TITLE 140 BUREAU OF MOTOR VEHICLES

Proposed Rule
LSA Document #19-486

DIGEST

Amends 140 IAC 7-1.1-3 regarding procedures to amend gender information on a driver's license or identification card. Effective 30 days after filing with the Publisher.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

140 IAC 7-1.1-3

SECTION 1. 140 IAC 7-1.1-3 IS AMENDED TO READ AS FOLLOWS:

140 IAC 7-1.1-3 License, permit, and identification card documentation requirements

Authority: IC 9-14-8-3; IC 9-24
Affected: IC 5-26.5; IC 9-24

Sec. 3. (a) Each applicant for an initial, renewed, replacement, and amended driver's license and identification card must submit qualified documents or information, or both, to the bureau to prove the applicant's identity, lawful status in the United States (U.S.), residence address, and Social Security number (SSN) or that the applicant does not qualify for an SSN, and that the applicant is an Indiana resident. An applicant for an initial driver's license includes an applicant who held an Indiana driver's license or identification card, became a non-Indiana resident, and then reestablished Indiana residency. For some requirements, the bureau may allow applicants to use one (1) or more qualified documents to satisfy more than one (1) of the requirements in this section. A U.S. citizen, as verified through bureau records or the applicant's documents, who applies for a renewed, replacement, or amended driver's license or identification card and who otherwise qualifies for a driver's license or identification card but does not comply with the documentation requirements in this section may receive a driver's license or identification card with a notation that the driver's license or identification card may not be accepted for federal identification purposes. The bureau will only allow an applicant's documents to serve as proof for the applicable requirement in this section if the documents meet the following requirements:
(1) Must be unaltered and valid original documents or certified facsimiles from the issuing agency.
(2) Must be:
(A) in the English language; or
(B) presented with a verifiably accurate English translation of the document.

(b) All applicants for an initial, renewed, replacement, or amended Indiana driver's license or identification card must comply with the requirements in this subsection one (1) time, except for non-U.S. citizens, as verified through bureau records or the applicant's documents, who must comply with the requirements in this subsection each time the applicant applies for an initial, renewed, replacement, or amended Indiana driver's license or identification card. This subsection does not apply to a U.S. citizen, as verified through bureau records or the applicant's documents, who applies for a renewed, replacement, or amended driver's license or identification card with a notation that the driver's license or identification card may not be accepted for federal identification purposes. An applicant must show proof of the following:
(1) Identity, which includes full legal name and date of birth, by presenting one (1) of the following documents:
(A) An unexpired U.S. passport or U.S. passport card.
(B) A certified birth certificate, and if applicable a certified amended birth certificate showing a change in name, date of birth, or gender, filed with a state office of vital statistics, or equivalent state entity, in the applicant's state of birth.
(C) A Consular Report of Birth Abroad issued by the U.S. State Department (Form FS-240, Form DS-1350, or Form FS-545).
(D) An unexpired U.S. Department of Homeland Security (DHS) or U.S. Immigration and Naturalization Service (INS) issued Permanent Resident Card (Form I-551) for those individuals whose authorized admittance and lawful status can be verified by the DHS.
(E) An unexpired DHS issued Employment Authorization Document (Form I-688B or Form I-766) for those individuals whose authorized admittance and lawful status can be verified by the DHS.
(F) An unexpired foreign passport with an unexpired U.S. visa accompanied by the approved I-94 form documenting either the applicant's most recent admittance into the U.S. or current status, or an unexpired

foreign passport without a U.S. visa, for those individuals whose authorized admittance and lawful status can be verified by the DHS.

(G) A DHS issued Certificate of Naturalization (Form N-550 or Form N-570) for those individuals whose authorized admittance and lawful status can be verified by the DHS.

(H) A DHS issued Certificate of Citizenship (Form N-560 or Form N-561) for those individuals whose authorized admittance and lawful status can be verified by the DHS.

(I) Non-U.S. citizens, as verified through bureau records or the applicant's documents, who have complied with the requirements in this subsection at least one (1) time and thereafter received an Indiana driver's license or identification card may use the Indiana driver's license or identification card for proof of identity.

(J) Other documents that a U.S. federal agency issued to show identity if the bureau can verify that the document's information is accurate.

(K) An applicant whose full legal name **or** date of birth ~~or gender~~ was changed and is different than how the corresponding information appears in any of the documents delineated in clauses (A) through (J) must show proof of the change by presenting additional documents supporting the change, which include:

(i) a marriage certificate;

(ii) a divorce decree;

(iii) a court order approving a name change or a date of birth change; **or**

(iv) a certified ~~amended~~ birth certificate. ~~for a gender change; or~~

~~(v) a physician's signed and dated statement that "(insert applicant's name) successfully underwent all treatment necessary to permanently change (insert applicant's name) gender from (insert prior gender) to (insert new gender).".~~

(L) An applicant applying to change the applicant's gender on the applicant's driver's license or identification card must present:

(i) a certified birth certificate containing the updated gender; or

(ii) written notification from the Indiana state department of health communicating to the bureau that the Indiana state department of health has received from the applicant a fully and properly executed physician's statement of gender change submitted on a form prescribed by the Indiana state department of health.

(2) Lawful status in the U.S. by presenting:

(A) one (1) of the documents delineated in subdivision (1)(A) through (1)(H);

(B) a Notice of Action (Form I-797) document, if the bureau can verify that the DHS received it and has not denied action, and documents that a U.S. federal agency issued to show lawful status that pertain to the applicant's Notice of Action;

(C) proof of application for asylum in the United States (Form I-589) for those individuals whose authorized admittance and lawful status can be verified by the DHS; or

(D) other documents that a U.S. federal agency issued to show lawful status if the bureau can verify that the document's information is accurate and the person has lawful status in the U.S.

(3) Being an Indiana resident and of the applicant's residence address, which may not be a post office box, by submitting the bureau's form entitled "Indiana Residency Affidavit" by the following:

(A) An applicant who is an incapacitated person. A person who:

(i) is the applicant's legal guardian or caregiver;

(ii) is at least eighteen (18) years of age; and

(iii) resides with the applicant;

must sign the form at a license branch. The legal guardian or caregiver must show proof of identity by providing one (1) document from the list in subdivision (1), proof of residence address by providing two (2) documents from the list in subdivision (4), providing information detailing their relationship to the applicant, providing the guardianship documents if applicable, and presenting a valid Indiana driver's license or identification card.

(B) Homeless applicants without a residence address. The applicant must provide a letter from the government entity or not-for-profit organization on its letterhead containing the entity or organization's name, address, and telephone number, and the legal representative's name, signature, and signature date. The legal representative must state in the letter that the entity or organization provides services to the applicant and will accept delivery of mail for the applicant.

(C) Applicants who are unable to comply with the requirements in clause (A), (B), (D), or (E). A person with whom the applicant resides must:

(i) sign the form at a license branch at the time of the application; and

(ii) present:

(AA) a valid Indiana driver's license or identification card;

(BB) proof of identity by providing one (1) document from the list in subdivision (1); and

(CC) proof of residence address by providing two (2) documents from the list in subdivision (4).

(D) An applicant who resides in a motor vehicle, including, but not limited, to a mobile home or motor home.

Another person who is an Indiana resident with a residence address must:
(i) sign the form and attest that the applicant may use the person's residence address for record purposes; and
(ii) show proof of residence address by providing two (2) documents from the list provided in subdivision (4).
The applicant must provide proof of paying Indiana income taxes for the current year or immediately prior year, and have current motor vehicle title and registration records with the bureau.
(E) Applicants with rural route mail delivery addresses. Each of these applicants must also provide a properly certified government issued document containing the applicant's name and description of the residence's location.

(4) Being an Indiana resident and of the applicant's residence address, which may not be a post office box, by submitting two (2) documents showing proof of being an Indiana resident and two (2) documents showing the applicant's residence address. Qualifying documents include the following:
(A) A U.S. Postal Service change of address confirmation (Form CNL107) containing the applicant's old and new addresses.
(B) A survey of the applicant's Indiana property produced by a licensed surveyor containing the applicant's name and residence address.
(C) An Indiana voter registration card.
(D) A utility company, credit card, doctor, or hospital bill:
(i) issued within sixty (60) days of the application date; and
(ii) containing the applicant's name and residence address.
(E) A residence mortgage or similar loan contract, or lease or rental contract, containing:
(i) the applicant's name and residence address; and
(ii) signatures from the parties needed to execute the agreement.
(F) A bank statement or bank transaction receipt, dated within sixty (60) days of the application date, containing the:
(i) bank's name and mailing address; and
(ii) applicant's name and residence address.
(G) A current motor vehicle loan payment book for a motor vehicle registered in the applicant's name, and containing the applicant's name and residence address.
(H) A current valid homeowner's, renter's, or car insurance policy dated within one (1) year of the application date, containing the applicant's name and residence address.
(I) A W-2 Form, property tax or excise tax bill, or Social Security Administration (SSA) or other pension or retirement annual benefits summary statement, dated with the current or immediately prior year, containing the applicant's name and residence address.
(J) A preprinted pay stub, dated within sixty (60) days of the application date, containing the:
(i) employer's name and address; and
(ii) applicant's name and residence address.
(K) An Indiana family and social services administration issued child support check stub, or Medicaid or Medicare benefit statement, dated within sixty (60) days of the application date, containing the applicant's name and address.
(L) A valid Indiana handgun permit containing the applicant's:
(i) name;
(ii) signature;
(iii) residence address; and
(iv) date of birth.
(M) First-class mail from any federal or state court or agency, dated within sixty (60) days of the application date, containing the applicant's name and residence address.
(N) Participants in the Indiana attorney general's address confidentiality program may use a post office box address and must present a valid active identification card issued to the applicant under IC 5-26.5.

(5) Having a valid SSN or that the person does not qualify for an SSN by presenting one (1) SSN document or an SSA document, dated within sixty (60) days of the application date, establishing that the person does not qualify for an SSN. The applicant's SSN, or SSA documentation showing that the applicant does not qualify for an SSN, presented to the bureau must match the information that the SSA has in its records for the SSN or for the SSA documentation. The following documents, containing the applicant's name and SSN, qualify to show proof of having a valid SSN:
(A) SSA issued Social Security card.
(B) A W-2 form.
(C) A Form 1099.
(D) A preprinted pay stub containing the employer's name.

(c) Subject to the requirements in subsection (b), to receive a replacement or renewed Indiana driver's license or identification card, an applicant must do the following:

(1) Verify that the applicant's:

(A) full legal name;

(B) date of birth;

(C) SSN; and

(D) residence address;

are current, accurate, and match the information existing in the bureau's records.

(2) Applicants without an SSN must present an SSA document, dated within sixty (60) days of the application date, establishing that the person does not qualify for an SSN.

(d) Subject to the requirements in subsection (b), to receive an amended Indiana driver's license or identification card an applicant must do the following:

(1) Provide the applicant's existing driver's license or identification card, or verify that the applicant's:

(A) full legal name;

(B) date of birth;

(C) SSN; and

(D) residence address;

are current, accurate, and match the information existing in the bureau's records.

(2) Applicants without an SSN must present an SSA document, dated within sixty (60) days of the application date, establishing that the person does not qualify for an SSN.

(3) Present qualified documentation as proof for the requested change as follows:

(A) To show proof of the applicant's new full legal name, the applicant must submit one (1) of the following documents:

(i) An unexpired U.S. passport or U.S. passport card.

(ii) A certified birth certificate, and if applicable a certified amended birth certificate showing a change in name, date of birth, or gender, filed with a state office of vital statistics, or equivalent state entity, in the applicant's state of birth.

(iii) A Consular Report of Birth Abroad issued by the U.S. State Department (Form FS-240, Form DS-1350, or Form FS-545).

(iv) An unexpired U.S. Department of Homeland Security (DHS) or U.S. Immigration and Naturalization Service (INS) issued Permanent Resident Card (Form I-551).

(v) An unexpired DHS issued Employment Authorization Document (Form I-688B or Form I-766).

(vi) An unexpired foreign passport with an unexpired U.S. visa accompanied by the approved I-94 form documenting either the applicant's most recent admittance into the U.S. or current status, or an unexpired foreign passport without a U.S. visa for those individuals whose authorized admittance and status can be verified by the DHS.

(vii) A DHS issued Certificate of Naturalization (Form N-550 or Form N-570).

(viii) A DHS issued Certificate of Citizenship (Form N-560 or Form N-561).

(ix) Other documents that a U.S. federal agency issued to show identity if the bureau can verify that the document's information is accurate.

(x) A marriage certificate.

(xi) A divorce decree.

(xii) Adoption papers.

(xiii) A court ordered name change.

(B) To show proof of the applicant's amended date of birth, the applicant must submit one (1) of the following documents:

(i) A certified ~~amended~~ birth certificate.

(ii) A court ordered date of birth change.

(C) To show proof of the applicant's gender change, the applicant must submit one (1) of the following documents:

(i) A certified ~~amended~~ birth certificate **containing the updated gender.**

(ii) ~~A physician's signed and dated statement that "(insert applicant's name) successfully underwent all treatment necessary to permanently change (insert applicant's name) gender from (insert prior gender) to (insert new gender).".~~ **Written notification from the Indiana state department of health communicating to the bureau that the Indiana state department of health has received from the applicant a fully and properly executed physician's statement of gender change submitted on a form prescribed by the Indiana state department of health.**

(D) To show proof of the applicant's new residence address, the applicant must submit the Indiana residency affidavit pursuant to subsection (b)(3), or two (2) of the documents from the list in subsection

(b)(4).
(E) To show proof of the applicant's new SSN, the applicant must present one (1) of the documents from the list in subsection (b)(5) containing the applicant's new SSN.

(e) An applicant may petition the commissioner or the commissioner's designee to accept reasonable, authentic, and verifiable alternative documents upon the applicant proving that the applicant is reasonably unable to meet the requirements in this section. However, non-U.S. citizens, as verified through bureau records or the applicant's documents, may not use alternate documents to demonstrate lawful status.

(Bureau of Motor Vehicles; 140 IAC 7-1.1-3; filed Nov 12, 2009, 3:44 p.m.: 20091209-IR-140090169FRA, eff Jan 1, 2010; readopted filed Nov 24, 2015, 4:18 p.m.: 20151223-IR-140150108RFA; filed Oct 5, 2017, 9:34 a.m.: 20171101-IR-140160492FRA)

Notice of Public Hearing

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