

PUBLIC HEARING TRANSCRIPT

November 25, 2019 at 9:30am

BMV STAFF ATTORNEY OPENING:

Good morning everyone. Today is November 25, 2019 at 9:30am. This is a public hearing on LSA Document Number 19-486, a proposed rule which amends procedures to change gender information on a driver's license or identification card.

The proposed rule amendment would not impose requirements or costs under Indiana Code 4-22-2-24(d)(3).

Copies of the proposed rule and a sample of the referenced written notifications are available here today, on the Bureau of Motor Vehicles online rulemaking docket located at in.gov/bmv/2648.htm, and are on file at the BMV Central Office located at Indiana Government Center North, 100 N. Senate Avenue, Room N404, Indianapolis, Indiana and at the Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

The Notice of Intent to adopt this rule was filed on September 18, 2019. The proposed rule was posted on the Indiana Register on October 23, 2019. Notice of this public hearing was published in the Indianapolis Star on October 24, 2019.

A transcript of today's public hearing will be provided to stakeholders for their consideration. Also, BMV Commissioner Peter Lacy is in attendance at today's hearing to consider all verbal comments provided.

There is a signup sheet in the front of the room to sign in and to make public comment. If you have not yet signed in, please do so before leaving. I will call individuals to come forward to the microphone to make comments in the order provided on this sheet. No response will be given by the BMV at this hearing, today. This hearing is to receive comments only. The response to all comments will be available on the Bureau of Motor Vehicles online rulemaking docket. There is a card up front with that website. It is in.gov/bmv/2648.htm, and will be on file at the BMV Central Office at Indiana Government Center North, 100 N. Senate Avenue, Room N404, Indianapolis, Indiana.

If you wish to submit written comments to accompany your verbal comments, you may do so by emailing BMVLegal@bmv.IN.gov by midnight tonight, November 25, 2019. This will also assist in the accurate transcription of your comments.

The hearing is now open for public comment.

First on our list today is John Aukerman.

JOHN AUKERMAN VERBAL PUBLIC COMMENT:

Good morning. I am Doctor John Aukerman. I live in Anderson. And I have a bachelors and a master's degree from Anderson University and a doctorate from Ball State University. I hold Professor Emiratis status at Anderson University and retired after 32 years of teaching on the graduate level.

Today I am here because I am concerned and that changes proposed by the BMV compromise the integrity of our state issued IDs and licenses. I am also concerned that creation of a third gender will unnecessarily complicate the responses of first responders and law enforcement officers. At the latest time I checked on the BMV's electronic comments, there were 536 comments posted opposed to this language change, and only two comments supporting it.

I am concerned that the creation of a third gender compromises the integrity of vital state documents – documents like birth certificates and driver's licenses are supposed to be reliable identification. How can they be reliable if we will allow such documents to reflect an evolving concept like gender identity, rather than an immutable God given characteristic such as sex? By the way, my driver's license does not say gender identity, it says sex. Also, I don't know of any federal agency that chooses to classify people as gender X. Creation of a third gender would unnecessarily complicate the ability to respond to emergencies in a variety of contexts. Emergency, medical and law enforcement need to know a person's actual, biological sex to perform their duty in the event of an accident. It may also make it harder for lenders and banks to verify identities. Anyone who has had to purchase real estate since 9/11 knows how many hoops we have to jump through to prove our own identities. Why further complicate steps which are taken to keep us safe.

Finally, this is something that should be decided by our elected officials. This is a controversial issue which involves strong opinions on both side of the debate. Such a drastic change should not be merely be left in the hands of the BMV to decide on behalf of over four and half million license holders and tax payers.

I urge the BMV to abandon the proposed rule. Thank you for your time.

BMV STAFF ATTORNEY

Thank you for your comment. If you would like to submit written comments to accompany your verbal – BMVLegal@bmv.IN.gov. Next we have Michael Morris.

MICHAEL MORRIS VERBAL PUBLIC COMMENT:

Good morning. I am Michael Morris, representing Lafayette Citizens in Action. What is the purpose of a carried Indiana driver's license? Well, it is provide documentation that a barer is legally qualified and authorized to operate a motor vehicle on the public roads of Indiana. Also, with the advent of federal RealID, it verifies one status as a citizen or resident of a particular state or territory. The information requirements for a state driver's license as part of US Code Title Six Part Thirty Seven are, and I am excerpting, your full legal name, date of birth, gender as determined by the state, unique driver's license or identification card number, full facial photograph, and then it follows the specific requirements for biometric data, and of course your address of principal residence.

Members of the committee, I submit to you that use of a third gender designation will essentially make the determination of identity more for law enforcement and needlessly complicate a search, arrest, and especially incarceration procedures should that become necessary for an individual.

Science tells us that we all, as humans, normally have 22 identical pairs of chromosomes in our DNA. That we either have a pair of X chromosomes or an X and a Y chromosome in our twenty third pair. That is determined at conception, immutable and cannot be changed. It is easily ascertained from a saliva slob, swab, or hair follicle.

Now having pointed this out, I must add I make no judgement nor I wish to limit how one peacefully identifies, dresses, lives, or behaves. I suggest you simply list an X or Y to reflect that second chromosome in our twenty third pair in the sex gender field of the license, and go on about our lives.

Thank you for your time and attention.

BMV STAFF ATTORNEY

Thank you for your comment. Again, if you would like to submit written comments, I think I received them from you, but BMVLegal@bmv.IN.gov. Next on our list we have Micah Clark.

MICAH CLARK VERBAL PUBLIC COMMENT:

Thank you for allowing me to speak. I am Micah Clark, director of the American Family Association of Indiana. I oppose the rule being considered today.

Let me first say that people are free to live as they choose. They can freely identify as they choose in terms of how they dress, how they appear, or what identity they choose to embrace. However, the state's highest form of identification needs to be accurate and valid. Requiring a person to declare their true biological chromosomal sex on their license does not prevent them from living out an appearance of their choice. Yet, people are scientifically either male or female from birth, no matter what they do to try to change this through appearance, synthetic drugs, or surgery.

The proposed Department of Health form does not define what gender X is or what it means. This raises some concerns for medical staff and law enforcement. If a suspect is detained who claims gender X, does a male or female officer search them? If they are taken into custody, which jail cell do they go to? Do taxpayers have to pay for the construction of gender X cells? Who pays for a law suit if the wrong gender police officer searches them or places them among the wrong sex segregated cell?

There are 4.6 million driver's licenses in Indiana. How many people think that they need to eliminate sex designation to the license? 99.994% of drivers comply with sex designation. The tail wagging the dog issue is politicizing driver's licenses.

Let me close with this – When I go in the BMV I have to turn in all sorts of required verifiable information, documentation. Nothing else is based on my feelings or appearances. I own a British sports car from a company that went out of business in 1980. Even though it was the most popular British sports car ever sold, very few people under the age of 50 even know what it is today. When the Mazda Miata was first made, the nation's automotive experts, Motor Trend and Road and Track magazine, compared it to my MGB. In fact, Mazda designers and engineers took apart several MGs and copied the Miata after it. Mazda even made its exterior and interior colors reminiscent of the famous British racing green cars of the 50s and 60s. They even had magazine advertisements featuring the Miata alongside the MG. I have driven several Miatas. They feel like MGs. When people ask me about my car I often ask them do you know the Mazda Miata? Well it's like that. It looks like a Miata, it feels like a Miata. It is the Japanese copy of the MG of the Miata. People usually say "oh, I know what you mean now." However, when I go to the BMV I can't say "well I have a Miata" or "it's a British Miata." I have to provide documentation about when, where, how my 1968 MG was made through a VIN number which identifies the make, color, body style, motor type, and production dates. It is a birth certificate if you will that must be 100% accurate. I cannot modify it, I cannot change it, I cannot claim it's something it's not, regardless of what people think my car looks like, or even what some experts compare it to, even saying that the Miata was the MG reborn. I can't bring the BMV article written by experts comparing my car to the Miata. That is even much more in depth than the Department of Health form, by the way. But they won't accept that. It is still an MG. If I change the VIN number on my MG or give the BMV my neighbor's green Miata VIN number, it is a crime.

So, again, if we can change sex, where does it stop? I would like my weight to be different on my driver's license. Many people want blue eyes and wear contacts to make them appear blue. But, on their license they have to list their true eye color. Again, people can live as they choose, but the driver's license needs to stay as it is in order to be accurate and valid. I encourage you to discard this proposed rule. Thank you.

BMV STAFF ATTORNEY

Thank you. Again, if you would like to submit written comments, it is BMVLegal@bmv.IN.gov.
Next we have Ryan McCann.

RYAN MCCANN VERBAL PUBLIC COMMENT:

My name is Ryan McCann. I am the director of the Indiana Family Institute. We are a statewide non-profit organization here in Indiana looking to strengthen Hoosier families. I think there were good comments that have already been mentioned, so I will just keep this very brief.

I think something that hasn't been focused on very much with the comments so far has been the rule changes and some of the things that would come about and who it would really harm. I think the folks that would actually take advantage of the rule change are the folks that could be harmed the most. And so, when you have an identification like the driver's license, for example, and you want to change that and make that so it doesn't represent that person's actual biology, their actual sex that they were born with, it could create some real problems. I think we have touched on just a second about first responders. But, men and women are biologically different. And, first responders and others in accidents or cases of life and death situations for folks that would wrongly have the incorrect sex on their driver's license can create some significant issues there, even if it's only preventing an EMT or some sort of emergency personnel from even just a few seconds of being able to treat those individuals properly. That could be the difference between life and death.

So, really the people that could be harmed the most are the people that would likely take advantage of the change with the driver's license. We don't want to see that. We don't want to see those folks harmed. We don't want to see those folks even have a second of delay in their treatment or care from medical personnel or other situations where there could be a life or death situation. So, we believe accuracy is the way to go with all government documents including the driver's license, and so we would oppose the rule change. Thank you.

BMV STAFF ATTORNEY

Thank you. Again, written comments can go to BMVLegal@bmv.IN.gov. Next we have Heidi Pezdek.

HEIDI PEZDEK VERBAL PUBLIC COMMENT:

Hello, my name is Heidi Pezdek. I am a Salt and Light affiliate citizen. And I appreciate the opportunity to speak to the BMV. My heart is for the young people. And we are seeing the impact the young people are having in this new climate of indoctrinating them to “everything is permissible,” especially with gender. And they actually are being groomed during this season we are in of social reconstruction and they are becoming victims of it.

So, my heart is for that new impassioned sixteen year old who wants to get a driver’s license. Take yourself back to how anxious you were. They are in the BMV filling out their form. And, they get to choose, now. It was always male or female, it has been that way for over six-thousand years. And now the authorities who have great responsibility, as authorities, are telling minors that “yes, this is true. This is a valid box.” It affirms those gender confused children that are still developing their brains and their thoughts. It affirms, it gives a rubber stamp, that this is legally valid. And with great government authority comes great government responsibility. And, to harm a young person’s psyche in a time when they are so confused I think is something to look at very seriously.

And so, we are actually dealing with a political issue, and I hate to see the BMV come into this time in doing that, because the gender spectrum is a fluid spectrum, and we are seeing young people change in and out of this fluidity. Are they going to be running back and forth to the DMV to change the status of their identity?

And so I appeal to the BMV, don’t fall into this new social agenda that is a social experiment. Don’t let our young drivers be the experiment with their identity. Thank you very much.

BMV STAFF ATTORNEY

Thank you for your comments. That is currently all we have listed. Would anyone else like to come forward and give verbal comments at this time?

MEGAN STUART VERBAL PUBLIC COMMENT:

Hi, I'm Megan Stuart. I am director of the LGBT Law Project at Indiana Legal Services. We are going to submit a much longer written comment, but I just want to briefly touch on some of the things that were said. We, in general, like our opponents, don't like this rule, but for much different reasons. We think that the proposed rule puts increased burdens on transgender individuals. However, we do appreciate that both the current rule, and the proposed rule, recognizes that being able to change your gender marker reflects the scientific and medical reality of both sex and gender.

Few things are as substantial to one's personhood as being able to navigate the world – as being able to accurately communicate one's gender to the world – identity documents being the primary means of that communication. By allowing gender marker changes, the BMV rightly acknowledges the scientific and medical reality of gender identity, not sex assigned at birth as the only medically supported determining of the sex. It is common to all medical science to use chromosomes, hormones, internal reproductive organs, external genitalia, or secondary sex characteristics to override gender identity for the purposes of classifying someone as male or female. Gender identity does, and should, control when there is need to classify an individual's particular sex.

Despite claims made to the contrary by opponents of this rule masked in faux concern, one's sex assigned at birth is not a fixed biological truth – as evidenced as often times we see by intersex individuals. It is based on the best information available at that time. It does not have the biological truth of the appearance of one's genitals at birth. All mainstream medical and mental health care organizations recognize that being transgender is a normal developmental variation, and the same is true for non-binary individuals.

Because of these scientific and medical realities, an individual must be able to amend their documents to accurately reflect their gender. Though having a process to correct gender designations is vital to the health and safety of transgender Hoosiers, the proposed amendment will result in an unnecessary burdensome process that will target and harm transgender Hoosiers with a disproportionate impact on low income Hoosiers.

Now there is a lot of talk about a faux concern for trans-people – and this is for their safety and protection. That paternalistic attitude ignores the reality and the violence that trans-people face, which is not from being denied medical care in the situation where an EMT has to make a snap judgement about someone's gender. It is because of having mismatched gender identity presentation and ID that cause people on the street, people at the bar, people in stores, any time you have to show your ID from inflicting violence on that person. It does not come from a denial of medical care in an emergency situation.

And the faux concern about police, medical, loans – we all are tracked in many ways that are beyond our ID. If I apply for a mortgage I give my social security number and my credit report is run. If I am arrested my fingerprints are taken and my identity is known. The BMV ID as. I am going to stop. I have a much longer written comment.

The irony of everyone opposing this rule is that the current rule by the BMV allows people to change the gender marker on their ID. The proposed rule just changes that process. This rule is not creating something that does not exist, it is creating a new process to accomplish a goal that is already available. Thank you.

BMV STAFF ATTORNEY

Thank you, and if you would like to submit the comments to BMVLegal@bmv.IN.gov. Would anyone else like to make a verbal comment at this time?

We like to give, as good practice, one hour in case there are any individuals that show up late. So, we will remain here until 10:30 at least to see if anyone else would like to make verbal comments. Otherwise, the comments at this time have ended. Thank you all for your comments.

BMV STAFF ATTORNEY CLOSING:

Thank you for your comments.

As a reminder - a transcript of today's public hearing will be provided to stakeholders for their consideration. If you wish to submit written comments to accompany your verbal comments, you may do so by emailing BMVLegal@bmv.IN.gov by midnight tonight, November 25, 2019.

The time is now 10:30am. This hearing on LSA Number 19-486 is now adjourned.