
CHAPTER 9:
ID DOCUMENTS AND PRIVACY



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In today's world, identification documents are needed to travel, open bank accounts, start new jobs, purchase alcohol, and even to purchase some cold medicines. Recent voter suppression efforts by some state legislatures have made voting an activity in which trans people without accurate ID may face unfair difficulties.

Historically, state and federal governments have imposed intrusive and burdensome requirements—such as proof of surgery and court orders—that have made it impossible for many trans people to obtain accurate and consistent ID. For many people, financial barriers, medical contraindications or simply a lack of medical need for surgeries make these requirements impossible to satisfy.

As a result, out of those National Transgender Discrimination Survey respondents who had transitioned, only one-fifth (21%) had been able to update all of their IDs and records with their new gender. One-third (33%) had not updated any IDs or records. At the time of the survey, only 59% had been able to update their gender on their driver's license or state ID; 49% had updated their Social Security Record; 26% their passport; and just 24% their birth certificate.¹

The survey results also confirmed what most trans people already knew—that gender-incongruent identification exposes people to a range of negative outcomes, from denial of employment, housing, and public benefits to harassment and physical violence.² Because of the work done by NCTE and activists around the country, this trend is now reversing quickly. About half of states no longer impose such burdensome requirements for driver's licenses and state IDs and growing numbers are streamlining procedures. NCTE has worked with the American Association of Motor Vehicles Agencies to educate state agencies about current best practices. Since 2010, onerous requirements for gender change on federal documents and records such as passports and green cards have also been eliminated. State-level efforts have won improvements in birth certificate laws and policies in California, Oregon, New York, Connecticut, Maryland, Vermont, Washington State and the District of Columbia.

These developments represent a growing recognition that older, more restrictive policies have served little, if any, purpose, and that reasonable policies enabling everyone to obtain accurate and consistent ID best serve both government agencies and individuals. There is still more to do, however. While eliminating the most draconian requirements for ID change, many existing federal and state policies are still unduly burdensome in requiring medical certifications from physicians, rather than accepting certifications from therapists or other non-physician health providers, or simply from the individuals themselves.

In addition to ID documents, other government records and programs unintentionally cause the disclosure of information about a person's transgender status without their consent. Chief among these are computer matching programs used by the Social Security Administration (SSA) for identity verification, which have outed individuals when gender data is inconsistent between records. In response to NCTE's efforts, SSA announced in 2011 that it would halt gender matching in its Social Security Number Verification System, the largest matching service used by private employers. This change alone has prevented workplace problems for many trans people. However, automated gender matching has not yet been eliminated in other SSA programs used to share data with state programs and other entities. Government should not needlessly compel the disclosure of a person's medical history or transgender status. The federal government has taken important steps to end these problems and should act promptly to modernize and harmonize policies across agencies.

Ultimately, listing gender on driver's licenses, state ID cards and many other documents is simply unnecessary and should be eliminated.

Policy Advances

- The Department of Defense began issuing updated military service records reflecting transgender veterans' current names. (2014)
- The Social Security Administration (SSA) modernized its long-standing policy on gender marker changes in SSA records to no longer require sex reassignment surgery. (2013)

¹ Injustice at Every Turn: A Report of the National Transgender Discrimination Survey, at 140-50.

² Injustice at Every Turn: A Report of the National Transgender Discrimination Survey, at 152-53.

- The Department of Defense began updating employment and pension records for military retirees, dependents, and contractors without proof of surgery following a procedure similar to other federal agencies. (2014)
- The Railroad Retirement Board adopted a gender marker change policies for beneficiaries, based on the Social Security Administration policy. (2013)
- The Department of Homeland Security updated its immigration document gender change rules. (2012)
- The Department of State modernized its policy on updating gender on Passports to eliminate the sex reassignment surgery requirement, replacing it with a requirement that the person has had appropriate clinical treatment for them as an individual. This policy also applies to Consular Reports of Birth Abroad. (2010)
- The Department of Homeland Security updated its immigration document gender change rules. (2012)
- SSA eliminated gender-matching when matching other data with private employers (2011)
- The Department of State modernized its policy on updating gender on US passports and Consular Reports of Birth Abroad to eliminate the surgery requirement, replacing it with a requirement that the person has had appropriate clinical treatment for them as an individual. (2010)

Needed Policy Changes

- Congress should repeal the REAL ID Act and eliminate the requirement for listing gender on driver's licenses and state ID cards.
- The Department of State should further update the passport gender marker policy to allow for certification of gender change by licensed therapists, psychologists, and nurse practitioners, and to eliminate remaining burdensome procedural requirements.
- The Social Security Administration should eliminate computer matching of gender data in all remaining data-matching programs.
- The Social Security Administration should further update the Social Security record gender marker policy to allow for certification of gender change by licensed therapists, psychologists, and nurse practitioners.
- The Center for Medicare and Medicaid Services should remove sex as a data field on Medicare cards.
- The National Center for Health Statistics should issue an updated Model State Vital Statistics Act that provides for gender change on birth certificates based on certification from a mental health or medical provider, without proof of specific medical or surgical procedures and without a court order.
- US Citizenship and Immigration Services (USCIS) should reduce the \$465 fee for changing name or gender on immigration documents.
- The Office of Management and Budget should review all new government forms and updates to forms to eliminate collection of gender data in cases where it does not serve a clear programmatic purpose.

See Economic Opportunity for more on federal personnel records.

See Honoring Our Veterans for more on records for military veterans, retirees, and dependents.