

Motor Vehicle Division Policy Memo # 18-02 - REVISED

Proof of Name Change-Current Legal Name Differs from Name on Identity Document

DATE: April 7, 2021

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TO: All MVD staff and Iowa County Treasurers' staff that issue driver's licenses and non-operator's identification cards.

SUBJECT

This policy memo explains our policy on situations where a customer's current legal name is different than the name on their identity document and what proof is required when a name change has occurred, and includes information about what a customer should do if they are unable to obtain the proper proof of their name change.

EXPLANATION

The federal REAL ID regulations in 6 C.F.R. §37.11(c)(2) and Iowa administrative rule 761—601.5(5) address the documentation required when a customer's legal name has changed from the one listed on their identity document and what proof is required to document the name change. The rule states that the name listed on the driver's license (DL) or nonoperator's identification card (ID) that is issued shall be identical to the name listed on the identity document submitted unless the applicant submits the chain of legal documents necessary to show the legal change of the applicant's name from the identity document submitted to the applicant's current legal name. Acceptable documentation includes a court-ordered name change document, a certified copy of a marriage certificate documenting the name change, or an unexpired out-of-state REAL ID credential.

However, sometimes situations arise where a customer has established a legal name, including on their Iowa driving record (perhaps prior to the effective date of the REAL ID requirements) yet they are unable to provide the chain of legal documents showing how their name was changed to their current legal name from the name listed on their identity document. The questions and answers below attempt to address and provide guidance on the various scenarios in which this situation may arise.

LINKS TO FEDERAL REGULATIONS AND STATE ADMINISTRATIVE RULES

https://www.ecfr.gov/cgi-bin/text-idx?SID=26fe3f4c7e070f76e3befc6517eae83c&mc=true&node=se6.1.37_111&rgn=div8

<https://www.legis.iowa.gov/docs/iac/rule/11-08-2017.761.601.5.pdf>

HELPFUL QUESTIONS AND ANSWERS

The following questions and answers provide additional information that will be helpful to you and to customers.

WHAT DO WE DO IF THE CUSTOMER'S NAME ON THEIR IOWA DRIVER RECORD DOESN'T MATCH THEIR IDENTITY DOCUMENT?

We have seen this situation arise more frequently, especially for individuals who were never previously required to produce their birth certificate in order to obtain a DL or ID. In these situations, it could be that the customer's name was listed one way on their birth certificate, for example, the customer received their mother's last name on the birth certificate, but the father was marked as unknown. Then later, the parent gave the child a last name that was different than the one listed on the birth certificate, perhaps the last name of their stepfather. In many of these situations, especially for individuals born many years ago, the parent may not have completed a formal legal name change. Therefore, the customer might have gone by the last name of their stepfather for their whole life, only to find out many years later that it doesn't match the name on their birth certificate.

Since REAL ID requires the customer to provide the chain of legal documentation showing how the customer's name on their birth certificate changed to their current legal name, in this situation, unless there is legal documentation showing how the name changed, the customer will need to obtain a court-ordered name change documenting how their name changed from the one listed on their birth certificate to their current legal name.

It should be noted that if the customer has had a subsequent legal name change (e.g., through marriage), they cannot retroactively obtain a court-ordered name change for the past, so you will need to refer the situation to your supervisor to determine next steps, which may include a request for an administrative rule waiver.

WHAT ABOUT A CUSTOMER SEEKING TO RENEW THEIR CDL LICENSE WHO WAS UNAWARE THAT THEIR NAME ON THEIR IDENTITY DOCUMENT DID NOT MATCH THE NAME USED ON THEIR CDL?

We have seen examples where a CDL driver has had an established Iowa driver's license and due to the federal requirement to prove their legal status and identity, is now providing us with a birth certificate where the name does not match their driver's license. REAL ID and federal proof of identity requirements for CDLs require the customer to provide the chain of legal documentation showing how the customer's name on their identity document (typically their birth certificate) changed to their current legal name (the name they are using on their license). The customer is required to obtain a court ordered name change if they are not able to provide any other documentation showing how the name changed, even if they are not seeking to get a REAL ID. *Note: If the customer has an Iowa CDL, has an established Iowa driving record, and is seeking to renew their Iowa CDL, you may consult with your supervisor who will consult with the Bureau Director to determine if an extension may be issued to avoid the CDL expiring before they are able to proceed with obtaining a court-ordered name change.*

WHAT STEPS ARE INVOLVED IN OBTAINING A COURT-ORDERED NAME CHANGE?

A court-ordered name change may be accomplished through a divorce decree, an adoption decree, or a petition for name change. The following link provides information for a customer who is interested in pursuing a petition for name change: <https://www.iowacourts.gov/for-the-public/representing-yourself/name-change/>

WHAT IF THE CUSTOMER HAS ESTABLISHED A LEGAL NAME THAT DOES NOT MATCH THE NAME ON THEIR IDENTITY DOCUMENT, AND THEY WANT TO GO BACK TO USING THE NAME ON THEIR IDENTITY DOCUMENT?

Since REAL ID requires customers to provide the chain of legal documentation showing how the customer's name on their birth certificate changed to their current legal name, we must also require the customer to provide the legal chain of documents showing how their established legal name changed back to the name listed on their identity document. One example of this would be a customer who

changed her legal name when she was married, and then later divorced, and in the divorce decree, she returned to her maiden name, which matches the name listed on her birth certificate. The customer is not able to simply go back to using her maiden name by presenting her identity document and nothing else. The divorce decree or other legal name change document is still required to show documentation of the legal name change back to the name on her identity document.

WHAT IF THE CUSTOMER HAS CHANGED HIS OR HER NAME SEVERAL TIMES?

There are situations where a customer's name may have changed several times, perhaps through multiple marriages and divorces. Because REAL ID requires the customer to provide the chain of legal documentation showing how the customer's name on their birth certificate changed to their current legal name, the customer must provide the legal chain of documents linking each of the name changes that occurred. In that situation, the customer might need to provide each marriage certificate and each divorce decree showing how the name was changed. There may be situations where all of the customer's name changes are reflected in the marriage certificate(s) if that document includes a "name before marriage" box and/or a "maiden name" box. In that situation, the customer may not need to provide all of the marriage certificates as long as you can follow the complete name change history documented on the marriage certificate(s).

WHY ARE WE ALLOWED TO ACCEPT AN UNEXPIRED OUT-OF-STATE REAL ID FOR PROOF OF LEGAL NAME?

Both Iowa REAL ID administrative rules and federal REAL ID regulations have long held that a REAL ID issued by another jurisdiction is acceptable as a "source document" to prove identity (including legal name) and date of birth. However, an out-of-state REAL ID does not have the same effect as producing a birth certificate in terms of proving lawful status. Thus, since the out-of-state REAL ID establishes legal name and date of birth but cannot count as lawful status, it basically serves only as proof of legal name in lieu of a marriage certificate or court document, since the applicant then must provide another source document (i.e., birth certificate) as their proof of lawful status. The advantage to the customer in this case, then, is that the birth certificate (or other source document) which is serving as proof of lawful status does not need to list the customer's current legal name, since the out-of-state REAL ID establishes their current legal name. You should be able to reasonably link the two documents (i.e., birth certificate and out-of-state REAL ID) through information on the documents such as the date of birth and first/middle name. As always, if you have any questions about the validity of the document, you can request additional information to verify the customer's identity.

WHAT IF THE CUSTOMER DOES NOT HAVE THE LEGAL CHAIN OF DOCUMENTS NECESSARY TO PROVE THEIR NAME CHANGE?

There are situations where a customer may not have all of the documents necessary to prove their name change. In this situation, it is important to determine whether the customer does not wish to obtain the documents because the process may be viewed as a hassle or because of the expense, versus a customer who is not able to obtain the necessary documentation due a circumstance beyond their control. One recent example of this was a customer who was married prior to the date that the State of Missouri began keeping marriage records. That particular customer, due to circumstances beyond her control, was unable to provide the certified copy of her marriage certificate to prove how her name changed from the name on her birth certificate to her current legal name. In the situation where the customer is unable to supply the name change document due to circumstances beyond their control, you will need to refer the case situation to your supervisor who will consult with the Bureau Director to determine next steps, which may include a request for an administrative rule waiver.