

FACT SHEET: Texas Agencies' Refusal to Follow Court Orders to Update Gender Markers on Driver's Licenses, Birth Certificates, and IDs



- Trans people deserve to live free from persecution—in Texas and everywhere. Yet Texas agencies are now refusing to follow court orders to update trans Texans' gender markers on their driver's licenses, birth certificates, and state IDs.
- Not having accurate identity documents jeopardizes people's health and safety. When someone's ID does not reflect who they are, it can create dangerous encounters with police, employers, health providers, and others by "outing" them as transgender, non-binary, or intersex and immediately putting them at risk of harassment, discrimination, bullying, and violence.
- Texas leaders' obsession with harming trans people is needlessly cruel. Transgender people have always existed and always will, and the vast majority of Texans do not support taking away their ability to access basic goods and services. Trans people deserve better than policies that erase their identities and prohibit them from fully participating in society.
- Instead of working on public policy issues that Texans really care about – like safe schools, affordable health care and a living wage – politicians are distracting from their failure to address those needs by targeting transgender people. This is just another example of political bullying that creates real harm to real people instead of focusing on the issues that will help Texans overall.

DPS'S NEW RULE

- On August 20, 2024, the Texas Department of Public Safety (DPS) suddenly and arbitrarily ordered its employees to stop updating gender markers on people's driver's licenses and state issued ID cards, even when required to do so by court order.
 - Trans Texans, like all Texans, update their driver's licenses and IDs for a variety of reasons—including if they move, if they change their name, or to correct their gender marker.
- The Department wrote to its employees that it will "not accept court orders or amended birth certificates issued that change the sex when it differs from documentation already on file" unless there is a "clerical error."
 - It is not clear how DPS employees are supposed to determine what is a "clerical error" and there is no authority for state employees to openly defy court orders.
- The email states "the validity of such documents is currently under review," but once again – state employees cannot question or supersede court orders, or ignore someone's official birth certificate.
- For the first time, DPS is also requiring employees to internally document and report any attempts by people to update the sex listed on their driver's licenses or state IDs.
- This change seems to mirror other attempts to target trans people's ability to live authentically as who they are in Florida, Kansas, Missouri, Montana, and elsewhere.

DSHS'S NEW RULE

- Around August 30, 2024, the Vital Statistics Unit of the Texas Department of State Health Services (DSHS) changed the form that people born in Texas use to update their birth certificate.
 - Previously, this form allowed people to update the sex listed on their birth certificate, while also allowing people to correct other information on their birth certificate, like their name, parent, and the date, place, or time of birth.
- Now, DSHS refuses to update the sex listed on someone's birth certificate unless it was "incomplete" or "inaccurate" at the time of birth, which requires submitting medical records.
- DSHS claims that "Recent public reports have highlighted concerns about the validity of court orders purporting to amend sex for purposes of state-issued documents. DSHS is seeking assistance from the Office of Attorney General to determine the applicability of these concerns to amendments to vital records. DSHS is no longer altering applicants' sex on birth or death certificates based on these court orders."

ARE THESE CHANGES LEGAL

- No – no government agency or official has the authority to openly defy court orders.
 - DPS and DSHS are required to follow court orders like every other state agency and official.
- State agencies are also not allowed to suddenly and arbitrarily change their rules about how driver's licenses, birth certificates, and other documents are issued.
 - These agencies' sudden implementation of these rules with no public comment or announcement is an abuse of

government power that likely violates state and federal law.

- It is clear discrimination for government agencies to target trans Texans and try to stop us from updating information on our ID documents in the same way as everyone else, and such discrimination likely violates state law and the U.S. and Texas Constitutions.
- DPS and DSHS are also prohibited by state and federal law from sharing any applicant's name, driver's license number, or other personal information.
 - These agencies can only share data with law enforcement or public health authorities under very limited circumstances.
 - The information gathering that DPS now seems to be embarking on departs from their current practices, and they may not release this information to any other person or government entity, nor use it for any purpose, without violating state and federal laws.

THINGS TO KEEP IN MIND

- DPS has made clear that it will not update gender markers on Texas driver's licenses or IDs – even if required to do so by court order – and is internally collecting data on anyone who submits such a request on or after August 20, 2024.
- These new rules should not affect anyone who previously updated their driver's license/state ID or birth certificate. They also do not limit or affect the ability of judges to issue court orders updating someone's name or gender marker, nor do they impact any other state or federal agency that must still abide by court orders and update people's documents.
- These new rules are part of a pattern of arbitrary and discriminatory administrative and/or executive actions targeting transgender Texans.
 - There are [two ongoing lawsuits](#) against the Texas Department of Family Protective Services (DFPS) that tried to rewrite the Texas Family Code in 2022 to separate trans Texans from their families for accessing medically necessary health care.
 - Ken Paxton [tried to push DPS](#) to collect data on transgender Texans in December 2022.
 - And earlier in 2024, Texas Health and Human Services (HHS) [cut off Medicaid coverage](#) for trans adults in Texas who need hormone therapy.

WHY IS HAVING ACCURATE IDENTIFICATION SO IMPORTANT?

Not Having Accurate IDs Jeopardizes People's Health, Privacy And Safety.

- Having a driver's license or birth certificate that does not reflect someone's gender identity and outward gender expression puts transgender, non-binary, and intersex people in unsafe and dangerous situations.
- In a 2015 survey, 25% of transgender people reported verbal harassment when presenting an ID that did not match their gender identity, 16% were denied services, 9% reported being asked to leave, and 2% were assaulted or attacked.
- [Texas leads the nation](#) in the murder of transgender people, especially Black transgender women, and prohibiting transgender Texans from updating their driver's licenses and birth certificates will worsen their health and safety.
- Prohibiting accurate IDs will have a chilling effect on trans people's ability to live their lives, from the ballot box to housing, getting proper healthcare, obtaining a loan, attending school, driving their cars, getting paid, and accessing public services. The overall impact will be deep harm to a community that is already more marginalized and more vulnerable every day as they participate in society.

People Need IDs That Accurately Reflect Who They Are.

- Every person needs an ID to vote, travel, apply for housing, pick up medications, receive treatment at doctors' offices, and verify one's identity in every facet of life.
- Driver's licenses are the primary form of government issued ID. Almost 90% of Americans of driving age hold driver's licenses.
- Requiring driver's licenses and state issued IDs to be based on a vague, subjective, and highly politicized view of sex erases the identities of transgender, non-binary, and intersex people and deprives them of identity documents that accurately reflect who they are for no reason. Having an accurate identity document does not affect other people's ability to go about their lives, but it can severely hinder a trans, non-binary, or intersex person's ability to live their daily lives.

Good Public Policy Requires That Transgender People Have Accurate IDs.

- Ensuring transgender people hold IDs that are consistent with their gender identity will assist poll workers, law

enforcement, and other government entities seeking to verify people's identities. It will also help private entities further government interests in employment and commerce and other contexts where accurate IDs are required.

WHAT CAN YOU DO TO HELP OR GET HELP?

- Continue to support trans Texans and oppose bigotry and hate.
- File a complaint with DPS and let them know that they need to follow court orders and not discriminate against or target any part of our community: www.dps.texas.gov/section/office-inspector-general/how-file-complaint
- File a complaint with DSHS: www.dshs.texas.gov/community-health-worker-or-promotora-training-certification-program/complaint-procedure
- Contact your elected officials, make sure you are registered to vote, and make a plan to vote.
- Contact the ACLU of Texas legal intake and the Lambda Legal Help Desk if you or someone you know is directly impacted by DPS's new rule:
 - intake.aclutx.org/
 - lambdalegal.org/helpdesk/
- For assistance with the process to obtain a court order or updating your other legal documents, visit translegalaidtx.com/ or other clinics across the state.