

**DEPARTMENT OF FINANCE AND ADMINISTRATION
OFFICE OF DRIVER SERVICES – PROPOSED RULE 2024-1**

PERSONS PROVIDING PUBLIC COMMENT AND RESPONSES OF THE REVENUE DIVISION

Commenter Name: K. Duke (full name not provided), May 16, 2024

Comments: With all the critically important things facing Americans in Arkansas today, I am disappointed and infuriated that you people spend so much energy focusing your cult, followers, on things of no real consequence to anyone, but the victims of your actions.

No doubt you call yourself “Christians.”

Try to remember Jesus’ teachings, and love thy neighbor as thyself.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Gina Ervin, May 16, 2024

Comments: For the safety and well-being of Arkansas residents, please do not enact another discriminatory law towards our citizens. My family moved to Maryland to escape the nonsense. No questions were asked or documentation required in their new state for the license. It was not an issue there! My granddaughter could not entertain attending college in Arkansas because of these blatantly hateful laws that serve no purpose and declined significant scholarships. Sad my 6th and 7th generation Arkansans felt driven out of their beloved state. I miss them so much it breaks my heart. I might have to move too. Focus on our real problems like poverty, food insecurity, healthcare, education, educational attainment and other areas where our state suffers, please! Enough is enough! No more deflections!

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Tillie Stiffler, May 16, 2024

Comments: It is very sad to me that the state of Arkansas is continuing changes in policy that affect the most vulnerable population in Arkansas. This new law is an attack on the transgender community. Why do you care what people have on their license or I’d. It’s not hurting anyone for them to have an X on their license. As a resident of Arkansas I want all people to feel welcome in our state. Please stop making laws that help no one and start focusing on change that will benefit the poor and disadvantaged in our community.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Tiffany L. Yang, May 17, 2024

Comments: I’m writing to urge the Department of Finance and Administration to continue allowing the gender marker X on driver’s licenses and state-issued IDs. This rule change, lacking any basis in public health or safety, poses a direct threat to the safety and well-being of transgender, nonbinary, and intersex residents. Accurate identification is crucial, not only for dignity but for personal security. This policy does not protect anyone; it harms some of our most vulnerable Arkansans.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Holly Points, May 17, 2024

Comments: As a lifelong Arkansan, I cannot understand how this rule passed any standard for “emergency approval” to even be considered now for permanent adoption.

The excuses given for what peril we face if people are allowed to choose an X instead of specifying a gender were flimsy at best. There is potential for a safety issue with a law enforcement officer if a license does not say “M” or “F”? Do our officers treat people differently based on sex or gender? Does the mere potential for a bad interaction with the police and one of the 516 people in the state with an X identifier really qualify as an imminent threat?

On its face, this appears to be a decision fueled by nothing more than culture wars and virtue signaling, which is deeply disappointing when there are actual problems harming the people in our state that continue to go unaddressed while the state government spends time worrying about whether or not an ID card matches the holder’s genitals.

Our state deserves better.

Division Response: The Arkansas Legislative Council approved the Emergency Rule on March 15, 2024. The proposed Rule is the permanent promulgation of the same rule. No changes made to proposed Rule.

Commenter Name: Hal (full name not provided), Full Moon Ranch, May 17, 2024

Comments: Leave the trans community alone.

This rule helps no one but does harm to a small minority of people just trying to live their lives with liberty and dignity.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: David McCullough, May 18, 2024

Comments: Reports are that the DFA will change from emergency to permanent status its recent ruling on state issued gender IDs. It is painfully and shamefully apparent that the whole gender ID fabrication is entirely politically motivated. There is no real danger of any kind posed by multiple ID identities. The claimed reasons suddenly being put forth by certain politicians for changing gender ID after years of uneventful usage cannot stand against sensible reasoning. Please give hope to the minority of Arkansans who deserve the dignity of true identity and abandon plans to adopt this unnecessary, concocted business.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: R. Sparrow (full name not included), May 19, 2024

Comments: As a resident of Arkansas (Crittenden County), I respectfully oppose the added restrictions currently being discussed to state issued identification.

Though the stated intent is to clarify gender for necessary identification proposes, I believe that the opposite effect will occur. For example, a person with a feminine name, dressed in a traditionally feminine manner,

and using feminine vocal pitch and style would generally be considered female. But if the person's identification states "male", that creates a conflict in various activities. Examples include voting, air travel, financial transactions, and emergency services. There is a risk that people engaged in otherwise lawful activities could be denied their rights to do so, especially in areas of civil engagement.

In addition, I do not see an urgent need for the policy change. For over a decade, the more inclusive process has worked satisfactorily. There is a tacit acknowledgement of this observation in the expected implementation of the new policy. For existing citizens whose gender is listed as different from their birth certificates, the change will not occur until their licenses or identification cards are renewed. The claims of improving identity accuracy would not be achieved, except over many years.

Lastly, I see the proposed policy change as creating a legal contradiction. Some of the forms of documentation, accepted by the state to establish identity, are issued by the US government. Federal rules and guidelines on gender markings are different from the new policy. The elimination of a non-binary designation "X" or switching between male and female gender markers would require the state to selectively accept or reject Federal documents in a manner that can be viewed as inconsistent or even capricious. This could create a risk to the state in any lawsuits filed regarding these actions in Federal court. Such litigation would be spending taxpayer money in a dubious manner.

In summary, I ask that the policy of allowing citizens to choose how they are represented on official state documents be retained.

Division Response: No federal identity documents bearing "X" gender information would be rejected under the proposed Rule. In this circumstance, the Department and the applicant for a driver's license or identification card would follow the procedures provided under Rule III(d) of the proposed Rules.

Commenter Name: Nicole Roach, May 19, 2024

Comments: As a concerned citizen of Arkansas residing in Washington County, I am writing to you regarding the waste of public funds that is the plan to establish a new rule eliminating the X gender marker.

For one, I don't see why a person's gender is required to be on a license. It does not impact any of the uses for the license, while other indicators (height, weight, hair color) can change.

On to what the State of Arkansas alleges regarding this:

1. Does not have financial impact.

False. Many intelligent, creative, and hard-working people are fleeing the state out of fear for themselves and their loved ones. The state taking a stance like this indicates that "those people" (aka, myself and many I love) are not welcome here. It causes us to wonder what other legislation that negatively impacts us will come to the table. Beyond that, it has already resulted in a lawsuit from the UCLA, which I do not expect will be inexpensive for the state.

2. The rule is 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."

Perhaps if one considers only a high school biology text. It has long been scientifically known that more than XX and YY exist. Intersex people and nonbinary folks have other chromosomal markers. The State Department recognizes this. Arkansas should do better than publically flaunting ignorance.

3. In consideration of the alternatives to the rule, this rule was deemed the least costly.

So it is less costly to hold hearings and change something that has been in place for 14 years than to let it stand? I do not understand how something that was already in place was costing the government or its citizens anything. And changing it, as discussed above, is costing quite a bit.

4. The notice alleges this will not have more than \$100,000 impact on any private business, individual, municipal or county government entity, or state government. This is already costing businesses. This is already costing the government. It is already costing the intellectual and creative community of the state. It is costing people money to have to leave the state. It is preventing future growth by scaring away fantastic folks who care about social justice.

If implemented, this rule will force others out of the state for their safety or the safety of their children. This expense will be borne by the businesses they no longer provide labor for, the stores they no longer spend money in, and the contributions they made to the community of this great state.

Please reconsider this wildly unnecessary action, and stand on the right side of history.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Jennifer Gammage, May 20, 2024

Comments: I am writing as a member of the public to object to proposed changes to gender marker requirements and options on state ID cards and drivers' licenses. This measure runs counter not only to empirical research and evidence regarding gender and economic impacts, but to federal policies governing the safety of the workforce.

Many people are born intersex, with two gender markers, at birth, which is why federal identification allows for a third gender category. In restricting use of the "X" gender marker from state identification, Arkansas ensures that people born intersex will no longer have federal and state documents that match.

This will negatively impact Arkansas workers who, for example, need to register for federal Hazmat certification or other federal clearance measures. It will also lead to problems with international travel, banking, and medical care for those who no longer have matching forms of federal and state identification.

Economically, this creates unnecessary costs for workers and employers, and will contribute to a migration of intersex and trans workers from Arkansas to states where they can exist without facing discriminatory legislation that interferes with their livelihood.

It also contributes to barriers for healthcare that will result in costly medical problems, even and including preventable deaths.

The three gender options available on state identification cards were not resulting in any harm while in use and there is no incentive, economic or otherwise, to the state from removing the "X" option outside of appeasing ideological demands of select constituents that are not grounded in empirical research, economic need, or other measurable benefit.

I hope you will rethink your proposed changes rather than give in to pressure to overexert state power for the sole purpose of making Arkansas unlivable for intersex and trans people.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Michela Steele, May 23, 2024

Comments: Abolishing the “X” marker option, takes us back more than a decade in inclusive practices. There is no reason to remove the “X” gender marker as there has been no negative impact from people choosing the X option on IDs or driver’s licenses. This change has left many Arkansans without driver’s licenses/IDs accurately reflecting their gender identity, leading to psychological distress and exposing them to discrimination and violence.

We, as a state, should be working to become more inclusive instead of caving to hate and transphobia. The decision to remove this inclusive marker choice was based on bias and pseudo-science, not on established medical consensus on gender dysphoria treatment. Removing this marker also violates individuals’ privacy, and undermines the safety and well-being of transgender, nonbinary, and intersex people.

Please reinstate the use of the “X” marker option. This will make Arkansas more inclusive and more attractive to large business and tourists considering Arkansas.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Jim Metzger, May 24, 2024

Comments: I want to register my opposition to the proposal by DFA to force registrants to declare male or female on their applications.

This is a totally unnecessary infringement on the rights of transgender and other applicants, who currently can indicate an “x” for their status.

Why would DFA want to intrude in the present process without any serious policy discussion about its necessity?

Please return to your normal operations and provide us citizens with the fine services that we expect from you and your staff.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Jane Stitt, LPN, June 3, 2024

Comments: My name is Jane Stitt. I am a nurse living and working at Mercy Rehabilitation Hospital in Lowell, AR. I am writing you about the Arkansas Department of Finance and Administration’s proposal to eliminate the X gender marker from drivers licenses.

Please do not allow this change. There are over 500 nonbinary and intersex Arkansans who need to keep their current gender marker of X on their drivers licenses. Removing the X marker would harm their mental health, in addition to disrupting their daily life activities. Their federal and state documents will no longer match, and this will cause difficulties with their ongoing employment, voting, travel, finances, and health care access.

This is a cruel, unnecessary legal action against 516 Arkansans. Please do not allow this change to go forward.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Oliver Jennings, June 4, 2024

Comments: I'm writing today as a resident of Washington County, Arkansas, asking you to reject the recent changes made to the gender marker on Arkansas IDs and driver's licenses and restore the "X" and the ability to change the gender marker without an amended birth certificate.

Arkansas has had one of the most inclusive policies in the country regarding gender markers on IDs and DLs since 2010. In the 14 years that this policy has been in place, I have seen no evidence that it posed any threat to public safety. In fact, this policy made me proud to be an Arkansan because it showed that Arkansas is a safe place for folks who may not be welcome in other southern states. As someone with multiple trans friends and acquaintances, I know that having the correct gender marker on their ID has made them both physically safer and happier.

Physically safer because many of them do not "look trans." You would never know that they have transitioned just from looking at them. Having the correct gender marker on their ID has ensured that they are not at risk of harassment when someone needs to check their ID. The person checking is easily able to see that the photo matches the person in front of them and the birthdate, address, and name are all easily verifiable if they are relevant.

This has also improved the lives of my friends emotionally. We celebrate when they are able to update their gender marker. It affirms each person who is able to do it. It makes them feel safer, and it makes them feel like they can live and exist here, instead of feeling the need to move somewhere they feel safer.

All of that to say, the policy from 2010 hurts no one, but it helps the people who need it tremendously. Reject the recently imposed changes to this policy. Let Arkansas be a state that is safe for everyone.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Renee A van Dyke, June 5, 2024

Comments: As the parent of a person who identifies as trans-masculine non-binary, I strongly urge you to provide to the option of a gender-neutral marker on AR state issued drivers' licenses and IDs. In denying a gender-neutral marker not only do you invalidate their human existence but also jeopardize their right to safety.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Stephanie E. Spencer, June 5, 2024

Comments: I am writing to make it known that I am opposed to the proposed rule to remove "X" as an option for one's gender on Arkansas issued driver's licenses and state identification cards. If allowed to proceed with the proposed rule change, this will cause irreparable harm to the individuals who currently have this designation on their driver's licenses or state IDs and serves no purpose other than to further vilify a group of individuals whose only "crime" is a desire not to be required to identify with a binary gender of male or female that doesn't apply to them.

The current designation of an "X" as gender is already in place, causes no harm to anyone, and therefore, makes absolutely no sense to me to change it.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: PC Custer, June 5, 2024

Comments: I am writing to oppose the implementation of Rule 2024-1. The existing policy for driver's license information has been working smoothly for many years without incident. No person has been harmed. No person has been inconvenienced. No laws have been broken.

Now the governor has decided that it should be changed to agree with her own biases, to the detriment of a small group of Arkansas citizens. Why is this change needed? Who has been harmed? Rule 2024-1 is unnecessary. It appears the motivation for this rule change is punitive and discriminatory. No concrete justification or evidence has been presented.

This rule will be most difficult to enforce. Yes, you can bully the very small number of those who currently have "X" on their licenses. But to prove if one is "M" or "F" for the licenses, there's a BIG problem. You will need to ask every Arkansan to bring birth certificates to renew, even the heterosexuals. And that won't go over well with the heterosexual community.

Arkansas does not need more punitive and mean rules against the LGBTQ community. They are citizens too.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Jordan Ford, June 6, 2024

Comments: I agree with adding gender assigned from birth on our drivers license. It is a government ID meant to identify the individual not make them feel good about themselves. If they want to pretend they are something other than what they were born as they can do that on their own time. A government ID is not a feel good thing. It's to properly identify the individual.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Delton Kitchell, June 6, 2024

Comments: You are male or female. FACT! M or F is sufficient. Those confused souls can refer to their designation at birth.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Debra Conard, Project Coordinator of Cypress Bay Development, LLC, June 6, 2024

Comments: I am submitting this public comment regarding DFA Rule 2024-1, titled, Gender Information Required to be Displayed on an Arkansas Driver's License or State Identification Card to require the gender information displayed on an Arkansas drivers' license or State ID card be the same as the gender reflected on the license holder's birth certificate.

I support this rule. I feel that it gives full disclosure to the public and/or law enforcement officers as to the real identity of the individual. A biological male who identifies as a female still has the strength and body composition of a male. This means they are physically stronger than the female persona they are portraying and law enforcement particularly needs to be aware of this when interacting with transgender persons.

Biology is science and science has proven that there are only 2 genders – MALE and FEMALE. Public

records are play a very important role in everyday life and should be based on scientific facts to ensure correct and consistent records are maintained. A mental disorder should NOT obfuscate the accuracy of records that will be relied on now and in the future for census and other purposes.

In addition, I don't see where this ruling should cause 'fear and uncertainty' for a person suffering from 'gender dysphoria'. And I don't see where this ruling qualifies as 'unjust' in any way.

Again, I SUPPORT this DFA rule.

Have a blessed day!

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Tony Mitchell, June 6, 2024

Comments: Thank you for the opportunity to comment on this proposed rule. I have been working as a Registered Nurse for 40 years in the ER and behavioral health departments.

I would like to inform you of the potential effects regarding this proposed rule.

Question #5 regarding the financial implications of individuals lists "0" financial costs. Those individuals opposed to this rule because of their chosen gender will have no choice but to move to another state. The ramifications and costs to accomplish this would be enormous when you consider finding a new home and moving your family. The tax base and work force would also be affected negatively regarding state income.

I also feel that the rule would make healthcare unavailable to those "X" people by not being able to provide a government issued ID which is required during healthcare facility registration.

I do not understand the "emergency" that is being created with the "X" and see no benefits from changing it.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Tim Chandler, June 6, 2024

Comments: Thanks for allowing public comment on this Rule 2024-1. I am in favor of it. Probably about 99.99% of human beings are either Male (XY chromosomes) or Female (XX chromosomes) and no matter how they identify, no matter what surgical procedures they may undergo, their whole life every cell in their body will contain those chromosomes which determine their sex. Sex is not determined by simply saying you are what you say you are.

The vanishingly small number of "intersex" people who may have extra chromosomes, are still either only male or female, biologically (although I am not a biologist and thus eminently eligible for our Supreme Court, I nevertheless do know the difference between a man and a woman, what a woman is and what a man is). And by the way, the use of the word "gender" is incorrect - your sex is either male or female and the substitution of the word "gender" for "sex" is to adopt the language and thus to some extent the ideology and the goals, of those who believe there can be as many "genders" as they want, not just "male" and "female" when in reality that's it - just two choices, no more and no less.

I believe this rule is common sense and scientifically, biologically, and culturally sound. There is no reason to "muddy the waters" and introduce ambiguities that are not helpful, only to satisfy a loud political constituency

and ideology that does not at all represent the people of Arkansas.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: B. King (full name not provided), Head Priestess at Hippie's Sanctuary, June 6, 2024

Comments: It with deepest regret that I am unable to make a statement in person as I feel that this matter is of great significance for those who identify as trans, non-binary, etc. in Arkansas.

As the head priestess of Hippie's Sanctuary, a church based in Jonesboro, I want to make it explicitly clear that this ruling is in violation of our constitutional rights of Freedom of Religion and our ability to exercise our beliefs freely. There is no "emergency" here, and no threat, unless we are speaking of threats against those who merely wish to exist and live authentically in the state of Arkansas.

As outlined in our core beliefs and values:

- Individual identities are valid, valued, and celebrated, including one's sexual orientation or gender identity. Your identity is sacred...
- ALL are worthy of human rights (including but not limited to: requesting the use of preferred pronouns/name...)
- Your preferred pronouns and chosen name are sacred & honored.

Undoubtedly, this ruling is an infringement upon our First Amendment rights. As you well know, the same amendment prohibits the establishment of a religion by our government. Although, it is not said in so many words in proposed legislation, it is touted from the mouths of our legislators in their arguments for passing such laws and rulings...quoting the bible; book, chapter, and verse. Furthermore, it has not escaped my attention that the head of the DFA has a master's degree in theology from a Southern Baptist university. While Hippie's Sanctuary encompasses ALL belief systems, provided those beliefs *do not harm or oppress others,* it is clear that those with the "power" to do so have every intention of carrying out such harm to those of us whose beliefs and identities differ.

This proposed ruling, among others, is a very serious matter. I implore you to consider the devastation this ruling would inflict upon those in our state who merely wish to go about their lives without the unnecessary oppression of governmental overstep.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Katie White, June 7, 2024

Comments: I am here to voice my opinion on the situation with gender identity on the AR license.

It needs to be only male and female and according to your birth not how someone feels. There's only 2 genders and a persons gender is determined in conception.

The conceptual distinction between male and female based on reproductive organization provides the only coherent way to classify the two sexes. Apart from that, all we have are stereotypes.

This shouldn't be controversial. Sex is understood this way across sexually reproducing species. No one finds it particularly difficult, let alone controversial, to identify male and female members of the bovine species or the canine species. Farmers and breeders rely on this easy distinction for their livelihoods. It's only recently, and only with respect to the human species, that the very concept of sex has become controversial.

Please do not all people to choose a gender and change it on their driver's license based on feelings. At this rate people will want to change their race based on feelings.

Thank you

“He reached down from on high and took hold of me; He drew me out of deep waters.” Psalm 18:16

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Wendy Logsdon, June 7, 2024

Comments: I am emailing in response to the proposed Gender amendment rule to allow gender to be placed on driver's licenses.

I do agree with the proposed amendment as long as the “gender” listed on the drivers license IS in fact what is listed on the birth certificate AT BIRTH. This is for not only our safety as citizens but for the safety of our law enforcement which IS NECESSARY.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Amare (full name not provided), June 7, 2024

Comments: My name is Amare, and I'm non-binary.

I read the reasons to get rid of the X marker. The main one being identification.

I have been androgynous my entire life. I was on three gymnastics teams, swim team, two soccer teams, and a speed skating team. I was so muscular that I didn't even start puberty, at all, until I was 16. My body is incredibly muscular, and my huge trapezius muscles give me large shoulders. I have what the wrong people might call a “bad built butch body”. It's so bad I can't even wear many traditionally feminine shirts or blouses.

When I was 7 I had helped my bio-mom move some heavy furniture. The next day I woke up to a giant bulge in my groin. I was so scared. I knew from gymnastics and ballet, that boys had bulges there. I knew if my parents found out I was turning into a boy, they would KILL me. They were always so angry (and physically abusive), because I didn't want to wear dresses, put on makeup, or curl my hair to perform. I hid in my room, and wore baggy clothes, for two days. Finally, I tearfully went to my bio-mom, who had my adopted dad, a trained EMT, look at it. They rushed me to the hospital where I was whisked back for a hernia repair. I was glad I wasn't turning into a boy, but I still didn't want to be a girl. I was in limbo.

When I have short hair some people can't decide if I'm a woman or man. The late puberty caused me to have very androgynous features. I say all this to ask, wouldn't it be MORE efficient to have an X marker, maybe even more markers? Wouldn't it be better for someone identifying them to know they aren't traditionally feminine or masculine presenting? Wouldn't it be more useful to have one for gender nonconforming, and gender-fluid, people who may look like a woman one day, a man the next, or androgynous the next? Wouldn't the police, or whoever, be better informed that way? One would think that knowing the person might look more androgynous, or might look different each day, would help, not hinder.

Another reason it is important to have an X marker, is to avoid people pushing gendered stereotypes on us, and to give us documentation that we should be treated as agender. When I worked at Tyson Corporate, I was told I had to wear makeup, push-up bras, and more fitted (hyperfeminine) clothing. It really got in the way of

my job, because I was so uncomfortable. If I had an X marker back then, maybe HR could have done something to help me. Instead they said it was up to my boss's discretion how they interpreted the dress code.

Lastly, there is an estimated 0.6% of the population who is intersex, meaning they either have a mixture of reproductive organs, a difference between their DNA and reproductive organs, extra or missing sex chromosomes, or a mixture of the three. With 3,089,060 residents in Arkansas, that means a potential 18,534 intersex people live in Arkansas, some who don't even know it. Many intersex people had surgeries performed at birth, sometimes even without the parents knowledge, and weren't told until much later in life, if at all. Many don't find out until they have medical issues as a result of surgeries performed on them as an infant. (These are the ONLY gender reassignment surgeries performed on kids... ever, btw.) Others find out when they have a DNA test done. As science and accessibility progress, we may discover even more people are actually intersex. I'm sure having an X marker would be important when they are searching DNA databases, so they know the person's DNA and biological sex may not line up. It would also definitely help those whose biological sex looks male on the outside, but the person has female reproductive organs inside, when they need to see a gynecologist. Most insurance companies will not pay for gynecological procedures on "men", so maybe it would help to have a gender marker that allows them to have medical procedures for whatever organs they have.

Lastly, with a population of 3,089,060, and an average of 1.14% of the population being transgender, non-binary, or some other form of gender nonconforming, approximately 35,213 transgender, non-binary, and other GNC people live in Arkansas. With the statistics above of 80% of transgender people considering suicide, that is 28,172 people who have considered taking their own lives, and at 40% attempting, that's 14,086 people who attempted to end their lives in this state. This is on top of Arkansas being the LEAST welcoming state in the USA... for two years in a row.

<https://www.yahoo.com/news/gay-transgender-people-most-least-090319748.html>

This needs to end. Our government needs to be worried about so much more than my genitals. 28,172 people might die if we don't take better care of them, and stop all this "anti-transgender[ism]" rhetoric in our government. The government is supposed to serve all 35,213 of us... be kinder to the 28,172 who think things are bad enough to end their lives... and try harder to get those 14,086 people to stay on this planet.

Below is the graduating thesis of a dear friend of mine. Her thesis also gives many biblical reasons why people's gender should be affirmed. I thought a biblical approach might help, as well.

<https://docs.google.com/document/d/1JNarOILeUiFzlh7Nrx1dQ2102RAaPEaf9ifu-kVogg/edit>

More than four-in-ten U.S. adults (44%) say they personally know someone who is trans, and 20% know someone who is nonbinary.

About a quarter of U.S. adults (27%) say they have a trans friend, while 13% say they have a co-worker who is trans and 10% say they have a trans family member. About one-in-ten adults (9%) say they know a trans person who is younger than 18.

A 2021 Center survey found that 26% of U.S. adults personally knew someone who goes by gender-neutral pronouns such as "they" instead of "he" or "she," up from 18% in 2018.

- Pew Research Center

Nearly one-third (30%) of respondents reported that they were verbally harassed in the last 12 months because of their gender identity or expression.

- US Trans Survey

Thank you for your time.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Beatrice (full name not provided), June 7, 2024

Comments: I'm a constituent and registered to vote. I love Arkansas, and one of the biggest reasons is that Arkansans are laid back.

There is no need to make transgender, non-binary, or intersex people have their ID match their birth certificate. It would not help any Arkansan and will only start turning this wonderful state into the right-wing version of woke.

We can set an example by keeping government out of these issues. We don't need to show how extreme we are. Extremism will only make us like every other southern state.

In addition, forcing the gender marker to match the birth certificate would negatively impact people like me. I'm not transgender, but I do not have my birth certificate. I was born in California and lost my birth certificate over the years. To obtain a new one would be extremely challenging, as California is one of the many states which are incredibly slow to get vital records from.

Please do not impose this silly and frivolous rule which will only inconvenience the rest of us, just so 1% of the population has to have the gender marker you prefer them to have.

Keep Arkansas great, and PLEASE stay out of the lives of citizens. I'm a Republican because I prefer small government, not because I want the government to nitpick who has what gender on their ID.

You will be doing a huge disservice to all Arkansans. If I have to show my birth certificate to get my ID renewed just because of your petty "anti-woke" obsession, I just might have to vote Democrat on the coming elections, and I REALLY don't want to have to do that.

P.S. if you could focus on repairing our roads instead, that would be great.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Kim King, June 7, 2024

Comments: There are only 2 genders.
Your license should indicate your gender at birth, male or female.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Ethan Fullaway, June 7, 2024

Comments: I'm a concerned citizen of Little Rock Arkansas and would like to make it known that making gender markers match your birth certificate (It makes no sense for them to match, gender and sex are not the same. Get informed!) will result in some transgender people being targeted. For instance, if they have to show their drivers license at a register, and pass for their gender but the license says they're something else. Some people might be prejudiced, which will sometimes manifest into a hate crime. Also transgender people can and will be targeted by some police officers. Do we really need a George Floyd incident here in Arkansas? We should really take our time to think past our bigoted prejudice before we act out of ignorance and hate, because it's going to get innocent people killed.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Audrey Pickett, June 8, 2024

Comments: You need to allow trans, intersex, and non-binary people to choose their own gender marker on their ID instead of going by birth certificate.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Pam Ridgeway, June 8, 2024

Comments: How do 5 people warrant all this waste of time???

I truly understand the plight

But it also cause great distress on public officials too I mean really, over a male/female on a driver's license.

This community of 1-3% has stifled our way of life from TV and laws.

And the people in power seem to bough down to them.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Auren Melli Haynie, June 11, 2024

Comments: I am a nonbinary Arkansan using the "X" gender marker on their state ID. I run the Rainbow Closet, a free gender-affirming clothing charity in Fayetteville, AR, and I am a director of Queer Camp, a Fayetteville-based summer camp for LGBTQ+ identifying youth. I work extensively with LGBTQ+ people in Arkansas, and I understand better than most people how the proposed Rule 2024-1 will affect Arkansans.

In sum, Rule 2024-1 will require Arkansas state IDs to display a gender that matches the sex listed on birth certificates. I am writing to raise my concerns about the imminent harm this rule will cause.

When their state IDs are forced to match the sex listed on their birth certificates, then intersex, transgender, and nonbinary individuals whose physical sex characteristics and/or gender presentation do not match the sex listed on their ID will suffer greatly. When the sex/gender on an ID card does not match the physical appearance of the person presenting the ID, the person is at risk of being viewed as suspicious or even turned away under the assumption that they are using a fake ID. Proper identification then becomes an issue affecting all areas of life, including but not limited to: Finding gainful employment, passing identification checks with law enforcement, admittance into school or university, gaining access to appropriate healthcare, and so on. This situation also increases the risk of false arrests when law enforcement incorrectly flags these individuals as suspicious due to non-matching IDs.

In addition, for intersex, transgender, and nonbinary individuals, an ID with a gender marker that does not match their current gender identity or physical sex characteristics is much more likely to experience an increased level of anxiety, depression, and gender dysphoria. The harmful impact on people's health and well-being from being misgendered is well-studied by reputable health organizations all over the world. The undue stress from misgendering can affect the physical and mental health of these individuals such that they may struggle at work, school, and home. Coupled with the identification issues outlined above, these individuals will face many undue hardships creating barriers to being functioning members of society who can receive education and employment opportunities to provide for their families. These struggles increase the risk of dependence on government-subsidized welfare programs. Therefore, the long-term outcome of this rule not only affects intersex, transgender, and nonbinary individuals, but also imposes an increased burden on taxpayers throughout the state.

These concerns are not hypothetical; they are issues affecting many Arkansans right now, and they will only increase if Rule 2024-1 is passed. The Honorable Judge Patricia James already struck down the rule once, publicly and officially acknowledging the irreversible harm it causes. The method previously employed by the Arkansas DMV allowing Arkansans to self-select the gender marker used on their IDs has not caused harm to individuals, government systems, proper identification by law enforcement, or to taxpayers in Arkansas, and has instead alleviated many stressors on Arkansans. Therefore, I urge all Arkansas representatives to bury this new rule before it causes further harm to both individuals and society at large.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Rev. Garry Teeter, LPC, June 12, 2024

Comments: Thank you for the opportunity to comment on this proposed rule. I am Rev. Garry Teeter, LPC (Licensed Professional Counselor) and an Ordained Deacon in the United Methodist Church. My calling is to build a bridge between the community and the church and between the church and the community, especially where there are injustices present.

I would like to address the inconsistency of reporting regarding this proposed rule.

It is my understanding that other government documents such as passports and governmental agencies such as Homeland Security allow for the “X” gender designation. To delay allowing this designation on a driver’s license will prolong accurate information to be communicated where necessary, since driver licenses are issue for a period of 8 years.

I see no reason to delay allowing for the “X” gender designation and support that this be considered under the emergency clause so that an individual would not have to wait another 8 years or incur an added expense in getting a licenses reissued one the amendment is law.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Devon Falcon, June 12, 2024

Comments: This email is regarding the gender marker on IDs and Driver’s Licenses having to match the birth certificate sex.

How will this impact the rest of us who aren’t trans? Will we have to show our birth certificate to renew our license?

Will a copy of the birth certificate work? Or a scanned version? I don’t have my original

Division Response: The proposed Rule does not require a birth certificate to be presented to the Office of Driver Services to renew a driver’s license or state-issued identification card.

Commenter Name: Ashley Clifton, M.S. Ed., June 12, 2024

Comments: I am writing to express my concern about the proposed changes to Arkansas state ID laws that would require all Arkansans to use only “male” or “female” on their state identification. This change would overturn an inclusive policy that has been in place since 2010, which permitted the use of an “X” marker, allowing individuals to safely and accurately self-identify.

This inclusive option has been crucial for many Arkansans, providing them with a sense of recognition and safety. The proposed changes would not only strip away this important option but also force individuals into a binary system that does not reflect their identity.

A state judge has already determined that no emergency existed to necessitate this change going into immediate effect, resulting in an injunction currently in place. This gives us a valuable opportunity to voice our opinions during the public comment period before the Legislative Council makes a decision on adopting the permanent rule.

I urge you to consider the detrimental impact this change would have on many of your constituents. It is unnecessary, damaging, and dangerous to impose such a restrictive measure. By maintaining the current policy, Arkansas can continue to uphold the values of inclusivity and respect for all individuals.

Please take a moment to review the concerns of your community members and stand against this proposed change. Your support is vital in ensuring that all Arkansans feel recognized and respected.

Thank you for your attention to this critical issue.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: tmouse (full name not provided), June 12, 2024

Comments: There are 2 sexes - male and female. Any deluded person who cannot tell the difference should be ignored. Please do not capitulate to this silly “gender ideology”.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Jamie J. Els, Ed.D., FCI Programming Director at Park University – Parkville Campus, June 13, 2024

Comments: I am writing to address a critical issue affecting the transgender community in Arkansas: the right to identify with an “X” gender marker on driver’s licenses and other state-issued identification documents. As an advocate for the LGBTQAI+ community, I urge the state to recognize and support this inclusive measure, ensuring equal rights and protections for all citizens, regardless of gender identity.

The ability to accurately reflect one’s gender identity on official documents is a fundamental aspect of personal autonomy and dignity. For many transgender and non-binary individuals, existing only within the binary options of “M” or “F” on identification documents imposes an undue burden and fails to represent their authentic selves. Allowing an “X” gender marker acknowledges the existence and rights of non-binary individuals, promoting inclusivity and reducing discrimination.

Discrimination against transgender individuals is well-documented and pervasive. According to the 2022 U.S. Transgender Survey, “nearly half (47%) of respondents had thought about moving to another state because their state government considered or passed laws that target transgender people for unequal treatment.” This is currently the case for one of my students who lives in your great state and has had their life turned upside down because of the March 12, 2024, rule change. They are being forced to identify as someone they are not, which is causing them physical and mental stress. Furthermore, if this law remains in effect, it will cause them to lose their job and require them to move to another state. If this happens, this will be a huge loss to Arkansas as this individual is a change agent who positively impacts their community. To avoid losing a lifelong resident, and others like them, I kindly request you consider voting against the March 12th ruling. By allowing

the current 342 individuals with licenses and 174 individuals with state IDs to continue to have the “X” gender marker and extending the same courtesy to other Arkansans who identify as non-binary, Arkansas would take a significant step toward reducing risks and promoting the safety and well-being of transgender and non-binary individuals.

Legal precedents support the argument for more inclusive identification policies. In the landmark case of *Obergefell v. Hodges* (2015), the Supreme Court recognized that the Constitution promises liberty to all within its reach, a liberty that includes certain specific rights that allow persons, within a lawful realm, to define and express their identity. Additionally, the Equal Protection Clause of the Fourteenth Amendment mandates that no state shall deny to any person within its jurisdiction the equal protection of the laws. Discriminatory practices that force individuals to misrepresent their gender on official documents violate this constitutional guarantee.

The move to keep an “X” gender marker is not only a matter of legal compliance but also a moral imperative. It sends a message that Arkansas values and respects the diversity of its residents. By permanently reinstating this policy, the state can foster a more inclusive environment, reduce instances of discrimination, and uphold the rights of all its citizens.

In conclusion, I strongly urge the state of Arkansas to allow an “X” gender marker on driver’s licenses and other state-issued identification documents. This will affirm the identities of transgender and non-binary individuals, reduce discrimination, and align Arkansas with the growing number of states recognizing the importance of inclusive identification practices.

Thank you for your attention to this matter. I look forward to your positive response and am available to discuss this issue further at your convenience.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Meredith Petrus, June 14, 2024

Comments: Thank you for the opportunity to comment on this proposed rule.

My name is Meredith Petrus, and I am an 8-year resident of Fayetteville, Arkansas. I attended the University of Arkansas where I obtained my degree, and since then I have worked for Tyson Foods Inc. for 2 years. I worked for a handful of different small businesses in the area through college, and I feel very loyal to this area and protective of the people that live here. I have nothing personal to gain from this rule being passed or not, as I do identify with the sex that I was born with. However, in my time in this community, I have learned so much about self-expression and acceptance from the well-rounded and loving people here in Arkansas, and I have met many incredible people who do not identify with their sex assigned at birth. I feel so privileged and lucky to not have an identity defining issue within myself, as we can all imagine that would be extremely tough to battle. I strongly believe that passing this rule would have a direct negative impact on the citizens of Arkansas and ubiquitously impact those who love and care for them. Though a gender marker may be a helpful way to identify people, it is an outdated measure that must evolve with the ever-changing, beautiful world around us. I believe there are other sound solutions to assist in identifying people when they hand over a driver’s license or State Issued ID aside from the gender marker identifier. There could be upgraded photo software and positioning and more thorough policies around updating your state documentation and driver’s license. I am certain there are many other solutions, and possibly public forums in key communities could help capture the best representation of what the tax paying people of Arkansas believe and want for the State.

As someone who bartended on Dickson Street in Fayetteville, just blocks from the University, I gazed at hundreds, even thousands of IDs. I have never once needed the gender identifier or even looked closely at it. I

understand ordering a drink is much different than, say, identifying a person who is lost or deceased. It is just a small detail on the entire ID that only a few select entities view and scan. I have been pulled over for two traffic infractions (that were ultimately dismissed) in Johnson, Arkansas where I complied completely and handed over my ID. Both of those officers, seeing my female gender marker as they ran my information and checked my ID, referred to me as “sir” after. I take no offense to this, I am aware that I have short hair and can look masculine at times, but it just goes to show that even our elite state law enforcement aren’t always utilizing this identifier.

I truly believe that passing this rule will only take public focus away from more pressing issues, like our schools, roads, and police safety. I love this state with all that I have in me, which is why I am reaching out to express my concern and push legislative officers to want more and be better for the citizens of Arkansas. I ask that you consider all the people in your day-to-day routine that you might not even notice would be impacted by this rule. Your serving staff at restaurants, your gas station attendants, your hair stylist, your kids’ teachers, your boss, or your neighbor and friend could be dealing with a gender identity issue. While this may seem minute to some, living your life as your true, authentic self is a privilege that I believe aligns directly with traditional American values and the picture of the American Dream. I feel as though both sides of the aisle have a stake in this fight and have someone in their life who may not wish to be identified by their genetic gender assignment.

Again, I thank you for the opportunity to comment on an issue affecting the people of my state. Democracy is a beautiful process, and I am lucky to have the resources to reach out to my local and state representatives. We all just want the freedom to be happy with who we are and even more; to love ourselves too.

Thank you for your time.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Wendy Jean Bennett, June 14, 2024

Comments: This is in regards to Department of Finance and Administration, Rule 2024-1, titled, Gender Information Required to be Displayed on an Arkansas Driver’s License or State Identification Card

Thank you for the opportunity to comment on this proposed rule.

I have lived off and on in Arkansas for almost 15 years. I am an executive at a company based in Arkansas, as well as donator for many charities, and volunteer to help our community.

I have never written in before, so you can imagine how I was moved to write you today.

I would like to raise concern on this ruling based on having family, friends and loved ones who identify as other than male and female. It is incumbent upon us as citizens to be curious and continue to learn and grow. It is the foundation of our great union that our history was based on laws that will evolve, as we evolve. Let us not reduce ourselves in 2024 to simply revolve and take this opportunity to evolve!

As a community, we need to allow for the designation of ‘x’ along with ‘m’ (male) and ‘f’ (female) in our driver’s licenses.

I appreciate you hearing this law abiding, tax paying citizen to make her point known and her support of the LBGTQIA+ community.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Grace Faulkenberry, J.D., Class of 2024 (UofA School of Law), June 14, 2024

Comments: Thank you for the opportunity to comment on this proposed rule.

I am Grace Faulkenberry, a resident of Ozark, Arkansas, and an advocate for LGBTQ+ rights. I have

personally volunteered as a legal assistant at several free community clinics with Legal Aid of Arkansas to help Arkansans across Arkansas legally change their gender markers for identification documents to feel more in alignment with their personal identity and more at ease moving through the world in their trans or nonbinary bodies. Seeing people empowered to define their own identities and not have to hide or over-explain why they look different than the gender listed on their government identification whenever they need to use it made me realize how important such a small thing could be.

I would like to raise concerns regarding this proposed rule.

First, the requirement to display binary gender information on identification documents disregards the existence and rights of non-binary and gender non-conforming individuals. According to a 2021 study by the Williams Institute, approximately 1.2 million LGBTQ adults in the United States identify as non-binary. The lack of recognition for non-binary individuals in legal documentation can lead to significant distress and complications in everyday interactions, such as with law enforcement or when accessing services that require identification. This oversight perpetuates a system of exclusion and discrimination against a substantial portion of the population.

The DFA listed fraud and safety as reasons for this “emergency” rule. However, this rule would perpetuate fraud by requiring people who are not biologically or psychologically male or female to be categorized in only those two genders. Furthermore, the people this ruling directly affects -- the people who currently have or wish to have an “X” as a gender marker on their government ID -- will not be made more safe by being forced to identify as something untrue to them, which statistically leads to significant psychological distress and exposes them to discrimination, harassment, and violence. If the DFA is truly concerned about fraud and safety, it should reverse this rule and maintain the dignity all Arkansans deserve by returning to the rule allowing X as a gender marker that Arkansas has had for the last 14 years, also now allowed on U.S. passports since 2022.

Second, the negative mental health implications of this proposed rule are profound. Research from the American Psychological Association indicates that the invalidation of gender identity is a significant stressor for transgender and non-binary individuals, contributing to higher rates of anxiety, depression, and suicidal ideation. Even more recent research from The Trevor Project’s 2022 National Survey on LGBTQ Youth Mental Health indicates that 42% of LGBTQ youth seriously considered attempting suicide in the past year, and those whose gender identity was not affirmed were at even higher risk. The invalidation of gender identity is a significant stressor for transgender and non-binary individuals, contributing to higher rates of anxiety, depression, and suicidal ideation. Allowing individuals to accurately reflect their gender identity on identification documents can reduce these mental health risks and affirm the dignity and identity of transgender and non-binary Arkansans.

Again, this rule is harmful because it fails to recognize and respect the identities of all Arkansans, exacerbating mental health issues and contributing to systemic discrimination. I urge you to reconsider and amend this rule to include the option for an “X” gender marker, ensuring that all residents are treated with fairness and respect.

Footnotes:

1. The Williams Institute. (2021). Nonbinary LGBTQ Adults in the United States. Retrieved from <https://williamsinstitute.law.ucla.edu/publications/nonbinary-lgbtq-adults/>.
2. American Psychological Association. (2015). Guidelines for Psychological Practice with Transgender and Gender Nonconforming People. Retrieved from <https://www.apa.org/practice/guidelines/transgender.pdf>.
3. The Trevor Project. (2022). National Survey on LGBTQ Youth Mental Health. Retrieved from <https://www.thetrevorproject.org/survey-2022/>.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Willow Terhune, June 14, 2024

Comments: Thank you for the opportunity to comment on this proposed rule.

I am Willow Terhune and am a member of the queer community. I am a volunteer that reaches out with non-profits mostly focusing on LGBT+ youth along with having family members and friends who are considered trans.

I would like to state my concerns regarding this proposed rule. There have been many attacks on the queer community, many specifically singling out trans people and trans youth. The lack of resources and care for these community members is already abysmal and passing this will only cause more harm. I have personally seen how any form of validation can literally be life changing, even life saving. Singling out this very marginalized community with this Emergency Rule will only cause more harm, even death. I know it sounds over dramatic, but it's true.

Again, I implore that this Emergency Ruling will be reconsidered and denied as it is extremely harmful.

Division Response: The Arkansas Legislative Council approved the Emergency Rule on March 15, 2024. The proposed Rule is the permanent promulgation of the same rule. No changes made to proposed Rule.

Commenter Name: Dr. Klint Kendrick, June 15, 2024

Comments: Thank you for the opportunity to comment on this proposed rule.

I am Dr. Klint Kendrick, a resident of Rogers, Arkansas. I am writing to express my concerns regarding the proposed rule which mandates that gender information on driver's licenses and identification cards must match the gender stated within a person's birth certificate.

This rule disregards the well-documented genetic variations that exist within our population. Many Arkansans do not fall strictly into the categories of "male" or "female" as traditionally defined by their primary and secondary characteristics. For instance, individuals with XYY or XXY chromosomal patterns, among other genetic variations, do not conform to the typical binary classification. These variations are not rare, affecting an estimated 1 in 1,000 individuals. Given Arkansas' population of three million, this means approximately 3,000 Arkansans are directly impacted by these genetic variations.

Firstly, enforcing a binary gender marker fails to account for the genetic diversity inherent in our population. The existence of intersex individuals, whose genetic, hormonal, and physical characteristics do not fit typical definitions of male or female, highlights the necessity for more inclusive and accurate documentation. By not recognizing these genetic realities, the rule imposes an inaccurate and scientifically unsupported classification system.

Secondly, the proposed rule could lead to significant practical and medical challenges. For individuals with genetic variations, having identification that accurately reflects their genetic makeup is crucial for receiving appropriate medical care and for avoiding discrimination or misunderstanding in various aspects of life. The "X" marker provides a scientifically valid and practical solution for representing the genetic diversity of our population.

Furthermore, this draft rule does nothing to solve any real problems faced by the state of Arkansas. There is no evidence to suggest that allowing an "X" gender marker has caused any issues for individuals, organizations,

or governmental functions. Instead, this regulation appears to be a solution in search of a problem, creating unnecessary complications for those who do not fit neatly into the binary gender categories. It imposes an administrative burden on the Office of Driver Services without providing any clear benefit or addressing any actual need.

In summary, this rule is problematic because it ignores genetic evidence and diversity within our population, forcing a binary classification that is not reflective of many individuals' genetic realities. It does not address any real-world problems and instead creates new challenges and complexities. I urge the Department to reconsider this rule and allow for the continued use of the "X" marker, ensuring that all Arkansans can have identification that accurately reflects their genetic and biological reality.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Thelma Poole, June 17, 2024

Comments: There are many individuals through no fault of their own, fall into the gender neutral category. Why not acknowledge it? Give the person checking the id a head's up. Honestly what will it hurt???

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Austin Tisdale, LCSW, June 17, 2024

Comments: Thank you for the opportunity to comment on this proposed rule.

I am a Licensed Clinical Social Worker in the state of Arkansas. I frequently treat adult clients for whom having the "x" marker on their identification cards.

I would like to raise concerns regarding the negative impact of the mental health on Arkansans regarding this proposed rule.

Being able to have identification cards that reflect chosen gender identity is imperative for reducing anxiety/distress related to Gender Dysphoria. There is clinical evidence that transgender and non-binary adults experience less suicidal ideation, plans for suicide, and lower prevalence of serious psychological distress (Scheim 2020). Furthermore, state laws that target the transgender community directly cause increased rates of suicidality (Cunningham et. al 2022) (Novoteny 2024).

If Governor Sanders' executive order goes through, there will be increased suicidality, inpatient hospitalizations, and unnecessary financial load for all struggling Arkansans.

There will be further negative consequences for all Arkansans due to the executive order's undermining of federal rulings on the impact of Title IX. Tax dollars and resources will be wasted on the lawsuits the state government will face from Arkansas citizens. Governor Sanders is risking federal funding and beneficial business opportunities being taken away from Arkansans with her policies targeting transgender individuals.

This rule needs to be changed because it will lead to negative consequences in regards to mental health, suicidality, and finances for transgender and non-binary Arkansas adults. These will further spread to every Arkansan as they would be the ones to bare the negative financial costs for Governor Sanders' bad policies.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Sylvia Amsler, June 18, 2024

Comments: Thank you for the opportunity to comment on this proposed rule.

I am a resident of Arkansas, and **I strongly urge lawmakers keep the “X” option on Arkansas driver’s licenses and identification cards** so that everyone can clearly and correctly self-identify and so that we don’t inflict further harm on a population that already faces the stress and danger of discrimination.

I would like to provide an anthropological perspective on sex and gender. Biological sex is determined primarily by chromosomes, and is assigned based on chromosomes, reproductive organs, genital morphology, and hormones. While it’s true that most people are genetically either male or female in terms of their sex, there are rare chromosomal combinations that do not result in a male or female, but rather in an intersex individual. There are also developmental reasons why sex may not develop unambiguously into one of two binary categories. These genetically or developmentally intersex individuals would clearly not be well-served by the proposed rule to eliminate “X” as an option to be displayed as the person’s gender on a driver’s license or identification card. Decisions made at birth about which biological sex to put on a birth certificate may very well not provide accurate information for these individuals whose chromosomes do not match typical patterns.

Even more importantly, biological sex and gender are *not* the same thing. Gender is a social and cultural set of norms, characteristics, and roles that has historically generally corresponded fairly well with biological sex, but there is no reason why it must. The cultural and social roles and behaviors that have been ascribed to the genders are not tightly linked to sex and in many ways are linked arbitrarily. So even for those individuals whose *biological sex* as determined by chromosomes and genital anatomy at birth is unambiguous, *gender identity* is not necessarily so clear. If the purpose of the rule is, in fact, as stated in the proposal, “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”, then it seems that the “X” option is necessary. Not everyone fits into the binary “F” and “M” options.

In addition, those who are gender fluid, expansive, or nonbinary already face discrimination and marginalization leading to poor mental health outcomes. The proposed rule to limit gender options displayed on a driver’s license or identification card would add further psychological harm.

If implemented, this rule will directly and negatively impact those who do not identify definitively as either male or female. It will also be unclear and misleading for those that rely on the information contained in state-issued IDs because it removes the nonbinary option that is appropriate for many people. Therefore **I strongly urge lawmakers keep the “X” option on Arkansas driver’s licenses and identification cards**.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Alyssa Flynn, MC, LAC, RYT, June 20, 2024

Comments: As a therapist who primarily works with LGBTQIA+ clients, I am deeply concerned and saddened by the proposed changes to identity documentation that threaten the safety and dignity of transgender, non-binary, and intersex Arkansans. This proposed policy change is discriminatory, outdated, disproven, and completely out of touch with current research. Both the American Medical Association and American Psychological Association advocate for the right of individuals to self-certify their gender on identification documents. Furthermore, current research has found that having identification that aligns with gender identity lowered suicidal ideation and attempts (Sheim et al., 2020). This is especially important as transgender, nonbinary, and intersex people are significantly more likely to experience self harm, suicidal ideation, and

attempt suicide than the rest of the population (Stonewall, 2018).

I have seen the impact that the proposed changes have made first hand in my clinical practice. My transgender and nonbinary clients have expressed concern about how this change will impact their safety and wellbeing. Many have experienced an increase in anxious and depressive symptoms since the changes were proposed. I strongly oppose the proposed changes and urge both the Governor and the Department of Finance and Administration (DFA) to reconsider their stance and commit to informed policies that ensure **equality and dignity for all Arkansans**.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Tien Estell, Policy Coordinator at Intransitive, June 21, 2024

Comments: My name is Tien Estell and I appreciate the opportunity to comment on DFA's Rule on Gender Information Required to be Displayed on an AR Driver's License of State ID Card.

Thank you for the opportunity to comment on this proposed rule. I am Tien Estell, Policy Coordinator for inTRANSitive, Trans Arkansan, and one of many people across our state looking forward to changing the gender marker on my driver's license. inTRANSitive is a Trans-led organization that serves Trans/Non-binary Arkansans statewide, and we hear daily from community members impacted by the DFA's ruling on our identities.

I would like first to explain the real emergency that exists when Trans people are forced to falsely represent ourselves on driver's licenses and state ids. Secondly, I will ask for examination of intent and request a return to the former policy that allows the "X" marker and gender marker changes not contingent upon birth certificates.

I moved recently and need to get a new driver's license that correctly displays my address, name, gender marker and current photo. After heavily considering personal safety concerns related to law enforcement, healthcare, travel and financial transactions, I decided to change my gender marker to "X," because neither "F" nor "M" is accurate and showing my id for any reason is an anxiety-ridden task. This process was clearly halted in March when DFA announced the "emergency" ruling that eradicates the only gender marker that aligns with my truth and declares surgery and birth certificate changes the only path to changing an "F" or "M."

Since the announcement of this ruling, Trans people statewide frequently contact our organization expressing fear and confusion over this current attack on our community. Trans youth looking forward to their first drivers licenses now must falsely identify themselves and move forward in their lives with legal identification that doesn't match their physical appearance. Trans adults are terrified to renew expired ids and Trans people new to our state and needing AR drivers licenses are in limbo. All of these things are dangerous to our mental and physical health, and this harm is exponentially increased when interacting with law enforcement, financial institutions, and many healthcare providers.

I urge you to consider both the intent and impact of this ruling. I ask the following questions not in expectation of an answer, but to prompt thought. Why was it issued as an "emergency" when our state is currently experiencing actual emergencies such as houselessness, food insecurity, unaffordable housing, lack of access to healthcare and educational deficit? How would you feel if changing a detail on your most used legal document- your driver's license or state id- required you to have expensive, intimate surgery then share your private medical information with strangers? Trans Arkansans face safety risks on a daily basis. Allowing us ids that correlate to our actual selves can decrease these risks and does not harm anyone.

I am an Arkansan directly impacted by this ruling and in my role as Policy Coordinator for inTRANSitive I've spoken to many other Arkansans whose lives are altered by this unnecessary DFA declaration. Not all people identify as either "Female" or "Male," and surgery isn't always desired by or accessible to people who do.

Thank you for your time and consideration.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Theo Mellon, June 21, 2024

Comments: I am writing to comment on the Arkansas Department of Finance and Administration's proposed rule 2024-1.

Thank you for the opportunity to comment on this proposed rule. I am a transgender man living in Northwest Arkansas. I have already updated my legal name, social security, passport, and driver's license. Through this process, I was able to update my gender marker from "F" to "M" as that marker is now the most accurate to how I look. Given the existing laws in Arkansas, I would not be able to change the gender marker on my birth certificate until I can afford and undergo surgery.

I would like to raise concerns over the potential effects this rule would have. In cases like mine, confounding documentation with the birth certificate will disallow updating one's driver license/ID with the most accurate gender marker. In cases where I would have to present my ID, this would cause more confusion. If I would have to present my ID to someone who has animosity towards someone who is transgender, I could be putting myself in danger.

I am speaking up, not just for myself, but for my friends and family who are transgender and have not yet been able to update their documentation/ID. Being able to update this gender marker is an additional protection for transgender people from those with ill intent. We share our IDs when starting a new job, if we get pulled over, going to a bar or concert, checking in at a hotel, and many other cases. In any of those cases, someone could use that gender marker as an excuse to do harm.

Again, I believe this rule would adversely affect transgender Arkansans given the sensitivity of our personal ID's. In mine and many other cases, an updated gender marker is most accurate to how we look. Disallowing this would cause more confusion and potential harm.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Brandi Elders, June 23, 2024

Comments: My daughter is transgender and before she came out I just knew she would commit suicide eventually...once she came out and lived as her true self I no longer worried about suicide. How you ask? Isn't this a harder road? You see she is her true self now and having to choose M on her DL could potentially send her back to a negative state of mind. Please consider how much it means to those it affects and how little it matters to those it doesn't....I want to keep the option x on the DL as an option for those who need it!

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Cameron Bradley, June 23, 2024

Comments: Hello! My name is Cameron Bradley, and I am a trans man that lives in Bentonville, Arkansas. I am opposed to the permanent rule, Gender Information Required to be Displayed on an Arkansas Driver's License or State ID Card.

My main objection with it is I feel that it will end up causing more confusion than good.

In the proposed rule, it states: "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."

However, having my ID show my gender at birth would be inaccurate information for any organization I would need to show my ID to. I do not look like a girl, so it would be confusing for anyone I need to show my ID to. If everything else on it checks out except I don't look like the gender it says, I could be refused at some places.

Another reason, if I were to go missing or needed to be found for any reason, and my identification says a different gender than what I am and what I look like, it would make it difficult for those trying to find me.

Overall, I feel that this is an unnecessary rule that would cause more confusion than good. Thank you for the opportunity to comment on this rule.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Israel Barrier, June 23, 2024

Comments: Hi, my name is Israel Barrier and I'm a trans man who lives in Bentonville Arkansas.

I wanted to say that I am against the 'Gender Information Required to be Displayed on an Arkansas Driver's License or State Identification Card' rule. I feel this rule would cause much more harm than good, and make things difficult for everyone involved. I identify as male and present as male, so there is much confusion when my ID is presented and it says "Female". There are countless other people who experience this too, and I feel this rule is just unnecessary overall.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Eris Envy, June 23, 2024

Comments: Hello my name is Eris Envy; resident of Bentonville, Arkansas. I'm writing to oppose the rule "Gender Information Required to be Displayed on an Arkansas Driver's License or State Identification Card".

I'm a trans woman living in Bentonville, Arkansas. I'm opposing the rule because I feel like it would cause far more harm than good. One of the main issues I have concerning the rule is that I don't present male at all, if my ID/ Drivers License were to say Male, there'd be much confusion when presented with my lived reality. This has already resulted in numerous mixups in job applications and when going to places where my ID is

required.

Not only do I feel as though the rule would cause harm rather than good, I feel as though the rule isn't even necessary considering the rule that's currently in place works well for most people. Thank you for the chance to comment on this issue.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Darin Pearce, June 24, 2024

Comments: I respectfully ask that you leave gender X as an option. It doesn't hurt anyone and the requested change is nothing more than a political culture war attempt to please a political base.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Kristal Flatt, June 24, 2024

Comments: I've lived here all my life and one of the primary things I've loved about Arkansas is that the state government stays out of the personal affairs of its citizens. For years there's never been an issue with folks getting the gender marker changed or just having it as X. Why now? Potential dangers were cited as the reason but no dangers were shown or given. So we're supposed to blindly trust a government about supposed dangers from a system that's been standard for years in both state and federal documents without issue?

I absolutely oppose any changes to the current gender marker system. Let Arkansans be free to choose if they have their M, F or nothing at all with X. We're Americans, we're Arkansans and we have a history of letting individuals do what they think is best. We should stick to that freedom loving ideal.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: arkfire63 (no name provided), June 24, 2024

Comments: God made humans either male or female. There are only two genders.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Tyler Herron, June 24, 2024

Comments: My name is Tyler Herron. I live in Benton County.

I don't understand why this ban on gender-neutral markers on our State IDs is necessary. No one has been able to provide a legitimate example of how an "emergency rule" is required to stop "imminent peril."

I was in the process of updating my name and gender marker, and now I'm stalled. This is very disheartening and I'll keep these decisions in mind come election time.

I urge you to strike this ban and allow Arkansans to continue having their state issued IDs match they're true identity.

Division Response: The Arkansas Legislative Council approved the Emergency Rule on March 15, 2024. The proposed Rule is the permanent promulgation of the same rule. No changes made to proposed Rule.

Commenter Name: Miriam Armendariz Piccolo, June 24, 2024

Comments: I am a constituent in Little Rock and I need our state to recognize that we have biologically and socially more than two genders.

I'm asking that the courts reconsider their decision and allow for the people of Arkansas to have the genders that they and their community recognizes them as.

Please allow for the third option of X to be a recognized gender on state IDs and driver licenses.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Anita Marlene Dial Hinson, June 24, 2024

Comments: As a vocational expert it is concerning that the gender identification marker on an Arkansas Driver's License or an Arkansas Identification Card is a potential "X" can become a life threatening crisis.

When an individual is in an accident their gender identity is essential in the medical field for their care or treatment plan which can mean the difference in life or death.

The difference in just how their heart readings and pulse reading response is a complete gender differential outcome.

It is my professional recommendation that the Court take input from doctors about this issue before a final decision is made.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Jill Dryden, June 24, 2024

Comments: I support the right to choose X instead of gender on state IDs for the people who want it.

Don't we have better things to worry about than 500 citizens out of 2 million that want a character instead of a gender term on their ID?

Come on.

Please just let people use the x. It can be a simple bookkeeping issue, not a crisis for the entire state to be involved in.

Thanks for reading.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Boris Bogomilov, June 24, 2024

Comments: Completely agree with X mark removal.

Sex M/F should coincide with birth certificate. It could potentially be changed with genetic modifications in the future as science advances.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Trinity Chapman, June 24, 2024

Comments: I am a registered voter in Pope County, Arkansas and I believe we should have X as a choice on our driver's licenses and state identification cards.

Not all people fit conveniently into boxes.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Wesley Tyra, June 24, 2024

Comments: I am not in support of drivers having an X on their licenses. No one is an X biologically.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Jennifer Bland, June 24, 2024

Comments: Arkansas Driver's Licenses and Identification Cards should no longer be allowed to have a X as the gender on the Identifications'.

Those with a X should be replaced with the proper identity as reflected on the persons Birth Certificate, once the current ID expires, renewal, replacements, and the alike.

Arkansas forms of Identification should reflect the persons gender as on the Birth Certificate.

Not wanting to disclose proper gender or identity on a Arkansas form of ID is no different than not putting a correct date of birth and name.

You give a inch...they will take a mile.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Ryan Knieff, June 24, 2024

Comments: I would like to voice my opposition to the ongoing discussions that are attempting to permanently disregard my fellow citizens that prefer not to be limited and restricted to male or female designations on their IDs and Drivers Licenses.

The attempt to revoke this already established right for many years at this point, is a weak and egregious attempt at silencing others in the name of a ridiculous culture war. This agenda does nothing except to divide folks. What about personal freedoms and "big government" telling us what we can and can't do, that this administration often brings up.

Spend our tax dollars on more important issues.

I keep reading that one reason for this is for police officer safety, I agree officer safety is important, yet there

are no reports indicating this is a problem. I'd argue that someone presenting one way and listed as another would be far more confusing or dangerous - for everyone involved.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Rev. Marie Mainard O'Connell, June 24, 2024

Comments: Thank you for the opportunity to comment on this proposed rule. I am a local Christian minister and organizer of the group Queer Collective, a collection of LGBTQ+ inclusive families in central Arkansas. I'm also the mother of a transgender teen, who is working diligently to pass the state drivers test, and was very excited to have documentation of their identity that did *not* incorrectly gender them; unfortunately, the proposed rule change threatens both financial costs and psychological harm.

To assist the rule developers, it is helpful to note the prevalence of *intersex* persons in the United States; these are individuals that are born with sex characteristics of both or neither gender's typical visible genitalia. According to a review of the American Journal of Human Biology, 1.7% of the U.S. population (about 5.6 million people) are "people with extra or missing sex-linked chromosomes, and those born with other physical variations that don't fit into categories of "male" or "female."^[1] The proposed rule change will force these individuals to choose an incorrect category for gender as M or F, when they are in fact neither, or both. While this may go against the 'common sense' of social norms, it remains a biological and social reality many face. The proposed rule will be formalized discrimination against these individuals based on their gender, and cause costly complications to receiving health care, voting rights, and other resources.

Furthermore, it is important to highlight that the term "gender" is not the correct term to describe the genitalia of individuals. According to the National Institutes of Health, "Sex is based on anatomy, physiology, genetics, and hormones.... Gender can be broadly defined as a multidimensional construct that encompasses gender identity and expression, as well as social and cultural expectations about status, characteristics, and behavior as they are associated with certain sex traits."^[2] These definitions are also available in any common dictionary. The identification sought by the State to place M or F (or X) on an identification document can either be gender or sex, but not both at the same time. To conflate the two definitions is to capitulate to a non-scientific, widely misunderstood social colloquialism. The State of Arkansas should use clear definitions in both rules and documents.

As a parent, I'm highly concerned when the state elects to single out individuals for direct negative action. By indicating that the State ID needs to match a birth certificate on sex, rather than the picture on the ID and names, the state is intentionally highlighting for discrimination an individual's sex or gender, which are both federally protected classes. The sex stated on a birth certificate is simply a starting point for the journey of identity that has always been capable of change later in life - as often happens when individuals change their name, or change their national citizenship. Changing documents like the birth certificate are costly and often a financial impediment, especially for young adults who lack resources.

As an organizer, I have met with individuals who have been denied services in the last four weeks because of the short time in which the proposed rule change was in effect, and now their State ID contains gender errors that their federal ID does not. Since April 11, 2022, U.S. citizens have been able to select "X" as their gender marker on U.S. Passports, putting Arkansas at odds with federal identification. This confusion has financial and social costs to individuals to correct an unnecessary burden imposed by the state.

In the supporting documentation of the reasoning for the rule, it is stated, "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.”

This reasoning is false on its face, as the State ID's purpose is solely to *correctly* identify the holder of the document; other agencies are tasked with the additional documentation necessary for obtaining health care, travel, and financial services – none of which are reliant on the sex or gender of the individual. In point of fact, it is illegal to discriminate against an individual because of their sex or gender. The proposed rule, by eliminating the “X” option, actually complicates the matter substantially by offering incorrect information on nonbinary, intersex, and transgender persons.

Finally, as a parent, it is my responsibility to help my child navigate the hand that was dealt to them by biology, and that hand is often painful, palpably and emotionally, with a body that does not physically match their sense of self. This sensation is diagnosed medically as “gender dysphoria,” and if left untreated, can be the cause of major depression, anxiety, and self-harm.^[1] It is my responsibility to help my child become as resilient as possible, which is why I must speak out against a harmful rule that would incorrectly label my child as a sex or gender that they are not.

Again, this rule is harmful and unnecessary, because the “X” marker option is in line with Federal policies and the correct sex/gender for nearly 2% of the population. While that population may be small, they have the same rights and dignity as the rest of us, and are deserving of equal treatment and freedom from state harassment. Please vote down the proposed change, and allow the “X” marker to remain.

[1] <https://www.nbcnews.com/nbc-out/out-news/many-transgender-intersex-people-live-us-rcna96711>

[2] <https://orwh.od.nih.gov/sex-gender>

[3] <https://www.psychiatry.org/patients-families/gender-dysphoria/what-is-gender-dysphoria>

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Cody Guntharp, June 25, 2024

Comments: I think there should be only 2 choices male or female. If that person goes missing or the police need to find them for a warrant etc. Not knowing if that person is male or female could make it a lot more difficult. Also if they do not put if they are male or female on their license and then don't claim male or female status in person how will that affect an officer doing a pat down search? That could cause lawsuits I would think. So in closing yes I believe it could be dangerous to have a “X” option on a license or state ID. MALE or FEMALE only.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Marqueta Guntharp, June 25, 2024

Comments: Regarding the option of allowing “X” to be placed for gender is going to be very problematic for many reasons.

What exactly does “X” represent? Nothing. Does this mean that human life is nothing? I'm sure the persons who use “X” wish to be included in society. How can that happen if they are labelled as “X”?

There are two genders. Male and female. Everyone in society except the very youngest are aware of and know what male and female stands for. Not everyone understands what “X” means. The ones who don't will not be knowledgeable in how to address the “X” gender. This could cause many disagreements, fights, hurt feelings, exclusions, etc. These issues could escalate into serious alterations involving first responders and more.

I do not see where it would ever be resolved.

Please do not add to the problems and issues of society by placing “X” for the gender on state driver’s licenses and identification cards. It would not be a progression for our society, but rather a move backwards. Thank you for allowing me to comment on this issue.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Eric P. (full name not provided), June 25, 2024

Comments: What is in someone’s pants is no one’s business. How someone identifies should be celebrated, not hidden. STOP WASTING TAX DOLLARS ON INSIGNIFICANT, BIGOTED, RELIGIOUS THINGS!!! SEPARATION OF CHURCH AND STATE is IN the Constitution and the majority government of Arkansas is forcing their RELIGIOUS beliefs on EVERYONE.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Melissa Brogdon, June 25, 2024

Comments: Absolutely nothing about this is an emergency. This is just an attempt to target trans people. If a trans man, who looks like a man and has a male name, has FEMALE as his gender, how is that going to avoid confusion? Quit wasting taxpayer money and government time on this nonsense.

Division Response: The Arkansas Legislative Council approved the Emergency Rule on March 15, 2024. The proposed Rule is the permanent promulgation of the same rule. No changes made to proposed Rule.

Commenter Name: L. Roberts (full name not provided), June 25, 2024

Comments: Gender should be required on all state or federal IDs. “X” is not a gender.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Wyatt England, June 24, 2024

Comments: First and foremost, doesn’t the state government have more important things to worry about than gender markers on state IDs and licenses? In addition, being this worried about what genitals a complete stranger has is abnormal and frankly unsettling. I don’t think I like the idea of my state being run by sex-obsessed weirdos.

Thank you for taking the time,

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Jimmydon Floyd, June 24, 2024

Comments: My viewpoint is as follows there are only 2 genders, male and female period. Any other designation is utterly ridiculous and political pandering to a misguided few. Please allow common sense to

rule in this case.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Dawn Mooney, June 24, 2024

Comments: Please only Male or Female on driver's license.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Glen Skyler Clayton, June 25, 2024

Comments: The adoption of Rule 2024-1, which mandates the inclusion of gender information from an individual's birth certificate on their driver's license or state identification card; is a ridiculous way to spent time and money. This rule, initially implemented as an emergency measure, is now being proposed as a permanent requirement. However, this regulation has sparked concerns as it disregards the rights of nonbinary and transgender individuals to self-identify, a fundamental aspect of personal autonomy. By imposing rigid gender requirements on official documents, the rule infringes upon the constitutional rights of individuals to define their own identity. Such actions not only perpetuate discrimination but also pose significant risks to the mental well-being and overall prosperity of marginalized communities. It is crucial to acknowledge and respect the diverse identities within the LGBTQIA community, rather than enforcing restrictive measures that undermine personal autonomy and perpetuate discrimination. Get a grip, clean the streets up, feed/provide shelter and, or, necessities for people in need. This is a private issue and does not concern the legislature in Little Rock, have a back bone and stand up to the lady staining our governors office.

A concerned and fed up citizen-

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Caleb Nicholson, June 25, 2024

Comments: Yes a persons driver's license should have whether they are male or female on it and it should match the information on their birth certificate.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Natali Stroud Stone, Business Administrator/Marketing Consultant at Foundation Pro, June 25, 2024

Comments: I think that it would be abhorrent to force nonbinary and trans people to claim a gender when they do not identify as either male or female. The world started accepting this long ago and Arkansas needs to stop being so late to catch up with the rest of society. They should be allowed to use an "X" on their state ID in place of "M" or "F". Let them live their lives. They aren't hurting anyone.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Jeremiah Brown, June 25, 2024

Comments: No public comment provided.

Division Response: No response required.

Commenter Name: Dafina Ward, JD, Executive Director at Southern AIDS Coalition, June 25, 2024

Comments: The Proposed DFA Emergency Rule should not go into effect as it will do unnecessary harm to Arkansas residents who are not assigned male or female at birth. Intersex individuals deserve the same dignity, rights, and access to public accommodation as other citizens.

Arkansas must accommodate all of its citizens in a manner that allows them to live with full dignity and without intentional harm.

Division Response: The Arkansas Legislative Council approved the Emergency Rule on March 15, 2024. The proposed Rule is the permanent promulgation of the same rule. No changes made to proposed Rule.

Commenter Name: Mary Beth Deel, June 25, 2024

Comments: This rule to force those in our state who identify as other than straight-up male or female to not have the option to mark their gender as X on their DL's and/or ID cards is psychologically and emotionally abusive to those individuals who want and deserve the same freedoms as every other person in AR - the freedom to simply live their lives with authenticity and without oppression from persons of power and hate-based laws. I strongly hope this "rule" is overturned as unconstitutional. Good grief.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: The Ramey Family, June 25, 2024

Comments: Good evening. I hope it is not too late to respond regarding this subject. I thank you in advance for taking the time and consideration to read our response.

It's simple. God made man and woman. That's it.

In my opinion the USA is the best country in the world, but sadly that is changing everyday that we get further away from God and God fearing leaders that will stand up for what's right. We are a country and state that is slowly losing our morals and integrity. Right is right and wrong is wrong.

As for this rule, if we do not enforce gender identity as male/female what is to keep me from changing my age. I could identify that I am 65 years old when in reality I'm 40, but because I feel 65 and want to identify as 65 years old, can I do that. Can I go ahead and draw social security since I identify as 65 years of age instead of age 40 which is what is stated on my birth certificate. If we do not stand up and enforce what is right where does it stop.

Praying for our country, our great state and our government leaders.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Jennifer Hensel, June 25, 2024

Comments: The Proposed DFA Emergency Rule should not go into effect as it will do unnecessary harm to Arkansas residents who are not assigned male or female at birth. Intersex individuals deserve the same dignity, rights, and access to public accommodation as other citizens. Arkansas must accommodate all of its citizens in

a manner that allows them to live with full dignity and without intentional harm.

Division Response: The Arkansas Legislative Council approved the Emergency Rule on March 15, 2024. The proposed Rule is the permanent promulgation of the same rule. No changes made to proposed Rule.

Commenter Name: Emma Smith, June 25, 2024

Comments: I support gender at birth on our Drivers License!

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Gwen Brunson, June 25, 2024

Comments: I am against requiring birth gender markers on drivers licenses, etc. Transgender and nonbinary people must be allowed to have rights and not be singled out and made to fit into outdated, standard categories.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: John Rains, June 25, 2024

Comments: It is simply common sense that government identification have only 2 distinct genders, male or female. Thanks

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Sarah B. Thompson, June 26, 2024

Comments: Good morning. This comment is concerning the state designation for sex/gender on AR driver's licenses.

We will not ALWAYS have the current governor to dictate her beliefs and demand changes regarding state agencies. We WILL ALWAYS have citizens who do not neatly fit into M/F categories. The X is a neutral designation for those who are "other". This ruling is offensive and hurtful to individuals who are already marginalized. I SUPPORT retaining X as a choice for anyone who needs it on their AR drivers license.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Haley Nicole Prentice, June 26, 2024

Comments: I have attached a pdf of my comments on this issue. Needless to say, I am opposed to the new rules. Again, my comments are attached in the email.

For many years, starting in 2010, the State of Arkansas permitted those wishing to change the gender marker on their Drivers License or state-issued ID Card to notify a local Arkansas Department of Finance and Administration office (which administers the DMV in Arkansas) to change the gender marker on their respective State-issued ID Card or Drivers License. This was the policy in effect until mid March of 2024 when a new "Emergency Rule" was enacted by the leadership of the Arkansas DFA. Under the old rule, those that were transitioning their gender from male to female and vice versa could do so without changes to their Birth Certificates and additional surgical requirements (known as Gender Confirmation Surgery) in the

person's gender transition.

I am a life-long resident of the State of Arkansas, having been born here on October 1, 1965 to parents that were born and raised in Arkansas. My father, Fritze Harold Prentice (Sr), now deceased, was born and raised in the Ozarks of Northwest Arkansas at Berryville (Carroll County). My mother, Ruby Irene Prentice, was born and raised near the Delta town of DeWitt (Arkansas County). Although both my parents were native Arkansans, they relocated to various other places in their young adulthood before meeting each other in Wichita, Kansas. Both my future parents decided that a life together was important and in 1962 were united in marriage and set up household in Wichita. But Arkansas ran deep in my parents whom decided to relocate to their native State and leave Kansas. By the fall of 1965, my parents had set up household in McGehee (Desha County) where my father was employed. Often they would visit DeWitt, where my mother's family was living. My father appreciated the opportunities for various outdoor activities including hunting and fishing. It was during one of these family visits in DeWitt that I came into the world. At the time of my birth I was Assigned Male At Birth (AMAB) by an attending physician and given a birth name of Fritze Harold Prentice (Jr.) by my parents.

My Arkansas roots run deep, and so does my opposition to both the recent "Emergency Rule" and the proposed "Permanent Rule" by Arkansas DFA on changes to gender markers on IDs and Drivers Licenses. I oppose these efforts by Arkansas DFA for personal and moral reasons.

First some background. My birth name and legal name is not the same. I am a transgender woman that legally changed her name to Haley Nicole Prentice on March 25, 2024 after a successful petition in the courts of Lincoln County Arkansas. I live full time as a woman in my rural Arkansas County of Lincoln near Star City Arkansas. I hold employment as a Lead Meat Cutter for the only full line grocery store in Star City, and at the behest of my employer, I also travel to other stores in my region to assist other meat cutters and market managers. Since September 19, 2023, I have been undergoing medical transition by way of Gender Affirming Hormone Therapy (GAHT). I have started to develop secondary-sex characteristics associated with cisgender women and those transgender women that have and/or undergoing medical transitioning: smoother skin, reduced body hair below the neck, widening of the hips and growth of breast tissue. In addition, due to the GAHT, I'm all but unable to have penile erections and furthermore, have no desire for such.

More importantly, I was not encouraged and/or coerced in any way shape or fashion by my parents in childhood, or adolescence to be feminine, dress and/or behave in the role of a girl/woman. Both my parents encouraged me to adopt masculine deportment and clothing. Despite this, I realized I was different and would frequently "cross-dress" in my mother's clothing in childhood and adolescence. These clandestine sessions would often include the wearing of cosmetics, an old wig of my mom's and undergarments without their knowledge or consent (I had no sisters). While I was never caught, there were times when my mother would suspect that her articles of clothing were out of place and in a couple of cases I was questioned about such which led to embarrassment. I carried this shame into early adulthood and suppressed my transgender identity for many years. I went years without exploring this part of me until after my first divorce, where I began to unpack my repressed need to be a woman. But it was only in part, and I remarried for a second time and it was during my second marriage that I revealed to my then spouse that I was transgender, but at that time thought it was only crossdressing and not desiring transition. We eventually divorced, and I was free to start exploring my gender identity. The shame of my youth lingered for several years and I functioned as a part-time crossdresser but I felt more at ease presenting as a woman. Because of the age I started medically transitioning and socially transitioning in earnest, I am considered a "Late Transitioner"

Transgender women, transgender men, and non-binary people (regardless of their Assigned Gender At Birth) should not be forced to carry identification that is tied to their Assigned Birth At Gender, and especially if they have taken steps towards medical and/or legal transition. This is common sense, despite the opinions of many State elected officeholders and administrative officials whom are often more concerned about the so-called "Culture Wars" than the well being of Arkansans both individually and as a group. Forcing a transgender man

to carry an Arkansas Drivers License or State ID with a “female” gender marker, or a transgender woman to carry such identification bearing a “male” gender marker is tantamount to marking such individuals as second class citizens. Arkansas has had a shameful history of assigning second class citizen status to the state’s African-American population during the era of Jim Crow segregation. We as Arkansans should never return to that era, nor appropriate second-class citizenship into new policies involving otherwise law abiding citizens.

Transgender men, transgender women, and non-binary residents of Arkansas are subjected to, and pay the same taxes as cisgender (those that have a gender identity that matches their Assigned Gender At Birth) Arkansans. We are rural, urban, and suburban and live in every county of Arkansas. Removing the option of selecting “X” as a gender marker for non-binary Arkansans on Drivers Licenses and ID Cards is unacceptable and an act of oppression. Likewise, forcing transgender Arkansans to maintain a gender marker which betrays their gender identity on their ID Cards and Drivers Licenses is also unacceptable and oppressive.

It is common for those seeking to purchase alcoholic beverages or tobacco products to present identification before a sale. But there are other age-restricted products that require identification, such as the purchase of certain over the counter medications, prescription medications, paints and other chemicals. Moreover, we are also required to present ID as a condition of obtaining and maintaining employment, opening a bank account, obtaining utilities (such as phone service, electricity), renting a hotel room, obtaining use of a rental car, renting an apartment or house and even voting in an election. Presenting an ID that does not match our gender identity is problematic and causes those that are transgender and non-binary needless suffering and stress.

The public safety argument trotted out by proponents of the “Emergency Rule” and the proposed “New Rule” is being sold as a Law Enforcement tool. While on the surface this seems reasonable, the rules that mandate mismatched gender markers encourages rogue behavior by bad actors in Law Enforcement. People that are transgender (especially transgender women) and having to maintain State ID with the incorrect gender marker are more likely to be profiled as sex workers, or criminals at certain times of night and in certain locations. Also, a member of law enforcement could potentially engage in other unprofessional behavior toward someone in a traffic stop or detained. Since detainees are searched prior to being held in a jail or detention center, the calls for matching ID gender markers with sex-at-birth (Assigned Gender At Birth) seems overkill at best.

In conclusion, the Arkansas Department of Finance and Administration should take into consideration, concerns from transgender, non-binary, and cisgender Arkansans whom desire that its citizens be allowed to maintain a correct gender marker on IDs that matches their gender identities. The proposed “New Rule”-based on the March 2024 “Emergency Rule” should be scrapped and the old rules on gender markers, in place from 2010 to March of 2024 and served Arkansas well during that time, be permitted to be reinstated.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Tammy Coney, June 26, 2024

Comments: Let people be who they say they are -
If they want to use X & not disclose, let them.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Stefanie Vestal, June 26, 2024

Comments: Thank you for allowing public comment on this bill. Attached is my comment letter.

Thank you for the opportunity to comment on this proposed rule. I am a resident of North Little Rock, AR, a wife, dog mom, educator, concerned member of the LGBTQ+ community, and serve as the co-chair of GLSEN Arkansas, a part of the national non-profit that works to create safe and inclusive education spaces for LGBTQ+ students.

According to the Trevor Project's 2022 National Survey on LGBTQ Youth Mental Health 48% of LGBTQ youth in Arkansas seriously considered or attempted suicide in the past year. The same survey found that over 66% of nonbinary, genderqueer and transgender youth have experienced discrimination and/or harm due to their gender identity.

Being a youth is difficult and being a LGBTQ+ youth comes with additional challenges and dangers that no child should face. When they are 16 years old, having the opportunity to receive a driver's license or state identification card that accurately reflects their gender identity is empowering. An identification card that is truly representative of who they are could save their life.

If this bill is enacted into law it would severely restrict and limit the rights of transgender and non-binary Arkansans. Gender is a fluid concept and one that is up to the individual; legislation has no part in dictating to individuals what their gender is or is not. Outdated and discriminatory ideas about gender identity that have been widely disproven alienate and endanger the transgender community and do nothing to protect the people they are about. Only .000148% of driver's licenses and .000332% of state ids have a gender neutral designation in Arkansas, and this hardly seems like enough to constitute an emergency or even the need to spend time and resources on. However, keeping the option for the marker can bring an immeasurable level of respect and dignity.

This is not just a matter of dignity, but one of safety and well-being as having access to accurate identity documents is essential to one's daily life with activities such as voting, work, traveling etc. relying upon a valid and representative government issued id. For a member of the transgender, intersex, and non-binary community of Arkansas stopping this law and allowing the gender neutral marker on driver's licenses and state id card shows those individuals that they are worthy of basic respect and safety just like the rest of the people in our state.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Cathy Green, June 26, 2024

Comments: The Proposed DFA Emergency Rule should not go into effect as it will do unnecessary harm to Arkansas residents who are not assigned male or female at birth. Intersex individuals deserve the same dignity, rights, and access to public accommodation as other citizens. Arkansas must accommodate all of its citizens in a manner that allows them to live with full dignity and without intentional harm.

Division Response: The Arkansas Legislative Council approved the Emergency Rule on March 15, 2024. The proposed Rule is the permanent promulgation of the same rule. No changes made to proposed Rule.

Commenter Name: Trey Jackson, June 26, 2024

Comments: Eliminate the issuance of gender-neutral licenses in order to maintain traditional gender distinctions in official documentation!

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Tracey Tell, June 26, 2024

Comments: I am glad you subtract x choice.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Monica Davidson, June 26, 2024

Comments: I am writing as a citizen of Saline county, Arkansas, asking you to throw out this emergency policy.

1. There is no emergency. No one is in danger due to gender neutral or changed gender on a person's driver's license. Frankly, it seems a kind of pointless thing to have on there anyway since no one is checking at traffic stops or where you buy alcohol.
2. This is targeting a minority population for no good reason other than political grandstanding. It's creating a problem where there isn't one and wasting taxpayer dollars. We expect our lawmakers to be frugal, just, and wise with the way they use our hard-earned money that they require us to pay to them, and this is absolutely none of those things.
3. I'd prefer everyone's time and money be spent on real problems, such as improving Arkansas parks and public transit, food insecurity, or public safety.

Please strike down this inane "emergency" policy.

Division Response: The Arkansas Legislative Council approved the Emergency Rule on March 15, 2024. The proposed Rule is the permanent promulgation of the same rule. No changes made to proposed Rule.

Commenter Name: Teri Patrick, June 26, 2024

Comments: I oppose the emergency rule, which removes the option to self-identify gender and removes the X marker from state IDs. This rule serves no purpose and is simply cruel to a small subset of people. There is no emergency. X does not hinder police. This rule discriminates against tax-paying citizens. Ridiculous!

Division Response: The Arkansas Legislative Council approved the Emergency Rule on March 15, 2024. The proposed Rule is the permanent promulgation of the same rule. No changes made to proposed Rule.

Commenter Name: Avalene Snow, June 26, 2024

Comments: The DFA gender marker policy change has stripped away my rights, forcing me to navigate my daily life with incorrect information. This rule not only undermines the dignity and personal security of trans, nonbinary, and intersex people but also disregards their medical needs and personal safety.

The importance of accurate and inclusive identification for trans, nonbinary, and intersex Arkansans is not up for debate. It is absolutely vital we protect Arkansas' most at risk minority. This harmful rule should be reversed immediately.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Alexandria Myers, June 26, 2024

Comments: The change to the DFA gender marker policy has stripped away my rights, forcing me and other trans, nonbinary, and intersex Arkansans to navigate the world with incorrect information on our personal identification.

This change disregards medical and personal safety needs for me, and other trans, non-binary, and intersex Arkansans.

It is vital that we protect our fellow Arkansans from this unjust action, and uphold the need for accurate and inclusive identification among the trans, non-binary, and intersex citizens of our state. This policy should be reversed immediately.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Mary Remmel Wohlleb, June 26, 2024

Comments: As someone who has a gender fluid niece, it troubles me that DFA is offering them no option to self identify as nonbinary. When presented with Male, Female, prefer not to say, our niece prefers to say but is not given the correct option. This is basic discrimination, at least in part led by theocrats with little or no knowledge of the myriad intersex statuses of many species including the human one. Imposing religious regulations with no scientific basis is a clear example of bias and ignorance.

Arkansas deserves better! Please re-consider the harmful gender marker ruling and err on the side of social justice rather than on warped theology that has no place in a country formed with the clear intention of a separation of church and state.

We vaunt the US as a melting pot of many diverse populations. “Othering” and ignoring the existence of some of those populations is not who we are meant to be!

Thank you for your consideration,

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Cas Rifkin, June 26, 2024

Comments: Although I am an elderly white woman that is only 5’1” who was married to the same man for over three decades before he passed out of this life, I stand tall and committed to those of us who were born with different chemical makeups in their bodies and prevent them from identifying with the shell of the body they were born in. Because they are not like you or me, they should not have to suffer the atrocities of identifying with their body rather than who they truly know that they are. These are humans trying to get through life the best way they can as we all do. It is not hurting anyone to let them feel safe. Allowing an X on gender identification on their driver’s license is identifying them with who they are, not what society wants to label them. Please give them that courtesy.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Tillie Stiffler, June 26, 2024

Comments: I am writing today about the changes that are trying to be made to Arkansas drivers licenses. Changing the non-gendered x will be harmful to trans people in our great state. Not only will people be misgendered but some people will be harassed or harmed. There are some nasty people out there that will try to harm you for anything that they perceive as different to them. There is also one down side to this bill that

you haven't considered. I have an intersex friend who did not find out she was intersex until she was 19. She was raised a girl and never questioned that. She found out that her dna said that she was male. She had mix of male and female reproductive organs. Under this law she would have to have male on her drivers license. She could be mistreated and harmed by people if they found this out. Trans, nonbinary and intersex people are not harming anyone but if you change this law the same can't be said for there safety

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Susan Hoffpauir, June 26, 2024

Comments: Please do not strip the right for people to self-identify their gender on their driver's licensing in Arkansas by keeping the option for them to choose X.

This is not only a matter of dignity, it's also a matter of personal safety. People who are transgender often face discrimination and threats of violence. Removing their ability to choose X on their license increases the chance that these will occur and also increases the chances that emergency medical needs will not be addressed appropriately.

The current option meets the needs of thousands of Arkansans and allows them to stay safe with dignity.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Amber Wixtrom, June 26, 2024

Comments: I wanted to urge you to restore your former policy on gender markers on drivers' licenses. I have a close friend who is trans, and he is not able to change his birth certificate, but he is absolutely a man. Requiring him to list female on his license would not only be inaccurate and unjust but would disregard his personal safety and possibly delay access to medical care. If his gender on his driver's license does not match the gender he identifies as, he could face harassment and prejudice that are completely unnecessary and unjust. He is the kindest, most wonderful person, and just wants to go through his daily routines without trouble and judgment. That should not be too much to ask. Please rescind this harmful new policy change.

Thank you for your consideration,

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Leslie Wagner, June 26, 2024

Comments: It's important to make clear that Arkansas must do better when it comes to our trans citizens. Having accurate identification is a core need across all aspects of life and is essential when applying for jobs and accessing services. Each of our citizens should feel at ease when doing either of these and not have to carry needless paperwork and proof of who they already know they are! It's belittling to reverse policy and strip away the right for individuals to self-identify their gender on state IDs/Driver's licenses. You're forcing many to go through their day and life really with incorrect identification.

Furthermore, this not only undermines the dignity and personal security of trans non-binary and intersex people, but also disregard their medical needs and personal safety. The worst part? Your office is forcing people to carry incorrect identification that can lead to harassment, discrimination, and violence. Do better Arkansas.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: David McCullough, June 26, 2024

Comments: I have and do know trans individuals totally at home with their true internal identity and whose appearance matches that identity. Why in the world force them to choose a different identity when it is cruel, just plain hateful, and perhaps dangerous in certain situations. You and I would not be forced to choose a religion different from the one we truly identify with so why must my friends be made to suffer for what they are.

Reports are that the DFA will change from emergency to permanent status its recent ruling on state issued gender IDs. It is painfully and shamefully apparent that the whole gender ID fabrication is entirely politically motivated. There is no real danger of any kind posed by multiple ID identities. The claimed reasons suddenly being put forth by certain politicians for changing gender ID after years of uneventful usage cannot stand against sensible reasoning. Please give hope to the minority of Arkansans who deserve the dignity of true identity and abandon plans to adopt this unnecessary, concocted business.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Talie Pittman, June 26, 2024

Comments: I am a higher ed instructor. I have been for many years now. I fully believe that college is a time for young adults to make that transition from who they were as children in their parents home to who they will be. This means that they need to be able to explore topics, thoughts, and their own self. This is, after all, why we make all majors take some science, some english, some history, etc etc. We as a nation should want our people to be knowledgeable and well rounded.

As part of learning who they are, some of these students will finally be able to explore gender. For some of them it will be a phase. For others it will be a chance to be who they always wished they were. Not only does college need to be a safe space to do so, but they also need to be able to take what they became in college and *live* it. They need to be able to be safe and supported by the state. This means the ability to change their gender or be agender.

To ask someone who's realized they do love wearing dresses and skirts and are female to still have an M on their licence and be forced to use M bathrooms is to put them in danger. It is also telling them 'we don't care who you are, just be what we expect you to be'. And that squashes everything we encourage with college. If Arkansas goes through with removing X markers and only allowing birth certificate markers I can assure you we will lose a large part of the next generation to neighboring states where they can still get in-state tuition and yet be able to explore ideas more freely. It will lose us the next generation of young adults who will become the successful money (and tax) earning adults of the future.

It will be signing Arkansas' continued decay into unimportance, poverty, and datedness.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: WhiteWitchNamine (full name not provided), June 26, 2024

Comments: Taking away the option to change ones gender identification without warning is not only a cruel act, but it takes away ones ability to accurately present themselves on their documentation and can result in discrimination and potential harassment. A lack of inclusivity not only harms minorities, but everyone. There

are those with hormone imbalances, intersex individuals, trans people, and even cis gender people who do not fit within typical views of male and female. The LGBTQIA community experiences enough harassment without this, if we can prevent more potential avenues for people to experience discrimination or harassment, I see no reason why this should be allowed to go on. America is a country for everyone, picking and choosing who should have basic rights and the ability to live as they are goes against the very foundation on which it stands.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Samantha Smith, June 26, 2024

Comments: Hello, my name is Samantha and I live in northeast Arkansas. I have multiple friends who are transgender and I care about their health and wellness. I know through firsthand experience that when transgender people have gender affirming care, they benefit physically and mentally. I also know that having legislating policies in place helps transgender people feel cared for and protected by their community. It is vitally important to allow people to identify themselves accurately on legal documents and for some that includes using “X” but for many others it means using the correct gender marker for someone’s transitioned gender. When trans people are forced to use their assigned gender at birth, it will likely cause confusion during traffic stops, at airports, the DMV and anywhere photo identification is needed. In many cases this will can invite harassment from people who have prejudice against transgender people. This is a major population in our community and they deserve to be cared for in all aspects of life. There is genuinely no valid reason to deny them something as basic as using their preferred gender markers on legal documents outside of stripping them of their dignity.

Thank you for considering this comment.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Patti Smith, June 26, 2024

Comments: Please listen to science and not your holy books and leave trans people in peace. They deserve the chance to use the X on their documents when it’s applicable. If you don’t know anyone who is trans, you really should keep your prejudice to yourself and not inflict harm to others in your ignorance.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Noor Fernandez, June 26, 2024

Comments: this change in policy is horrible for many reasons. Not the least of which it harms existing transgender people who already live in Arkansas, but I know of a woman who actively did not move here and is separated from her domestic partner because of laws like these. These laws WILL lead to increased and wholly preventable deaths in the transgender community, as well as added roadblocks to for them to access government services that they legally SHOULD have a right to. I could go on, but hopefully y’all get the point.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Katherine Hodges, June 26, 2024

Comments: All people are created equal

Please respect the right of a Trans person to identify as they wish. This action does not hurt you Treat others as you wish to be.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Amanda Carranco, June 26, 2024

Comments: I was saddened to hear that DFA has reversed its policy on allowing individuals to select, “X”, for gender on their state issued identification card. I previously worked in the social service field with individuals that identified as transgender in Texas and saw how not being able to select their identified gender kept them from obtaining legal employment opportunities. It caused them to be employed in dangerous occupations that paid cash—as sex workers or day laborers for strangers.

They were stripped of their fundamental right of dignity when required to show their identification card to anyone because they feared they would be attacked—verbally or physically—by the person inspecting the card. While I can’t speak to the motivation behind this sudden policy change, I have observed the venomous words and hateful rhetoric spoken to non-heterosexual men and women in this state and hate crimes are on the rise. This policy will allow these crimes to increase against this population.

Even if the individuals aren’t attacked, they feel shame because they feel judged by the person. The emotion trauma caused by this repeated offense and constant fear of violence leads to individuals with gender-identity issues having a higher suicide rate.

When I heard DFA allowed individuals to mark, “X”, on their card, I was so proud that they cared about “the others” just like our Veteran population. It made my heart soar and my eyes water! That’s a state I can be thankful to live in even if I may not be amongst that population, the state is keeping state and church separate and for the sake of mental health, they are accommodating those that are rarely ever heard or represented! In the next breath, I hear how you changed the practice and put your foot back on their necks and my eyes continued to water but not for gladness.

Please, to save a life, even if it is one (I promise you it’s more than that) go back to raising people up and allowing them to have dignity instead of giving them one more reason to feel less than and commit suicide or be beaten to a blood pulp.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Kirsten Sowell, LCSW, June 26, 2024

Comments: Hi. I was unable to attend the Forum but I wanted to let you know my opinion on this matter as a local mental health professional and as mom to a non-binary identifying child.

When our state changed the law that allowed people to change their gender marker on their license without a changed birth certificate, I had several clients that I see for therapy that were harmed. Some took off days at work trying to get their gender markers changed before the law become into effect, as they were working on birth certificate changes in other states already and this process can take a considerable amount of time and money depending on state guidelines for doing so. Some states require surgery that several of my clients either do not want or cannot afford because of their finances. Our state requiring a birth certificate restricts most of my clients from access to changing their gender market and further discriminates against them, causing harm.

To take away an x marker, doesn’t help anyone and only is discriminatory against people who are non-binary. Despite some people not understanding differences in gender identity and stating non-binary people don’t

exist, I continue to know many people, including professional coworkers, clients, and my kid who do identify as non-binary. Can you imagine the hurt from being told you don't (or shouldn't exist?). It is so very hurtful and can lead to depression and anxiety.

You don't have to understand non-binary people to have compassion for them. I see them and they have been harmed from this legal change.

Please feel free to contact me with any questions or follow up with me.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Kaden McIntosh, June 26, 2024

Comments: I am writing in my public comments regarding the currently proposed permanent rule regarding gender markers on driver licenses and IDs. This rule strips Arkansans of the right that they have had for over 10 years to self-identify their gender on their driver's license without any sexual reassignment surgery (necessary to get a gender marker changed on one's birth certificate in Arkansas.)

This rule will cause transgender, intersex, and nonbinary people irreparable harm and put them in imminent peril by making them have an ID that does not match their gender. It also violates the religious freedom of Arkansans, disrespects many cultures, and goes against federal precedent.

Correct identification documents are essential for transgender, intersex, and nonbinary individuals to live safe and happy lives. According to the 2022 Transgender Survey Early Insights, "Twenty-two percent (22%) of all respondents reported being verbally harassed, assaulted, asked to leave a location, or denied services when they have shown someone an ID with a name or gender that did not match their presentation." The 2015 survey where state-by-state data is available said that of transgender Arkansans surveyed, "28% of respondents who have shown an ID with a name or gender that did not match their gender presentation were verbally harassed, denied benefits or service, asked to leave, or assaulted." (<https://ustranssurvey.org>) This shows that not having documentation that matches their gender presentation causes a significant risk to transgender, intersex, and nonbinary people. It opens them to further discrimination and harm. This rule puts people in increased danger.

I was raised in a religious tradition (Evangelical Lutheran Church of America) that recognizes and celebrates transgender, nonbinary, and intersex people. In her 2023 statement on the upcoming Transgender Day of Visibility, Bishop Eaton said, "The teaching of our church supports legislation and policies to protect every person's human dignity and civil rights." She ended her statement by saying "Let us recognize and affirm the humanity of our transgender and nonbinary siblings. Let us advocate for their dignity. Let us continue to be guided by God's love and compassion as we seek justice and equality for everyone." (<https://elca.org/News-and-Events/8191>) The state's proposed rule directly challenges this sentiment, violating many people's religious freedom, including mine.

I am currently discerning a call in the Episcopal Church of America, another religion that "is dedicated to full inclusion and equality in the church as well as in society as a whole." They also "prohibit discrimination in the ordination process based on gender identity and gender expression." (<https://www.episcopalchurch.org/organizations-affiliations/lgbtq/history/>) My local Episcopal church was one of the first groups that I came out as nonbinary to. This decision was acknowledged and celebrated by the congregation. While I did not opt to do A Service of Renaming (found in The Book of Occasional Services 2018) I did reaffirm my baptism under my chosen name. If I am called to ministry I would be called by my name "Kaden" into a church that supports my gender.

I worry that Arkansans of all faiths will lose out on the unique, justice-oriented perspective of queer clergy in general, and transgender, intersex, and nonbinary clergy in particular. (This is explored in the wonderful book “Queer Virtue” by Rev. Elizabeth Edman.)

While I am not a part of these religious traditions, they are also open and affirming of LGBTQIA+ people and I want to mention them so that you know some of the faiths that are practiced in Arkansas that are affected.

- Reform and Conservative Judaism
- Unitarian Universalist Association
- United Church of Christ
- Metropolitan Community Church
- Presbyterian Church (USA)
- United Methodist Church
(<https://glaad.org/religion>)

I also want to mention a few examples of other cultures that recognize more than two genders to show the many people who live in Arkansas who would be affected.

- Hindu society features the gender hijra
- Muxes, a community of people in Mexico (usually from Zapotec people, an Indigenous group in Mexico)
- Two-spirit, a term used to encompass a variety of identities that embody both male and female spirit by some Indigenous North Americans
(<https://www.britannica.com/list/6-cultures-that-recognize-more-than-two-genders>)
- The Marshall Islands is home to a cultural third-gender community, known in Marshallese as kakōļ. (Ehmes, Delihna (2016). “Vol 2 Gender in the Pacific”. Academia.edu. Center for Pacific Island Studies.)

This rule eliminates the option to have a “x” gender marker. This affects nonbinary people like me as well as intersex Arkansans by preventing us from having an ID that reflects who we are. This contradicts both federal rules and the rules in many other states.

There already exists precedent in other states and federally that support an x gender marker and allow people to change from M to F or vice versa with little to no difficulty. In Colorado where I was born, I have requested an updated birth certificate with an X gender marker using the following process (<https://cdphe.colorado.gov/correct-or-change-a-birth-certificate>). This same process applies to binary trans individuals who need to change their Colorado birth certificate to an F or M.

A similar process exists federally when it comes to passports. People can self-select the appropriate gender marker that offers options for F, M, and X. (<https://travel.state.gov/content/travel/en/passports/need-passport/selecting-your-gender-marker.html>)

Per the text of the proposed rule, my gender marker will be changed in the computers (if it hasn’t already been) to an F without my consent. This will contradict who I am, and what my birth certificate and passport

will say. The DFA is changing the gender on my most commonly used identification that I use to drive, work, and vote. This violates my autonomy, forcibly labeling me as a gender I am not.

I urge the DFA not to enact this rule.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: June Simmons, June 26, 2024

Comments: I have attached my public comment on the emergency rule “RULES FOR GENDER INFORMATION REQUIRED TO BE DISPLAYED ON AN ARKANSAS DRIVER’S LICENSE OR STATE IDENTIFICATION CARD.”

Thank you for the opportunity to comment on this proposed rule. I am a transgender girl who lives in Fayetteville and has been an Arkansan her entire life. Legislation like this not only deeply affects my life, but also the life of people who I care about deeply.

I can understand how it can be difficult to be empathetic towards or realize the real impact of a rule like this on people when you do not know anyone whom the rule would impact. I would like to raise concerns and inform you of the potential effects regarding this proposed rule.

This rule “others” many transgender Arkansans, causing them immense discomfort and potentially endangering their mental health and even their lives. Speaking as a transgender person, being forced to be labeled by an inaccurate gender marker causes direct hurt and discomfort. This discomfort can lead to worsening mental health, and even endanger the life of the person experiencing it.

Additionally, this rule can force certain people to be “outed” against their will to anybody with access to their identification. Sadly, the identification of a person as being transgender can endanger them, as transgender people are particularly targeted by hate crimes.^{1, 2}

Again, I strongly believe that this rule will cause direct and indirect harm to hundreds of Arkansans because of the mental health impact of being forced to use identification with the wrong gender, and because of the danger of being “outed” to somebody who may hurt a transgender person.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Hannah Holloway, June 26, 2024

Comments: I am very concerned about the removal of the x marker on drivers license as so many people in the lgbtq have already been met with so much hate I feel that this could lead to future hate crimes this has been legal for over a decade and there have not been any issues with this the only thing I can see is when trying to house someone in jail which could further lead to abuse on the Trans community

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Lydia Cole, June 26, 2024

Comments: I am writing to ask that you continue to allow the X gender marker and allow people to self select their gender on their driver’s license.

This new change to not allow X and self-identification will have serious consequences to Arkansas citizens. The DFA is wrong to make the change. Arkansas has allowed self-identification for a decade, and there has been absolutely no issue. No harm has occurred by allowing individuals to select their gender or to select X as a gender marker, but harm will come if those options are eliminated.

My child currently has an X as her gender marker. This change will directly affect her. It will affect nonbinary individuals as well as trans individuals as well as intersex individuals.

My biggest concern is for my daughter's safety. Having a gender marker on her id that represents her actual gender promotes her mental health and wellbeing. Having the wrong gender on her id (her designated gender at birth) can affect her mental health, her employment, and her physical safety. Her designated gender at birth and her biological sex is no one's business.

Why has Arkansas become so obsessed with taking away freedoms? No harm has come from self-selecting and the X marker. There is no reason to take away this freedom. No reason except bigotry.

I am begging you to leave the X option and to allow for self-selection.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Mitchell R. Lunn, MD, MAS, FACP, FASN, Associate Professor of Medicine (Nephrology) and Epidemiology and Population Health – Stanford University School of Medicine, June 26, 2024

Comments: I write in response the proposed emergency rule. Upon reading the documentation and proposed rule here, several items clearly need delineation by the state:

- There is a notable conflation of sex and gender in this rule and the terms used. Sex assigned at birth refers to the biological and physiological characteristics that we associate with males and females. This includes organs, chromosomes, etc.
- Gender, on the other hand, is a social construct that relates to characteristics of men and women. This includes dress, hairstyles, makeup, mannerisms, etc.
- Please note that we typically use the terms 'female' and 'male' when referring to sex. And 'women' and 'men' when referring to gender.
- People who are intersex (i.e., have a difference in sex development also called a variation of sex traits) may have organs or other body characteristics that do not fit our typical definition of 'male' and 'female' bodies, physiology, and/or biology. Intersex conditions are incredibly common (1:200). These include a multitude of diagnoses including congenital adrenal hyperplasia, Turner's syndrome, Klinefelter's syndrome, among many others.
- Of note, this rule notes that the gender marker (perhaps you mean sex?) needs to "correspond with the gender information contained on the persons' birth certificate, passport, or identification document issued by US Department of Homeland Security." And if ID cards or driver's licenses were issued by DFA that contained an "X" gender marker, this rule "would provide the Office (DFA) with the authority to modify gender information to correspond with the person's birth certificate, passport, or DHS identity document..."
- This is bound to be problematic (and result in significant litigation with associated costs) for several reasons:

- For people born outside the US (and more increasingly in some states), there are a variety of sex (not gender) markers that may be available in addition to “female” and “male.” In many cases, “X” is the appropriate marker for US documents.
- In California, for example, birth certificates be amended to have M, F, X, or – as the “gender” marker. If someone born in California who is now living in Arkansas has a “X” marker on their birth certificate, what will Arkansas put as the marker on that person’s ID card or driver’s license?
- The rule notes that the marker “X” would be no longer allowed and would need to match “the person’s birth certificate, passport, or DHS identity document.” However, DHS allows “X” on your passport and other DHS identity documents (see <https://travel.state.gov/content/travel/en/passports/need-passport/selecting-your-gender-marker.html>). As such, this rule will immediately be contradicted by federal government identity documents.
- Finally, the rule supposed required the applicant to provide “gender information as either ‘M’ or ‘F’ in the circumstances where the birth certificate, passport, or DHS documents do not contain ‘M’ or ‘F’ information. For intersex people – including those born with both male and female reproductive organs, those born with no reproductive organs, and those with a variety of other sex/reproductive organ variations – requiring the self-selection of either ‘M’ or ‘F’ is medically and ethically inappropriate, stigmatizing, and discriminatory to their biology and their humanity.

It is clear that this proposed rule is flawed in design with limited research about the actual implications. There will undoubtedly be notable litigation with claims related to violation of Title VII of the Civil Rights Act of 1964 as well as the equal protection clause of the 14th Amendment of the US Constitution.

I am a leading national expert in sexual and gender minority health. Should you be interested in discussing or learning more about the items I have raised in this e-mail, please do not hesitate to contact me. I would be delighted to chat.

Division Response: The proposed Rule defines “gender information” as “the sex of an Applicant as stated on the Applicant’s identity document.” The proposed Rule defines “identity document” to include the “Applicant’s ... original birth certificate, amended birth certificate, passport, or identification document issued by the United States Department of Homeland Security.”

An identity document to the Office of Driver Services that is issued by the federal government, a foreign country, or another state bearing “X” gender information would not be rejected under the proposed Rule. In this circumstance, the Department and the applicant for a driver’s license or identification card would follow the procedures provided under Rule III(d) of the proposed Rules.

Commenter Name: Esther McClellan, June 26, 2024

Comments: Hello, thank you for reading this email and allowing people to send emails.

I guess my question is has the x gender marker caused any issue in the past and has it ever negatively affected others who put M or F?

It makes me so sad that something most Arkansans have never known about, cared about, or thought about is being removed because certain people don’t approve, even though it has no negative effect on them. But for a small amount of Arkansans the removal will make their life more difficult and will be upsetting for them. DFS isn’t breaking any laws or rules by having the x as an option and it doesn’t cost any more to have it on a license. I am asking that Arkansans are able to continue selecting X as an option.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Jan Moore, June 26, 2024

Comments: There r only 2 [...] genders

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: James Story, Jr., June 26, 2024

Comments: I don't think that anything should be changed there are only two gender and all of this non-biniery nonsense is ridiculous and our state or federal government's need to stop playing into these mental issues of these people they may be homosexual but they are still male or female

Thank you,

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Laurie Jones, June 26, 2024

Comments: True Identity. What's on your birth certificate should be What's on your ID.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Vito Via, June 26, 2024

Comments: Look, it's simple. GOD made us MALE and FEMALE! There are NO other options, no in between! This is satan's work, who we must fight against and utterly defeat! This is the same problem that sodom , gomorrah , and other people's and cities had and look what happened to them! Blown off the face of the Earth for their sadistic, evil, sinful, and iniquity filled, self serving ways! Going against GOD and HIS nature is a very unhealthy and dangerous thing to do! I pray for the conversion and Salvation of all ! MAY GOD HAVE MERCY UPON AND SHED HIS GRACE UPON US! IN THE HOLY, MIGHTY, BLESSED, LOVING, REDEEMING, SAVING, MEDIATING, HEALING, HELPING AND ALL ELSE GOOD PERSON, NAME AND BLOOD OF JESUS CHRIST, AAAMEN US!!!!!!!!

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Nancy Dockter, June 26, 2024

Comments: **Why the "sex" identifier on ID matters – and what it is not meant to be**

"Sex" on an ID does not represent a personal identity nor is it a "gender marker," as it has been called. "Sex" on ID is simply an identifier based on biological reality, the same as the other three identifiers on a license – birthdate, eye color, and height. This identifier is no more a matter of subjective feelings than blood type.

These identifiers are verifiable by an outside observer (such as the state employee issuing an ID) and are relatively fixed over the lifetime. Accurate ID is essential to the apprehension of criminals, finding missing persons, accuracy of medical records, and the identification of criminal offenders and victims. Without preservation of the sex category on ID, falsehoods are entered into crime statistics databases for the sex of perpetrators and victims. Accurate crime data is essential to crime prevention. For these reasons, the

male/female identifier is necessary and must be preserved, not replaced by a changeable “gender identity.”

Individuals on hormone therapy who want emergency medical personnel to be aware of this should carry an emergency medical information card at all times. A blank card costs a few dollars and can be purchased online. The sex identifier alone is not going to convey this vital information to emergency responders.

Advocates for transgenderism claim that having an ID showing the sex they want to be makes them feel better psychologically and validated. An ID is not meant to be a therapeutic aid. Knowing one’s worth as a human being comes from within. An ID should not have personal feelings attached to it. It is simply a card that states biological facts.

Everyone deserves to live authentically without unjust limitation, fear or harm. People who do not conform to sex-based stereotypes (i.e., gender non-conforming) or are gay or lesbian should be protected by law from discrimination in the workplace, employment, education, housing, and other public spheres.

Personal identity is a private matter and an individual’s right. However, no personal identity should be used to justify policies or laws that harm others. This is what has happened with gender self-ID.

The larger societal implications of gender self-ID (transgenderism) in law and policy

The beliefs that are the basis of our laws and policies do matter. When falsehoods are the basis of public policy, sooner or later, harms result. Our laws and policies have strayed from biological reality; as a result, significant harm has come to women, girls and boys. This must stop.

What are the falsehoods of transgenderism?

The “logic” of transgenderism goes like this:

- Most people have a mix of stereotypically masculine and feminine traits (appearance, physical features, personality traits, and occupational roles). There is variability among animal species for how sex is determined. Some people have a congenital disorder of sexual development (“inter-sex”). For these reasons, sex is not binary (two distinct categories, male and female). Instead “sex is on a spectrum.”² There are multiple sexes. It is impossible to clearly define male and female, so the sex binary has no merit or utility in science or the law. It should be eliminated from our laws and policies and replaced with the concept of gender identity. There are many genders, and gender can change over a lifetime. One does not have to prove one’s gender identity; it is not observable. It is an inner state known only to an individual.
- It is possible to change into the opposite sex to match your gender identity by modifying your body with surgeries or hormones.

What is sex?

Sex, in contrast to the vague concept of gender, is based on biological reality – the reproductive roles of the two sexes:

- There two sexes, male and female. The universal distinction between males and females are their different reproductive cells (gametes): Males produce sperm, females produce eggs. In all mammals, including humans, biology defines one’s sex prior to birth, and it does not change. In some non-mammals, such as slugs, seahorses, and clownfish, there is diversity in how sex is determined, and it may change over the lifetime. However, no third sex or type of gamete exists in the animal or plant

world. People who have a disorder of sexual development (“inter-sex”) are not a third sex; they produce eggs, sperm, or neither.

- A person’s sex is not defined by how well he or she matches up with social stereotypes for masculinity and femininity. These stereotypes arise from a particular culture and historical period. Aspects of these stereotypes include one’s appearance, physical features, personality traits, and occupational roles. These traits may be highly important to one’s personal identity and self-expression, but none of them defines a person’s sex.
- Bodily modification (through hormones or surgeries) can radically alter a person’s secondary sex characteristics (size of breasts and genitals, hair growth, musculature, voice) even to the extent that the person appears to be the opposite sex. However, no amount of bodily modification can change a person into the opposite sex. Changing your sex would mean you would then be able to switch over to the production of the other sex’s gamete type and change the related sex chromosomes (XX or XY). That is impossible.

What is the harm done by transgenderism and gender self-ID?

Re-defining sex in law and policy to include gender identity has resulted in egregious harms to women and girls. In states where this has happened, the harmful impacts are becoming more and more common³:

- Simply by claiming to be female, men and boys in some states are allowed to compete against female athletes, cheating them of rankings, trophies, prize money, and scholarship opportunities – which is particularly harmful to young athletes from disadvantaged backgrounds aspiring to attend college on a scholarship. This is a rapidly spreading phenomenon affecting hundreds of female athletes across sporting events, including basketball, soccer, volleyball, wrestling, track and field, water polo, rowing, swimming, golf, power lifting, and cycling.⁴ If allowed to continue, this could lead to males dominating female sports.⁵ Males are on average much larger, stronger, and more powerful than females,⁶ putting females competing against them not only at an unfair disadvantage, but also putting them at risk of serious physical injury.
- Males are using gender self-ID to enter women’s and girls’ locker rooms, restrooms, spas, domestic violence shelters, prisons, lesbian bars and dating sites, and even membership in a sorority.^{7,8} Without their consent, females are being subjected to voyeurism by male strangers and humiliated by the exhibitionism of naked males.⁹ Females are now told to accommodate to the demands of these men, in the name of tolerance and inclusion. Counter to what they have known their entire lives about the importance of female-only spaces for safeguarding against violence, they are now expected to trust any male stranger in their midst.
- Transgenderism in law and policy requires that society comply with lies – that one can change their sex and be whatever sex he or she claims to be. Gender identity ideology is being used to promote the notion that young people who do not conform to sex-based stereotypes and are experiencing distress are in fact transgender and should alter their bodies with surgeries and hormones to become happier. These drugs and surgical procedures have not been approved by the Food and Drug Administration as treatment for gender dysphoria. They are experimental,¹⁰ and evidence is weak for the claims that these treatments improve distress, overall mental health, or tendencies toward suicidality. Long-term benefits and risks are unknown.¹¹

The ideology of “gender identity” is the basis for a policy that has been in effect in Arkansas since 2010, allowing a person to self-determine the sex on his or her driver’s license or state ID. At the time, the policy very likely was seen as benign and compassionate towards people who do not conform to sex-based

stereotypes. Since then, more and more people are waking up to its harms.

The Arkansas Department of Finance and Administration's proposed rule change requiring an accurate sex designation on ID would be a significant step on the return path to sanity in regard to sex and "gender identity" in law and policy.

1. Equality for All Act. Women's Declaration International USA.
2. Elliott, Z.A. (2023). *Binary: Debunking the Sex Spectrum Myth*. Paradox Press.
3. Dansky, K. (2021). *The Abolition of Sex: How the "Transgender" Agenda Harms Women and Girls*. Post Hill Press.
4. No fully systematic tracking of males in female sports is being done. SheWon.org is the best source. See also Reduuxx magazine, which occasionally covers this issue.
5. Richardson, V. (June 16, 2024). Girls left in dust as male-born transgender athletes take state track titles in five states. The Washington Times.
6. O'Connor, M.I. et al. Fairness for Females: Sex Drives Performance. Independent Council on Women's Sports.
7. Dansky, K. (2023). *Betrayal: How the Democrats and the Left Betrayed Women and Girls*. Post Hill Press.
8. Gluck, G. (June 16, 2024). Kappa Kappa Gamma Women Lose Last-Ditch Appeal to Remove "Voyeuristic" Trans-Identified Male from their Sorority House. Reduuxx.
9. Female Athletes Sue NCAA Over Transgender Competitors in Sports. Independent Council on Women's Sports.
10. Hughes, M. (2023). The WPATH Files: Pseudoscientific Surgical and Hormonal Experiments on Children, Adolescents, and Vulnerable Adults Environmental Progress.
11. The Cass Review.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Christina Day, June 27, 2024

Comments: I read the document for the proposed emergency rule about gender on driver's licenses. It sounds like it will cost taxpayer money to implement, and does not sound like there will be any benefit. It also sounds like it will waste even more taxpayer money to deal with the inevitable lawsuits against it. There are actual emergency situations in this state, but this is not one of them. We shouldn't be wasting time or money on it when we have real, serious problems to deal with.

Division Response: The Arkansas Legislative Council approved the Emergency Rule on March 15, 2024. The proposed Rule is the permanent promulgation of the same rule. No changes made to proposed Rule.

Commenter Name: Lesley V. Bingham, June 27, 2024

Comments: Being a human is full of challenges. This is amplified when your physical body does not match how your brain, your spirit, and everything else that makes you YOU. Allowing people to not declare this on a Driver's License allows for dignity and freedom of expression.

There is no need to add to the challenges of non-cis people as they live their lives. There is no compelling societal benefit to force people to use a gender that may have been chosen FOR them on their birth certificate, at a time in their life when they had NO choice. All it does is add to an already unsafe environment for trans, non-binary, and intersex people. Though they are a small group, they're still taxpayers and deserve equal, not identical, treatment under the law.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Thomas McFetridge, June 27, 2024

Comments: Many of the comments you'll see today contain a lot of medical research citations and sources to legitimize their statements. Some are almost as detailed as a PHD dissertation.

I'm merely asking for the state to honor life, liberty and the pursuit of happiness, as promised in the Declaration of Independence.

I'm asking for our governor to govern, in lieu of sewing division and labeling a small group of our citizens as "others" in order to gain political favor from the fringe of the extreme fundamentalist movement. To act as people of a nation born from the need for religious freedom. To recognize that all people are created equal, and honor our constitutional right to freedom of expression.

This current popular political movement to capitalize on every opportunity to divide and dehumanize people is clearly a distraction from the reality that our governor is unable to lead the people of our state in unity and prosperity. That her political aspirations in the fringe of fundamentalist ideology outweigh her responsibility of leading Arkansas. This trend of extremism will pass, and I'm deeply concerned with what condition Arkansas will be left in, once the trend has passed. When all of the energy spent on culture wars and identity politics, instead of focusing on prosperity and problem solving has borne the fruits of its harvest. I could spend days researching the origins of studies on our deficiencies in national rankings in education, child wellbeing, infrastructure... etc, but we all know that we're near the bottom in every category. Perhaps spending time working on solutions, instead of pandering to fundamental extremism could help our state prosper.

The Waltons and Walmart have a goal to recruit the best talent from across the world, to help carry our state's largest corporation and beacon of economic prosperity into the next generation. Creating an environment to support such a vision may actually help our state grow in a meaningful direction. The proposed policy of identity removal is a treacherous step in the wrong direction. With Amazon gaining market share in every sector of retail, we could eventually see the collapse of our entire state's economy. We have an opportunity to be a state that welcomes innovation and ideas from uniquely qualified individuals. Closing the door to groups of people, because of their gender, skin color, religious beliefs or culture is a damaging practice that endangers every single person in the state.

So I put it to the DFA, and the state of Arkansas to put aside their concern with an "X" and work towards pulling our national rankings out of the 40s in nearly every metric, in every published report. Let's lead our people, instead of dividing us for political gain.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Dolores Wilk, June 27, 2024

Comments: I was unable to attend the public forum but I wanted to let you know my opinion as a nonbinary Arkansan.

To take away the X marker, discriminatory against people who are non-binary. Despite some people not understanding differences in gender identity and stating non-binary people don't exist. You don't have to understand non-binary people to have compassion for them. I see them and we have been harmed from this legal change.

Any gender marker is a form of discrimination! Only recently in our history people that identified as female

(F) were allowed to own property or vote. I believe it should be removed all together! Why are we even doing this? A person's integrity and humanity is more important than any classification or label. Putting people in boxes is wrong.

Please feel free to contact me with any questions or follow up with me.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: J.P. Tribell, Esq., June 27, 2024

Comments: Please find, attached, a savable, printable version of my comment regarding the Department's proposed rule for consideration and to be entered in the record.

I hereby submit my written comments, below, on the proposed rule concerning gender information on driver's licenses and identification cards (collectively "DL") by the Department of Finance and Administration ("Department"). I am opposed to the proposed rule, because it causes harm to residents of Arkansas, creates further inconsistency, is discriminatory, and fails to achieve its purported purpose as stated and in fact does the opposite.

1. There are issues with some terms and requirements of the proposed rule.

Under Section I, Definitions, the Department is unnecessarily dehumanizing its own citizens by referring to Arkansans in a manner to which things are referred. Subsection (1)(A) states that an "Applicant" means a person *that* has applied to the Office... (emphasis added), and Subsection (1)(B) states that an "Applicant includes a person *that* has applied to the Office... (emphasis added). The word "that" and "which" are used for things, while "who" is used for people. Anne Enquist & Laurel Currie Oates, *Just Writing: Grammar, Punctuation, and Style for the Legal Writer*, 321 (4th ed., Wolters Kluwer Law & Business 2013). The terms "that" in the stated Subsections should be replaced with "who".

Section II requires an Applicant to "verify" to the Office upon renewal of a DL that certain information—inter alia one's gender information—is correct. The Department proposes to remove the "other" category, i.e. "X", from possible options. Then, the Department requires the Applicant to verify that one of only two options may apply. Verification is the examination of a writing for the purpose of ascertaining its truth, or the confirmation of correctness, truth, or authenticity of a pleading, account, or other paper, by an affidavit, oath, deposition. Black's Law Dictionary, <https://thelawdictionary.org/verification/> (accessed June 10, 2024). This becomes an issue when the Department requires the Applicant to confirm one of only two options in writing, when, in fact, neither may pertain to them. This applies to, inter alia, any of the intersex Arkansans who are neither male nor female but are forced choose between those limited options.

An intersex person, whose genitalia presents as both male and female or neither nor, has been shoved into an arbitrary category of M or F on an Arkansas DL. Up to 1.7% of the population is estimated to be intersex in some form. [https://www.ohchr.org/en/sexual-orientation-and-gender-identity/intersex-people#:~:text=Experts%20estimate%20that%20up%20to,as%20heterosexual%20\(sexual%20orientation\)](https://www.ohchr.org/en/sexual-orientation-and-gender-identity/intersex-people#:~:text=Experts%20estimate%20that%20up%20to,as%20heterosexual%20(sexual%20orientation).). That means, up to approximately 50,000 Arkansans¹ carry birth certificates and potentially DLs that to not reflect "accurate and complete gender information." The government forcing such people to declare their gender as either "M" or "F" when they are neither is forcing them to lie.

¹ The 2020 population of Arkansas was 3,011,524.

<https://data.census.gov/profile/Arkansas?g=040XX00US05> 1.7% of that population is 51,196; thus, up to approximately 50,000 Arkansans are statistically intersex.

2. DF&A's proposed rule is irreconcilable with its stated purposes.

The Department stated that the purpose of the rule is, “to... [provide] **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.” Ltr. From Jim Hudson, Sec’y, Dep’t of Fin. & Administration, to Marty Garrity, Dir., Ark. Bureau of Legis. Research, *Proposed Rule–Gender on State-Issued Documents* (Mar. 7, 2024) (bold added), yet to “**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).” Proposed Rule Sections I(5), III(b) (bold added).

In describing the current recognized practice, Mr. Hudson further raises the point that a person’s gender on their DL may not be **consistent** with their birth certificate, passport or DHS document that “provides differing gender information”. *Id.* (bold added).

The requirement for DL gender to “correspond” to federal documents yet simultaneously for the Department to prohibit the X gender or self selection makes it difficult, if not outright impossible in certain circumstances to satisfy the Department’s purpose. The federal government permits gender self selection, including X, on birth certificates (FS-240), on passports, with the Social Security Administration, and likely on DHS documents as well.

Jim Hudson further claims that the “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**.” Ltr. From Jim Hudson, Sec’y, Dep’t of Fin. & Administration, to Marty Garrity, Dir., Ark. Bureau of Legis. Research, *Proposed Rule–Gender on State-Issued Documents* (Mar. 7, 2024) (emphasis added).

Ark. Code Ann. § 27-16-1104 sets forth the minimum document requirements for a driver’s license or identification card:

- (1) The person’s full legal name;
- (2) The person’s date of birth;
- (3) The person’s **gender**;
- (4) The person’s driver’s license or identification card number;
- (5) A digital photograph of the person;
- (6) The person’s address of residence;
- (7) The person’s signature;
- (8) Physical security features designed to prevent tampering, counterfeiting, or duplication of the document for fraudulent purposes; and
- (9) A common machine readable technology with defined minimum data elements.

Ark. Code Ann. § 27-16-1104 (emphasis added).

The current practice in place since 2010 does not violate the statute; every DL issued by the Department provides for each person’s gender. In contrast, however, the Department does not conform to the requirement of Ark. Code Ann. § 27-16-1104(1): many DLs do not contain a person’s “full legal name,” as required by law. Many have a person’s abbreviated name, often including a middle initial in contravention of the plain language of the statute. Therefore, the Department is failing to fulfill the plain meaning of Ark. Code Ann. § 27-16-1104(1), while at the same time attempting to read extra language or intent into the word “gender”.

In its emergency motion filed in the supreme court, the Department claims that the Driver’s License Security and Modernization Act (“DLSMA”), under which Ark. Code Ann. § 27-16-1104 became law, was passed in response to the REAL ID Act of 2005 that set forth minimum requirements for state-issued DLs to be accepted by federal agencies, amongst which is a **person’s gender**. Emergency Mot. for Stay of Inj., and Req. for Expedited Consideration at 2, *Ark. Dep’t of Fin. and Admin. V. Brandyn Gallagher, et. al.*, (Ark., June 14, 2024) (CV-24-379) (emphasis added). *See also* Pub. L. No. 109-13, 119 Stat 231.

However, the Department's practice prior to the Governor's review seeking, Ltr. From Jim Hudson, Sec'y, Dep't of Fin. & Administration, to Marty Garrity, Dir., Ark. Bureau of Legis. Research, *Proposed Rule—Gender on State-Issued Documents* (Mar. 7, 2024), is fully compliant with the Real ID Act. First, United States passports are fully Real ID compliant; U.S. passports permit self selected gender—including X—which does not inhibit their compliance. As such, a passport with any self selected gender—including X—is valid not only with the TSA for travel within the United States, entry into state and federal buildings and embassies—United States and foreign alike, but also with Customs and Border Patrol for travel to any country anywhere around the world.

Second, the Real ID act does mandate “gender”. What it does not do, though, is restrict how gender is mandated, and in full compliance thereof, the federal government recognizes self selection and X. The state of Arkansas should follow suit and do the same in order to provide for the very consistency with a person's federal and state documents the Department is attempting to achieve. The proposed rule will, in contrast, make certain persons' respective identities inconsistent across various records, particularly with intersex Arkansans born in Arkansas. Even if the new rule takes effect, Arkansans will still be able to use a Real ID compliant identification with a self-selected X gender to enter state buildings or for any legal purpose within the State of Arkansas save operation of a motor vehicle.

It is impossible to force holders of Arkansas Driver's licenses and identification cards to fully comply with the intent of the new regulation, because Arkansas cannot compel the federal government or all other states, territories, or nations to comply with Arkansas's whims when the other entities issue their own documents. It is simply a reality that the Department and the State of Arkansas must face that Arkansas residents will have other documents from other jurisdictions used within Arkansas that may reflect an X or a self-selected gender.

Thus, under the proposed policy, or any other proposal for that matter, the Department's inherently conflicting purposes of **accurate and complete** gender information and **consistent** gender information are irreconcilable. The only way to fully reconcile such notions is to permit self selection and X on both DLs and birth certificates.

3. The proposed rule arbitrarily discriminates against native Arkansans

Under the proposed rule together with the exception, similarly situated Arkansans will receive different treatment, depending on where they were born: “Except as provided under subsection (d)(1) of this Rule, a DL...shall contain the same gender information as stated on the Applicant's identity document.” III(b). The exception states that if the identity document provided contains no gender or an “X”, then the Applicant must self-declare M or F. Section III(d)(1).

An Arkansas born resident does not qualify for the exception, and their DL will, thus, reflect the same gender on their Arkansas birth certificate on file with the Office.

In contrast, a person born outside Arkansas with X on their document must self-declare M or F on the Statement of Gender Information to be Displayed on Driver's License or Identification Card issued by the Department's Office of Driver's Services, even though it does not conform with their gender or their other documents.

Those persons born outside Arkansas, from a state that permits self-selection, and identify as M or F are also treated differently than the previous two classes of people. They would also not qualify for the III(d)(1) exception but would be recognized as M or F without question or declaration. The gender on their DL would conform with both their actual gender and their other documents. In this scenario, the State of Arkansas would not be able to know what their assigned sex at birth would be without forcing them to undergo some sort of compulsory medical examinations of genitalia and chromosomal tests.

Thus, Arkansas born residents are prejudiced in their treatment as compared to residents born in states with self selection. With such disparate treatment of these various categories of persons, the proposed rule does nothing to advance the stated objectives of accuracy or consistency. This brings to light the State's lack of concern for accuracy and its desire to implement yet another targeted attack on the trans, non-binary, and intersex community of Arkansas.

Conclusion

For these reasons, I oppose the State of Arkansas implementing the proposed rule that is inconsistent with the Department's disingenuous stated purpose, that will result in harm to and discrimination against Arkansans, that will not result in the most accurate and complete gender information, and that fails to resolve any inconsistencies in gender information. I strongly urge the Department to not move forward with this proposed rule and for the Legislative Council to decide against implementing this rule.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Kenneth Futrell, June 27, 2024

Comments: Go by the Birth certificate.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: sunnyday829 (full name not provided), June 27, 2024

Comments: There are only males and females, to say different is disingenuous. If transgender individuals want to live as such, that's their prerogative, but to force others to change what is true into a lie and to use legislation to do it because they choose to live an alternative lifestyle is unacceptable. Please do not allow this to happen

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Chelsea Fox, June 27, 2024

Comments: I am from California and although I'm in the process of amending my birth certificate, it takes 19-23 weeks for it to go through in my home state. I'm currently in possession with my passport book, passport card, and updated in the registry with my correct gender designation, as well as a physician's letter indicating appropriate transition to female fully. I find it extremely frustrating I'll have to wait 5 months to update my driver's license, when I have proof of my gender identity literally on my passport and social security card, as well as being in the process of an amendment.

This is making me want to leave the state at the end of the year when my lease is up, and not update my ID at all. I really loved being in Arkansas up until this emergency ruling was placed, it was a place I found myself, and now I feel like I'm being told I'm not wanted here.

Please consider using the passport as proof of gender marker for those of us in the gender binary. Thank you.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Catherine Hess, June 27, 2024

Comments: I am writing to express my support for allowing Arkansans to have a gender neutral gender marker on their drivers licenses and other forms of identification. This is something that would benefit many

Arkansans, and would signal to people moving to Arkansas that we are a state which values its people and their individual freedoms as guaranteed both in the state and federal constitutions.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Fae (full name not provided), June 27, 2024

Comments: I am writing to express my support for allowing Arkansans to have a gender neutral gender marker on their drivers licenses and other forms of identification. This is something that would benefit many Arkansans, and would signal to people moving to Arkansas that we are a state which values its people and their individual freedoms as guaranteed both in the state and federal constitutions.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Jessica Disney, June 27, 2024

Comments: Response to Department of Finance and Administration, Rule 2024-1, titled, Gender Information Required to be Displayed on an Arkansas Driver's License or State Identification Card

My name is Jessica Disney. I am here as a citizen of AR that would be effected by these proposed rules.

I will comment on the rule as proposed by describing my personal experiences with Identification and Gender Markers, and offer a reasonable alternative in accordance to Arkansas Law requiring gender information on a Drivers License or Identification Card. The stated reason for this rules proposal is that it is for the safety of individuals as the gender marker on our IDs is used by: law enforcement, voting, travel, financial transactions, insurance, and health care services.

For reference: there are 4 files that include information on one's gender utilized by government agency. These are our State Birth Certificate and ID, along with our federal Passport and Social Security.

As a result of previously having a mismatched marker on my ID: I have been denied the ability to conduct financial activities at a bank, and at a business that questioned the validity of the license due to my listed Gender being Male. I have been stopped and questioned by TSA in the course of travel due to the mismatch and required to provide other documentation to prove that I am who I say I am.

I know it can be difficult to walk in someone else's shoes, but I will be taking this time to be vulnerable so that you can see why these proposed rules can require us to be dehumanized and reveal medical information far beyond what is required.

I do not have a passport as I do not intend to travel internationally. Your gender marker is not present on your social security card for it to be used. So this rule leaves me with my birth certificate to make this marker change. To amend my birth certificate, the state requires me to both present letters of gender identity recognition by doctors in ADDITION to requiring me to provide evidence I underwent major surgery affirmed by myself and the doctor that performed the surgery.

I personally have medical concerns and issues that would prevent me from undergoing this

surgery at this time. Not to mention the financial costs associated with undergoing a surgery that if done safely and under guidance, could require me to take off up to a month of work to recover from. While I would gladly choose to undergo this surgery if I was able. It is a simple fact, that I cannot at this time. At no fault of my own, I am denied the ability to amend my birth certificate so that I may continue having the correct marker on my ID.

I do mean correct marker. For me, that marker is a Female. A major concern for my safety is that should I be in an emergency situation, unable to respond to medical professionals who need the best information possible to rule out issues or determine method of treatment, if my ID matched my birth certificate it would provide them with information that is incorrect and could cause them to misdiagnose or implement treatment that could cause lasting harm to my body. I am on hormones as part of my medical transition. I regularly have labs done that monitor a lot of information about me as a person. I am almost 4 years into my transition, and according to my medical reports: My body is in-line with that of a cisgender woman. When considering the types of medication used and their effects this can be very important for them to know.

If the proposed rules continue through as-is: I would have to ensure my marker says Male. Providing incorrect information at a time when seconds can make the difference between life and death. Being required to put that marker would put my health and safety in danger. Directly working against the stated need for this rule in the first place.

Under Section 1.5 the definition of identity document is explained. Under Section 3(b) the policy states that it shall contain the same information as an identity document. This policy as proposed Under Section 4 Subsection A(2) ignores every other identity document besides a birth certificate. Which would prevent someone from using a federally issued passport which is an agreed upon method of identity document as defined previously.

I would propose that in the Section 1(3) under Gender Information you strike the period at the end and add or “affidavit of gender identity.” Add a definition of “Affidavit of gender Identity” to mean a notarized statement by the applicant of their gender identity and marker for identification. Then under Section 4 Subsection A(2) instead of only allowing a birth certificate the policy should allow for any identity document or an affidavit of gender identity.

This option would allow someone like myself to receive the correct treatment In an emergency situation, and prevents discrepancies that require me to be separated, questioned, and treated differently to others while trying to do business with financial institutions, state government bodies, or exercising my freedom to travel in the US.

Please consider adding to this rule proposal the ability for us to submit our statement as an option for the correct gender marker.

Thank you for taking this as written commentary on the proposed policy.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Max Calabotta, Northwest Arkansas Coordinator at Intransitive, June 27, 2024

Comments: Thank you for the opportunity to comment on this proposed rule. I am a Transgender Arkansan that has lived here since 1998. I am also a community organizer, an artist, and a cultural producer. I have changed my gender marker on my AR Drivers License, and I believe others should have the opportunity to have a marker that matches their gender identity.

I would like to raise concerns regarding this proposed rule. X gender markers are not an emergency. Whether a citizen of the state of Arkansas has an X, an F, or an M on their license does not constitute an emergency or make it harder for First Responders to address citizens in emergency situations. In fact, when people have gender markers that do not match their gender expression, they are more likely to experience harassment and violence from emergency support services, and also other places where they must show ID to receive care (healthcare and hospitals, housing, applying to be part of the workforce, and even restaurants where they may want to be served adult beverages).

The proposed rule changes will make it difficult for transgender people to have affirming identification documents, which will cause more discrimination. Our state is not a hateful place. It is a home to many transgender, nonbinary, and gender nonconforming people. We deserve to be able to have ID that does not out us, ID that will not potentially lead to discrimination and harassment.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Cheryl Davidson, June 27, 2024

Comments: Thank you for the opportunity to comment on this proposed rule. I am a long-time Arkansan with loved ones who have changed their gender on their drivers license and others who hope to.

I would like to express concern regarding this proposed rule. This proposed rule was put forth as an emergency policy when there is no emergency. Citizens of Arkansas being able to choose the gender they have on their license is far from an emergency situation, and it does no one any harm to allow this to continue. The policy allowing for the X marker has been in place since at least 2010 with no ill effect.

Again, I am asking you to please oppose this change to a long-standing policy that has had no ill effects on Arkansas citizens, but has positive effects for many.

Division Response: The Arkansas Legislative Council approved the Emergency Rule on March 15, 2024. The proposed Rule is the permanent promulgation of the same rule. No changes made to proposed Rule.

Commenter Name: Aracely Mondragon, Youth Coordinator at Intransitive, June 27, 2024

Comments: Thank you for the opportunity to comment on this proposed rule. I am a Youth Coordinator with Intransitive, a trans led organization in Arkansas. I am also an Arkansan who is nonbinary and requires an “x” on my drivers license.

I would like to raise my concerns about the harm this proposed rule causes. I myself recently went to the DMV to update my gender marker but had to step away due to a work emergency. Now I am unable to make that change. Having to have a gender marker that does not align with my gender on an identification that I have to use every day is distressing. Not only does it encourage people to misgender me, it also erases who I am as a nonbinary person whose gender does not fit into the harmful binary that comes with the letters F or M. There is an option that would allow me to identify myself without having to go through the anxiety and dysphoria that comes with people seeing a different letter on my driver’s license and misgendering me. That option is being able to have an “x” on my license.

I’m asking the department to consider the harm this ruling can lead to for trans Arkansas. Not allowing trans people to have a drivers’ license that accurately reflects one’s gender can also expose people to harassment, discrimination, and anti-trans violence.

Please consider the harm this proposed rule is already having and overturn it.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Katie (full name not provided), June 27, 2024

Comments: I hear you are accepting public comment on the gender markers for driver's licenses. As a transgender woman living in Arkansas, safety and survival are already a top priority for me. I live my identity openly but am forced to keep a gender marker on my birth certificate that does not align with who I am. I'd love to have accurate identification markers when I'm ready to take that step.

What does this change in law actually accomplish other than punishing those who are different? Let me live my life in peace, loving those I choose to love and surrounding myself with those who support me. Stop trying to punish and hurt those like me.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Richelle Brittain, June 27, 2024

Comments: My name is Richelle Brittain. I am a transgender woman who also considers herself a little bit non-binary, though I never had an "X" on my driver's license or passport. I am also a licensed attorney, though not currently practicing; I started my transition before I went to law school. Prior to that, I had worked for 20 years in Arkansas state government, including a short stint at DF&A in the 1980's and nine years as a state agency insurance rep trained in HIPAA, before retiring on disability. Though I am not presently representing any organization, I was a board member of the Arkansas Transgender Equality Coalition when it dissolved in 2020. In my past trans advocacy I have had dealings with several of the other persons and organizations opposed to this policy, including the ACLU, one of the plaintiffs in their lawsuit against the temporary policy, and several of those who spoke with me at the public hearing.

Please note that, probably much to the surprise of certain people who are pushing this inappropriate policy, I will not be personally affected by it directly. Though I changed my gender marker on my Social Security records, driver's license, and passport (along with my name) shortly after starting my transition in 2015, I also changed my gender marker on my Arkansas birth certificate in 2016 after I had a surgery affecting my genitals for non-trans medical reasons, followed by a lengthy recovery. I also presented that amended birth certificate shortly thereafter when I upgraded my driver's license to a REAL ID. Since all of these documents reflect my female gender identity, I will personally have no problem retaining the "F" on my driver's license. Nonetheless, as a trans woman who is well aware of the difficulties most trans, non-binary, and intersex people face in getting identification that accurately reflects their inherently public gender identity and expression -- not their sex assigned at birth, which for most purposes is medical information that they are entitled to keep private under HIPAA -- I must rise in opposition to this highly improper policy change.

Contrary to the claims of certain people pushing for this change, it will actually tend to endanger the safety and possibly lives of trans, non-binary, and intersex people, especially during encounters with law enforcement. It is well-known that certain names, hairstyles, and manners of dress express a certain sex or gender (depending on how you define those terms). However, there is NO law regulating the use of ANY name, hairstyle, or manner of dress with a certain sex or gender on identity documents.

Even the law for legal name changes is purely optional and does NOT require the person's chosen name to reflect their sex or gender. In fact, it is incredibly common for trans, non-binary, and intersex people in

Arkansas to get a court order to change their legal name before anything else, as the legal standard for adult name changes is slight; you basically can choose any name you want as long as it's not done for fraudulent purposes (as in changing your name to Warren Buffett, Bill Gates or Elon Musk so you can steal their riches, NOT changing your gender identity). I should remind you that an Elvis impersonator in Lincoln County was able to get his name legally changed to Elvis Presley, and has run for office in multiple Arkansas elections (including Governor in 2022) by that name; yet there is NO indication that he was involved in the recent unsuccessful attempt to steal the title to his famous Memphis home Graceland via foreclosure on a forged mortgage. (Indeed, since we all know the "real" Elvis is dead, it's almost certain Lincoln County's Elvis could NOT have pulled that one off. I seriously doubt he could even walk up to Graceland and claim he had faked his death over 40 years before, as many conspiracy theories now claim.)

Per the lyrics of a song famously recorded (though not written) by Johnny Cash, whose statue will soon represent Arkansas in the U.S. Capitol, anyone can be "a boy named Sue" -- or by paraphrase, a girl named Stu. Yet by requiring the gender marker on driver's licenses and IDs to reflect sex assigned at birth, that immediately creates in most cases an incongruity between the ID and how a trans, non-binary, or intersex person presents to an officer -- whether in their hairstyle or dress as pulled over, or even their name if it has been changed on their ID. That alone could easily cause an officer to use their discretion to take steps that escalate the stop beyond what would otherwise be appropriate, such as ordering a driver out of their car and conducting a search of their car or even person.

The stated reason why an officer might need to know a person's sex assigned at birth -- that the officer needs to know if a female-presenting driver or other suspect is actually male and could overpower the officer -- is likewise specious as sexist, an improper assumption as to who might be capable of such a thing, and NOT borne out by studies of the actual strength of trans, non-binary and intersex people. The best way for an officer to assess the potential of a driver or other suspect to fight against them is to observe their body type -- NOT the gender marker on their ID -- and act courteously for as long as possible while doing their duty. Officers should be concerned about the totality of the person before them, NOT what body parts that person possesses.

Also, purporting to change the gender marker on existing "X" IDs -- yet NOT actually removing those IDs from circulation, which will probably be impossible before they expire (in most cases up to 8 years from issuance) -- creates an automatic red flag situation. Officers will certainly know if presented with an "X" ID to call it in and ask what their "real" gender marker is, and act accordingly. This effectively turns the "X" gender marker into the equivalent of the "A" worn by adultresses in Nathaniel Hawthorne's famous book *The Scarlet Letter* -- a mark of shame that only invites discrimination and personal or even physical attacks against those who carry it. This is particularly problematic for intersex people, whose "sex" is even more obviously "assigned at birth" by a doctor's reading of their ambiguous baby genitals, before they can even express what their gender identity is or even consent to surgical changes to their genitals. It is also unclear what will happen if DF&A possesses NO "identity document records" to determine which gender to use, or if (as noted below) those records bear different gender markers.

As others expressed most of these issues at the public hearing, my testimony there focused on the legal issues in the proposed rule, which is simply a copy of the temporary rule that does NOT resolve any of its legal issues beyond formal promulgation:

- The multiple uses of "birth certificate" in the rule do NOT accurately describe ACTUAL documents that an applicant may present to a revenue agent. The rule refers to "original birth certificate" twice and "amended birth certificate" twice, but only ONCE does it use the PROPER terminology for such documents -- a "certified copy of an amended birth certificate" (emphasis added) in IV.(a)(2). The ONLY "originals" of ANY birth certificate, original OR amended, in Arkansas or most other states is at best found within the records of the state Health Department or other vital records agency, and are NEVER made physically available to the person. Virtually ALL "birth certificates" possessed outside the vital records agency are certified copies of the actual record, made from either the actual record or a copy of it maintained by the vital records agency (microfilm, electronic, etc.) for the purpose of

producing certified copies upon request. Yet by using “certified copies” only once vs. “original” twice, the rule on its face makes it impossible for almost anyone to prove even their sex assigned at birth because they DID NOT, and CANNOT, obtain their PHYSICAL “original birth certificate” from the vital records agency.

- The definition of “identity document”, and the uses of that term, do NOT provide a basis for distinguishing between identity documents with DIFFERENT gender markers. Rule III.(d)(1) only allows the gender designation form to be used if the applicant presents an identity document with an “X” or missing gender marker. It does NOT say what happens if the applicant presents multiple identity documents with DIFFERENT gender markers, such as a birth certificate with “M” and a passport with “F”; that could leave it up to the discretion of the revenue agent, VERY bad law. In addition, the definition should make it clear that legally the term “passport” includes passport cards as well as traditional passport books; otherwise a revenue agent might try to improperly reject a passport card properly presented as an identity document. (The ONLY legal difference between passport books & cards is their permissible uses at the border; the State Department considers both to be “passports” and are equally valid for non-border uses, such as REAL ID uses, I-9, or even voter ID.)
- There is not even a HINT of an explanation as to WHY Rule III. allows gender markers at issuance or renewal based on ANY defined “identity document” (as well as implicitly for amendments under Rule IV.(d)), yet ONLY an “original or certified copy of an amended birth certificate” is acceptable to amend the gender marker on an existing driver’s license under Rule IV.(a)-(c). The ONLY possible explanation for this is to PREVENT someone from using a passport or Homeland Security document to change gender, even if between “M” & “F”, other than at renewal, since the Federal government allows self-select gender markers on those documents. This is absolute proof that this rule is an expression of bare animus against trans, non-binary and intersex people, thus making it very likely that the courts will strike it down under the U.S. Supreme Court’s ruling in *Romer v. Evans*.
- Rule IV.(a) also hides an even DEEPER Equal Protection Clause issue by making gender changes dependent on the birth certificate laws of the state where the applicant was BORN, something an applicant can NEVER change. Though the rule seems rooted in Arkansas’ specific gender change requirements in Arkansas Code 20-18-307(d), the fact is EVERY state has different laws on gender changes, running the complete gamut from “never” to “self-select”. It also makes it unclear if a person born outside the United States -- including naturalized citizens and persons born abroad who are legally entitled to citizenship from birth -- can use foreign birth certificates to amend their gender marker; most likely they CANNOT do so because the only acceptable “identity documents” they can produce are passports and Homeland Security documents, and because foreign birth certificates are NEVER acceptable for REAL ID. Indeed, this difference between the gender change laws of the different states is WHY the State Department made gender markers on passports “self-select” even before they added an “X” option. Basing an applicant’s ability to have their gender marker amended on where they were born is a blatant Equal Protection Clause violation.
- The rule does NOT explicitly state what should be done with licenses bearing the ORIGINAL third gender marker, “U”. This was the ONLY “non-binary” option on Arkansas IDs when the Mike Munns memo was issued in 2010, based apparently on ACIC/NCIC databases using it to mean “undefined”, “unknown” or the like. Yet though one part of the rule appears to prohibit future use of “U” by limiting the choices to “M” or “F”, Rule IV.(d) only provides for amending “X” gender markers -- not “U”. Yet more evidence of unconstitutional animus.

In closing, it is extremely clear that the whole purpose of this rule is to attack transgender, non-binary and intersex people merely for daring to exist and express themselves. Like all the other attacks launched by this state in recent years on the LGBTQ+ community, this rule exists solely to drive the LGBTQ+ community back “in the closet”. It is plainly unconstitutional and illegal on multiple grounds, and is contrary to the spirit of both Arkansas Code 27-16-1104(3) (which calls for IDs to bear “(t)he person’s gender”, NOT “sex” -- in 2005 terms more likely to mean gender identity than sex assigned at birth) and the REAL ID Act (whose statutory text requires “sex”, but whose regulations implicitly recognize that “sex” for REAL ID purposes must be

determined by state law or rules). The ONLY acceptable outcome to this rulemaking would be a formal promulgation restating the 2010 Mike Munns memo along with the c. 2020 addition of the “X” gender marker.

I should also warn the elected officials pushing this -- especially Gov. Sanders -- that I have rediscovered the lost recall amendment to the Arkansas Constitution, which was actually approved by voters way back in 1912 but thought invalidated by an Arkansas Supreme Court decision striking down another amendment on that ballot on a technicality. I intend to argue that later Supreme Court opinions overruled the technicality on which it was deemed invalid, and that all elected officials in this state CAN be recalled by voter petition much like in California. (The 1912 amendment was based on California’s original 1911 recall amendment.) I have already drafted a recall petition against Gov. Sanders with this rule as one of the reasons why she should be recalled. I can get proper legal and financial backing I intend to use it to attempt to remove her from office before 2026, along with any other elected official standing with her on this issue.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Maricella Garcia J.D., MPS, Race Equity Director for Arkansas Advocates for Children and Families, June 27, 2024

Comments: Thank you for the opportunity for Arkansas Advocates for Children and Families to comment on **Rule 2024-1, Gender Information Required to be Displayed on an Arkansas Driver’s License or State Identification Card.**

Arkansas Advocates for Children and Families (AACF) is a statewide, multi-issue non-profit, child and family policy research and advocacy organization. Our mission is to ensure that every child has the resources and opportunities they need to live healthy and productive lives and to realize their full potential. AACF has worked for more than 45 years to advocate for research driven, proven policies that have improved the lives of children and families in Arkansas.

The Agency should NOT adopt this rule. Instead, the agency should formalize the previous rule in which individuals were able to self-select their gender marker either M, F, or X. Or, in the alternative, remove the gender marker from state identification and driver’s licenses altogether. The proposed rule is not data-driven, nor does it follow best practices, rather it is meant to target Transgender and Nonbinary Arkansans and make it harder for them to have identification that comports with their identity. Given that a state identification card or driver’s license is the most used type of identity document in everyday life, that means that Transgender and Nonbinary individuals will be forced to use a document that everyday denies their very existence.

1. There is no data to suggest removing the ability to select “X” for gender on state IDs and driver’s licenses was necessary to improve the lives of Arkansans or increase safety for law enforcement.

The proposed rule requires gender to be stated on a driver’s license or identification card as either male or female, removing the prior ability that Arkansans have had for the past fourteen years to select “X.” DFA has not been able to cite a single incident in which having an “X” gender marker caused any harm to law enforcement or any individual. The lack of data over the past 14 years demonstrates that this rule is not intended to improve Arkansans’ lives, make it safer for Transgender, and Nonbinary people, or even for law enforcement. Instead, this proposed rule will make Transgender and Nonbinary people feel targeted and unwanted in Arkansas. Removing the ability to select “X” places many Nonbinary and Transgender Arkansans in the position that their outward appearance may not reflect what is identified on their most used identity document and that can place them in jeopardy. Accurate and consistent gender markers on identity

documents help Nonbinary and Transgender people gain access to public spaces and resources, as well as dramatically reducing the risk that they will face violence, discrimination, or harassment.

This rule is targeting Transgender and Nonbinary Arkansans who want the same chance as everyone else to pursue health and happiness, earn a living, be safe in their communities, and take care of their loved ones. By refusing to accept that Transgender and Nonbinary people exist in Arkansas, we are creating an unsafe space that will make it more likely that we will lose talented young people to other states where policies make them feel more welcome and where their safety is less of a concern.

2. This rule will have a harmful impact on Transgender and Nonbinary Individuals by (in conjunction with other policies) making it harder for them to get an ID or driver's license that reflects their gender identity.

The proposed rule requires that the gender be either M or F and it be consistent with the individual's birth certificate, which is not likely to match the individual's own identity. This is extremely harmful especially for Transgender and Nonbinary youth who were looking forward to being able to get a document that is not contrary to their actual identity. Although the rule allows for gender changes with a court order, Arkansas has passed laws which make it impossible for young people to be able to make those changes before they are eligible to apply for a license. This has been done by restricting access to gender affirming care before age 18, allowing insurers to deny coverage for Transgender medical care, and requiring that a person have undergone surgery to be able to apply for a court order to change the gender marker on an Arkansas birth certificate. Even after age 18, there are many reasons why a person may not have gender affirming surgery. For example, a Nonbinary person may not feel that they require surgery. For Transgender individuals over the age of 18, they may not be able to afford the cost of such gender-affirming surgery or they may not be able to have such a surgery due to other health concerns. Either way, all these hurdles only serve to make it harder for Transgender and Nonbinary youth to simply exist in Arkansas.

Transgender and other LGTBQIA+ youth face higher rates of depression, bullying, and suicide. The everyday stigmatization of policies like this rule change and the accompanying mistreatment of Transgender and LGBTQIA+ youth are what place these young people at a higher risk for these issues. Research has shown that Transgender and Nonbinary youth are more likely to have depressive episodes, seriously consider suicide, and attempt suicide than their Cisgender peers and that half of all Transgender and Nonbinary youth have seriously considered suicide in the past year. This rule only serves to target these young people and show them they are not wanted in Arkansas.

This rule is unnecessary. Again, there has been no indication that the use of the "X" gender marker or the self-selection of M or F caused any confusion or harm to anyone. There is no data to support that this is an important rule to change in furtherance of public safety or to increase access of Transgender or Nonbinary individuals to IDs or driver's licenses. However, there is research to show that the attempted erasure of our communities' Transgender and Nonbinary members can lead to increases in depression and suicide. By removing the X gender marker and forcing someone to arbitrarily have a binary choice of male or female, we are doing much more harm than good. Instead, we could allow for gender to be selected by the individual applicant and continue to allow "X" as an option, both of which would be more inclusive and understanding to the needs of the Transgender and Nonbinary Arkansans.

In reviewing the proposed rule, the given intent of the rule to "prevent harm," and the likely impact, based on data from other states that have adopted similar policies, the agency should NOT adopt the proposed rule and should instead formalize a rule in alignment with the previous policies in place since 2014 that allowed individuals to self-select their gender marker to appear as either M, F, or X on their state ID or driver's license. This rule is targeting Transgender and Nonbinary Arkansans who want the same chance as everyone else to pursue health and happiness, earn a living, be safe in their communities, and take care of their loved ones. By refusing to accept that Transgender and Nonbinary people exist in Arkansas, this rule contributes to

the creation of an unsafe place for those children and families to live. That will make it more likely that we will lose talented young people to other states where their safety is less of a concern.

Again, Arkansas Advocates for Children and Families appreciates the opportunity to comment. Please contact Maricella Garcia by phone at (501) 476-3475 or by email at mgarcia@aradvocates.org if you have any questions or if we can be of further assistance.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Gabriel Watson, June 27, 2024

Comments: Thank you for the opportunity to comment on this proposed rule. I am Gabriel Watson, a resident of Arkansas. I remember last year when the State Representatives tried to pass harsh penalties for transgender people who used the bathroom. The bill attempted to create a misdemeanor sexual indecency infraction for transgender people using the restroom in public. The dozens of people who showed up to protest that bill reminded me that the community does not unanimously accept this type of legislation. Laws designed to target the transgender community were neither normal nor universally accepted here.

I would like to raise concerns regarding this proposed rule and the reason proposed for the rule where gender markers must match the person's birth certificate.

The proposed rule in question proposed modifies the following.

"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."

The first reason put forward to support this rule change relates to law enforcement's interactions with the civilian population. Law enforcement will be significantly confused about differences between apparent gender expression and the sex listed on the license. Transgender people on hormones long term pass as a gender opposite their birth sex. Hormone Replacement Therapy is designed to help individuals blend in for safer realities and affirmation of gender identity. After the new law goes into effect, a transitioned community frequently misunderstood by law enforcement will become more visible. Leaders in the transgender rights movement discussed this dynamic in the movie *Disclosure* where increased visibility pairs with decreased physical and emotional safety.

The intention of the rule in this first point masquerades as law and order, while instead creating an unsafe reality that regularly outs transgender and nonbinary Arkansans. This creates a disordered, unsafe reality for a heavily targeted minority population. Outing has a known effect, and escalating bullying of LGBTQ persons was heavily cited for what led to horrible hate crimes against the community in the past. This very much compromised the stories of individuals like Brandon Teena and Matthew Shepard. The professed intention does not outweigh this reality.

This is especially troubling considering the age group most likely to get their license for the first time. Young people driving for the first time are especially at risk with this new rule. It sends the message to transgender teenagers that they are not accepted from a young age. The youth have already been heavily targeted through constant bombardment into the personal medical decisions between themselves and their doctors. The callousness in overlooking this vulnerable group of queer youth is disgracefully disconnected from the needs of the LGBTQ Arkansans.

The second point made relates to the most accurate information provided, let's dig into that. This perspective assumes heteronormative and violent perceptions of what someone decides another person's gender is. This is a rule written to police the transgender community, not one designed to see the perspective clearly from transgender people. The transgender woman who has female on her driver's license now has the most accurate representation of her gender identity listed. She would have an entirely inaccurate license with the rule, if forced to update it to male when the license expires. A young transgender man would not have the opportunity to ever get his first license as one that matches his gender identity. This rule removes and stains that first experience for transgender and genderqueer affirmation.

Third, the box on the application checked relating to this rule not violating any state or federal laws should be challenged. That is a gross deviation from the reality of the Equal Protection Clause and rights argued in courtrooms across this country for equal treatment by state actors under the law. Voter identification issues when identification sex does not match seen reality could limit the rights of transgender adults, as an initial constitutional concern. The civil violations relating to potential 1983 claims are worth consideration as well. These federal laws have not been sufficiently considered. They conflict with the rule.

Fourth, federal judges in the state of Arkansas have not been sufficiently considered either, as evidenced in *Brandt v. Rutledge*. These lawmakers already ruled on portions of the effect of this rule. The claim considered Equal Protection and Due Process claims with a law limiting transgender healthcare options for transgender youth. The federal judge decided the Equal Protection Clause and the Due Process Clause of the Constitution were violated by targeting these transgender youth. Here, we have issues that may relate to healthcare as well. How can transgender people pick up prescriptions if their sex does not match their appearance? When a worker is unfamiliar with the individual and the identification functions differently than other folks, how will this limit healthcare for transgender Arkansans? It will harm my community.

Once these issues relating to health care, voting, and a basic understanding that only scrapes a fraction of the surface of transgender realities coalesces together, the rule looks ridiculously disconnected from the lived experiences of who it seeks to regulate—transgender Arkansans. Senator Clarke Tucker spoke in 2023 about a law designed to attack transgender Arkansans. He noted potential and familiar First Amendment concerns with the broadly written and badly drafted legislation. This is where the rule modifying Arkansas Code Annotated § 27-16-1104(3) fails also. It creates confusion about gender, rather than clarifying how the current gender marker allowances meet the needs of transgender Arkansans or any legitimate rights of Arkansans period.

Again, this rule is harmful because it is disconnected from transgender people and seeks to regulate this community in deeply unsafe and troublingly unjustified ways. Please reconsider adopting a rule that blatantly complicates and harms transgender and non-binary Arkansans. It is deeply obvious the community regulated did not have a seat at the table when this change was proposed or drafted.

A transgender member from this community wrote this piece to remind y'all transgender people are harmed by this rule.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Dr. Anastasia Almyasheva, resident physician at Conway Regional Medical Center, June 27, 2024

Comments: Thank you for the opportunity to comment on the proposed rule. I am Dr. Anastasia Almyasheva, resident physician at Conway Regional Medical Center. I am also a member of and an advocate for the LGBTQIA+ community and strive to embody this both in my medical practice and every day life.

I would like to raise concerns regarding this proposed rule.

Removing the “x” gender marker would affect many of my patients as well as longtime friends and colleagues. I have seen many trans and non binary patients in life and in practice who feel significant emotional and psychological discomfort and dysphoria when their gender is improperly represented. In fact, many studies have described the positive impact on mental health and even a decrease in suicidal ideation when gender identity is honored and validated. One easy way to mitigate that discomfort is by honoring the “x” gender marker on state identification cards.

This rule is harmful because it can cause actual psychological harm to those struggling with gender dysphoria and could lead to disastrous effects on the trans and non-binary population in the state of Arkansas.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Arlo Stewart, June 27, 2024

Comments: Thank you for the opportunity to comment on this proposed rule. I write here in my individual capacity and not as an official representative of any group or organization.

I am a 33-year-old public servant who grew up working on dairy and produce farms. I first came to Arkansas to serve alongside a nonprofit and the city of Little Rock and returned for grad school. I have now lived and worked here seven years. I am a trans non-binary individual and a member of GLSEN, a national nonprofit formed in 1990 and focusing on LGBTQ issues in K-12 education.

My Arkansas license has an “x”. When I was getting it updated, the DMV employee asked me what marker matched my gender. I asked, surprised, what the options were. I requested an “x”. In this moment, I felt like my gender was legally recognized the same way as everyone else. I had received the best customer service. For years I have been proud of my state of Arkansas for this, and even told my California friends that Arkansas was more egalitarian in such instances than they thought it was.

Within the transgender community, 40% attempt suicide, and 90% seriously consider it. This is not due to any innate qualities — as indicated by the major medical institutions and organization in America — but rather the challenges imposed by a society that does not allow people to be who they are. I am concerned that this rule will reinforce and worsen these rates.

I myself feel threatened, less safe, and as though my personhood is being stripped. I am *even more concerned* for those who are younger, have fewer support systems, and are facing a constant bombardment of negative messages that affect their well-being and safety.

In conclusion, my continued existence under the policy that allows an “x” marker does not constitute a danger to anyone, and is not an emergency. Rather, the inverse is true, namely, the policy that mandates a male-or-female gender marker matching birth certificates is and will be a harm to me and many others, and our families who love us.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Clint Schnekloth, Pastor at Good Shepherd Lutheran Church, June 5, 2024

Comments: This is my public comment on the permanent ruling regarding gender information required to be displayed on an Arkansas Driver’s License.

The state claims that: 1. this does not have a financial impact.

I have spoken to multiple members of my own congregation who have already been financially impacted by this emergency declaration. It affected their ability to complete their tax filings in a timely manner. It has forced some to move out of state, which costs employers the burden of turnover and training expenses to replace good workers. It also costs multiple members of my congregation who are nonbinary and intersex people time off work, additional therapeutic and counseling services, not to mention costs related to stress and trauma.

The state further claims 2. the rule is 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.”

The best reasonably obtainable scientific, technical, and economic evidence indicates many people are born intersex, and the scientific community widely recognizes transgender people. There is considerable case law at federal and district courts establishing trans rights:

<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Ftransequality.org%2Ffederal-case-law-on-transgender-people-and-discrimination&data=05%7C02%7Cpublic.comment%40dfa.arkansas.gov%7C9379b65c807e46116c4208dc857d068d%7C6d2cb7fc8f604221a422fafe9e1a31be%7C1%7C0%7C638532019225885522%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6IklhaWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=kU0ONnB6WW74B19CoFB0Vu8RTpLSJ4YPs44VBz7xjuQ%3D&reserved=0>

The State Department recognizes X (“other” gender) on passports because they know more than just male and female people exist. Medical science widely acknowledges the existence of more than two genders and/or biological sexes. The veterans administration recognizes transgender in its medical record keeping.

A national study of the health care of transgender patients emphasizes the following to improve quality of care, the conclusions of which would equally apply to gender identity when using a driver’s license in many settings: Recommendations for the provision of gender-affirming health care for nonbinary patients include nonbinary-inclusive intake forms and electronic health records, having providers be proactive in eliciting preferred names and pronouns, and requiring education for providers and staff at all levels on the provision of nonbinary-inclusive gender-affirming health care

(<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.ncbi.nlm.nih.gov%2Fpmc%2Farticles%2FPMC9587794%2F&data=05%7C02%7Cpublic.comment%40dfa.arkansas.gov%7C9379b65c807e46116c4208dc857d068d%7C6d2cb7fc8f604221a422fafe9e1a31be%7C1%7C0%7C638532019225894159%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6IklhaWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=g8KHjecd49TGTwPFskojI4i2DBSFKzNfP8obVRPcEQ%3D&reserved=0>).

3. In consideration of the alternatives to the rule, this rule was deemed the least costly.

This emergency measure introduces many additional costs, and reduces none. Arkansas has had X gender markers for 14 years here, and nobody was being bothered by the existence of the very few Arkansans who utilized it. This is costing the State a lot more than if they had left it alone, or had made a rule affirming the existing practice.

4. The notice alleges this will not have more than \$100,000 impact on any private business, individual, municipal or county government entity, or state government.

Once the impact of this legislation is felt by large employers like Walmart it will easily surpass \$100,000 in expenses. All it takes is for a few mid-level or upper management employees to move out of state to tip over that amount, not to mention the cost to the state of the federal law suits already filed.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Jana McAuliffe, June 6, 2024

Comments: I am a citizen of Arkansas who lives in Little Rock. I write with comments on the proposed Permanent Rule: Gender Information Required To Be Displayed On An Arkansas Driver's License Or ID Card Details.

I oppose these changes, and urge the Department to **maintain the option of an X designation for gender on ID cards**. Some trans and non-binary people who do not identify as either male or female, or who have not been able or interested in legally changing their designated sex, currently use this gender designation. The X designation better reflects their identity and allows them to more easily and efficiently pass through situations that require showing ID. Allowing this option does not harm male and female identified people, or take anything away from anyone else. I thus urge the state of Arkansas to return to the previous policy, which better supports human rights and reflects the human dignity of all people, regardless of gender.

Division Response: Comment considered. No changes made to proposed Rule.

Commenter Name: Dave Iosue, June 26, 2024

Comments: Trans, Non-Binary, Gender-Fluid people, and persons with other extremely personal identification variables have always existed.

The current crop of self-serving, bigoted, biased, scientifically challenged politicians and religious zealots are railing against this reality, to score political points. (And to control the minds of low-information voters)

People on the LGBTQIA+ segment of humanity are still only +/- 2% of the entire human population. THEY ARE BORN THIS WAY, and always have been. You cannot groom or indoctrinate people into having any of the 23 or so genetic variations that cause them to be in that category. These birth conditions ARE genetic, they ARE in these persons' DNA, they ARE biological variants, not a choice, kink, fetish, feeling, whim or perversion as has been suggested by Republican leaders and their sycophants.

People in the LGBTQIA+ group are HUMAN BEINGS, not demons, imps, animals or anything less than a person.

Your ID policy changes not only endanger your own Arkansans but may lead to incidents of stochastic violence and discrimination to persons from this group who are visiting or merely passing through your state.

LGBTQIA+ people are NOT after your kids; they are NOT asking you to be like them. Most of them do not want to be as they are to begin with. They did not ask to be Trans, NB or anything else that would cause problems. It's the way they are born. Please allow them to identify as they, their families, their doctors and their friends realize they truly are.

Stop attacking, endangering, belittling and dehumanizing people from this segment of the spectrum of what is humanity.

Please allow Gender-Non-Conforming individuals to identify as they truly are.

Division Response: Comment considered. No changes made to proposed Rule.
