department of Homeland Security (DHS). The rule also provides the Office with an application process for a person to amend the gender information contained on a driver’s license or identification card upon presentation of an original or certified copy of an amended birth certificate issued by the Arkansas Department of Health or the vital records office of another state or governmental agency. The rule would prohibit the Office from issuing a driver’s license or identification card that states gender information as “X”. For driver’s licenses and identification cards previously issued by the Office that contain gender information stated as “X”, the rule would provide the Office with the authority to modify gender information to correspond with the person’s birth certificate, passport, or DHS identity document contained in the records of the Office.

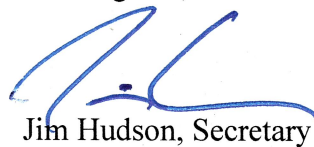
The Department has determined that an emergency rule is necessary in order to administer the Office’s responsibilities under Ark. Code Ann. § 27-16-1104(3), which requires that a driver’s license or identification card issued by the Office contain the person’s gender. The Office has permitted the holder of a driver’s license or identification to choose to indicate “M” (male) or “F” (female) on the person’s driver’s license or identification card although the person’s birth certificate, passport, or DHS document provides differing gender information. The Office has also permitted driver’s licenses and identification cards to state gender information as “X” instead of “M” (male) or “F” (female), which this rule would prohibit. This rule is necessary to ensure that individuals and organizations that rely upon identifying information contained within a driver’s license or identification card are provided with the most accurate and complete gender information that reflects the person’s gender information stated within the holder’s birth certificate, passport, or DHS document. In addition, the rule is necessary to provide the Office with the procedures to modify gender information contained in a driver’s license or identification card.

Ms. Marty Garrity
Re: Proposed DFA Emergency Rule
March 7, 2024
Page 2 of 2

The Department will also promulgate a permanent rule under the Administrative Procedures Act.

Thank you for considering this proposed emergency rule.

Best regards,



Jim Hudson, Secretary
Department of Finance and Administration

**QUESTIONNAIRE FOR FILING PROPOSED RULES WITH
THE ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT Department of Finance and Administration
BOARD/COMMISSION _____
BOARD/COMMISSION DIRECTOR _____
CONTACT PERSON Paul Gehring, Assistant Commissioner of Revenue - Policy & Legal
ADDRESS Office of Revenue Legal Counsel, P.O. Box 1272 - Room 2380, Little Rock, AR 72203
PHONE NO. (501) 682-7030 EMAIL paul.gehring@dfa.arkansas.gov
NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING _____
Paul Gehring, Assistant Commissioner of Revenue - Policy & Legal
PRESENTER EMAIL(S) paul.gehring@dfa.arkansas.gov

INSTRUCTIONS

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, miller-ricer@blr.arkansas.gov, for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, garritym@blr.arkansas.gov, for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

1. What is the official title of this rule?
Gender Information Required to be Displayed on an Arkansas Driver's License or State Identification Card
2. What is the subject of the proposed rule? Arkansas Driver's Licenses and Identification Cards
3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).

If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes No

4. Is this rule being filed for permanent promulgation? Yes No

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, what was the effective date of the emergency rule? _____

On what date does the emergency rule expire? _____

5. Is this rule required to comply with a *federal* statute, rule, or regulation? Yes No

If yes, please provide the federal statute, rule, and/or regulation citation.

6. Is this rule required to comply with a *state* statute or rule? Yes No

If yes, please provide the state statute and/or rule citation.

[Ark. Code Ann. § 27-16-1104\(3\)](#)

7. Are two (2) rules being repealed in accord with Executive Order 23-02? Yes No

If yes, please list the rules being repealed.

If no, please explain.

[Two Driver Services Rules could not be identified for repeal.](#)

8. Is this a new rule? Yes No

Does this repeal an existing rule? Yes No

If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes No

If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.

9. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

[Ark. Code Ann. §§ 25-8-102 and 27-16-1108](#)

10. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?
Yes No

If yes, please provide the year of the act(s) and act number(s).

11. What is the reason for this proposed rule? Why is it necessary?

[Arkansas Code Annotated § 27-16-1104\(3\)](#) requires that a driver's license or identification card include, at a minimum, identifying information of the holder concerning the person's full legal name, date of birth, address of residence, signature, and gender. Identifying information contained within a driver's license or identification card is utilized by law enforcement, for voting, for travel purposes, for conducting financial transactions, and obtaining insurance and health care services, among other uses.

The Office of Driver Services has permitted the holder of a driver's license or identification to choose to indicate "M" (male) or "F" (female) on the driver's license or identification card although the person's birth certificate, passport, or Homeland Security document provides differing gender information. The Office has also permitted driver's licenses and identification cards to state gender information as "X" instead of "M" (male) or "F" (female). The purpose of this rule to ensure that individuals and organizations that rely upon identifying information contained within a driver's license or identification card are provided with the most accurate and complete gender information that reflects the person's gender information stated within the holder's birth certificate, passport, or Homeland Security document.

12. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

<https://www.dfa.arkansas.gov/news>

13. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: _____

Time: _____

Place: _____

Please be sure to advise Bureau Staff if this information changes for any reason.

14. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. _____

15. What is the proposed effective date for this rule? [On April 1, 2024 or upon legislative approval](#)

16. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

17. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

18. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.

[Undetermined at this time.](#)

19. Is the rule expected to be controversial? Yes No

If yes, please explain.

[The rule will require that a driver's license or identification card issued by the Office of Driver Services contain gender information that matches the person's birth certificate, passport, or Homeland Security document, which would change current procedures. The rule also eliminates "X" as an option to be displayed as the person's gender on a driver's license or identification card. Individuals may object to the new procedures as provided in the rule.](#)

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT Department of Finance and Administration

BOARD/COMMISSION _____

PERSON COMPLETING THIS STATEMENT Paul Gehring, Asst. Commissioner of Revenue - Policy & Legal

TELEPHONE NO. (501) 682-7030 **EMAIL** paul.gehring@dfa.arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE Gender Information Required to be Displayed on an Arkansas Driver's License or State ID Card

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes No

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes No

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If no, please explain:

(a) how the additional benefits of the more costly rule justify its additional cost;

(b) the reason for adoption of the more costly rule;

(c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:
 - (a) What is the cost to implement the federal rule or regulation? Not Applicable

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total \$0.00 _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total \$0.00 _____

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total \$0.00 _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total \$0.00 _____

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year

\$ 0.00 _____

Next Fiscal Year

\$ 0.00 _____

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ 0.00 _____

Next Fiscal Year

\$ 0.00 _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

**Proposed Rule Regarding Gender Information Required to be Displayed
on an Arkansas Driver’s License or State Identification Card**

March 7, 2024

PURPOSE

The Secretary of the Arkansas Department of Finance and Administration (Secretary) is seeking Governor Sanders’ review of this proposed rule to clarify the requirement of Ark. Code Ann. § 27-16-1104(3) that each driver’s license and identification card issued by DFA contains information regarding the person’s gender.

BACKGROUND

Pursuant to the authority vested in the Secretary under Ark. Code Ann. §§ 25-8-102(a) and 27-16-1108, the Secretary, with the approval of the Governor, will administer the requirements of Ark. Code Ann. § 27-16-1104(3) consistent with this rule by requiring each driver’s license and identification card issued by the Office of Driver Services of the Department of Finance and Administration (Office) to state the person’s gender as “M” (male) or “F” (female) consistent with information contained on the person’s birth certificate, passport, or identification document issued by the U.S. Department of Homeland Security (DHS) and no longer permit “X” to be stated on the person’s driver’s license.

KEY POINTS

The proposed rule:

- Requires that a driver’s license or identification card issued or renewed by the Office contain the same gender information of “M” (male) or “F” (female) as stated on the person’s birth certificate, passport, or DHS document;
- Prohibits the Office from issuing or renewing a driver’s license or identification card that contains gender information that is different than the person’s gender information stated on the person’s birth certificate, passport, or DHS document or states “X” or “blank” as the person’s gender information;
- Authorizes the Office to amend the gender information contained on a person’s driver’s license or identification card upon presentation of an original or certified copy of an amended birth certificate issued by the Arkansas Department of Health or the vital records office of another state or governmental agency;
- Authorizes the Office to change the “X” gender information contained on a previously-issued Arkansas driver’s license or identification card based upon the birth certificate, passport, or DHS document records kept by the Office; and

- Requires that an applicant for a driver's license or identification card provide gender information to the Office as either "M" (male) or "F" (female) in circumstances where the applicant's birth certificate, passport, or DHS document do not contain "M" (male) or "F" (female) gender information.

DISCUSSION

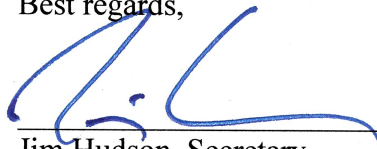
Arkansas law requires that a driver's license or identification card include, at a minimum, identifying information of the holder concerning the person's full legal name, date of birth, address of residence, signature, and gender. Identifying information contained within a driver's license or identification card is utilized by law enforcement, for voting, for travel purposes, for conducting financial transactions, and obtaining insurance and health care services, among other uses.

The Office has permitted the holder of a driver's license or identification to choose to indicate "M" (male) or "F" (female) on the driver's license or identification card although the person's birth certificate, passport, or DHS document provides differing gender information. The Office has also permitted driver's licenses and identification cards to state gender information as "X" instead of "M" (male) or "F" (female). The purpose of this rule to ensure that individuals and organizations that rely upon identifying information contained within a driver's license or identification card are provided with the most accurate and complete gender information that reflects the person's gender information stated within the holder's birth certificate, passport, or DHS document.

RECOMMENDATION

The Department of Finance and Administration recommends Governor's Office approval of this rule.

Best regards,



Jim Hudson, Secretary
Department of Finance and Administration

News

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DFA announces steps to safeguard driver's licenses and IDs

Posted Date: 03/12/2024

Office: All DFA

News:

FOR IMMEDIATE RELEASE:

March 12, 2024

LINK TO PROPOSED EMERGENCY RULE:

<https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FAssembly%2FMeeting+Attachments%2F045%2F26367%2FExhibit+B.01+-+DFA+Proposed+Emergency+Rule+-+Gender+on+DL+and+ID+Cards.3.7.2024.pdf>

FOR MORE INFORMATION:

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DFA Announces Steps to Safeguard Driver's Licenses and IDs *Licenses and IDs will reflect gender listed on birth certificate*

LITTLE ROCK, Arkansas (March 12, 2024) – The Arkansas Department of Finance and Administration (DFA) today announced a revised policy intended to better safeguard the integrity of licenses and IDs issued by DFA. Effective immediately, DFA is rescinding its existing administrative practice that allows license holders to change their gender without any verifiable information, or to utilize an "X" in lieu of gender. This action restores DFA's long-standing policy that license and ID holders must display a gender of "male" or "female," as indicated on an original or amended birth certificate.

"This policy is just common sense. Only women give birth, men shouldn't play women's sports, and there are only two genders. As long as I'm Governor, Arkansas state government will not endorse nonsense," said Governor Sarah Huckabee Sanders.

All previously issued licenses and IDs with the "X" designation will remain valid through the existing expiration date. Updates will take place at renewal.

"This change announced today reflects a commonsense approach that ensures a license or ID issued by the State of Arkansas is based on objective, verifiable information," said DFA Secretary Jim Hudson. "All of our stakeholders in law enforcement, other government agencies, caregivers, schools, and businesses depend on DFA-issued licenses and IDs to keep our communities safe and to prevent fraud. The discontinued policy is not supported by Arkansas law and was never subject to public comment and review by the Arkansas Legislative Council (ALC), as required by the Administrative Procedures Act."

DFA has submitted an emergency rule for review by ALC's Executive Subcommittee. The proposed rule specifies the process DFA will follow to validate a license or ID holder's gender. "We are committed to implementing this new policy in a manner that is respectful towards all of our customers," said Secretary Hudson.

There are 2,668,881 active Arkansas driver's licenses along with 503,294 IDs. More than 600,000 of those are in the form of a REAL ID, which will be required to board a plane or enter a federal building beginning May 7, 2025.

Find more information on the Driver Services provided by DFA at [Department of Finance and Administration \(arkansas.gov\)](https://www.dfa.arkansas.gov).

Exhibit A at 19