

Motor Vehicle Division Policy Memo #17-09

Administrative Rules Changes-Chapter 601, Application for License; Chapter 605, Duplicate License and Chapter 630, Non-operator's Identification Card

DATE: December 13, 2017

FROM: Melissa Spiegel, Director, Motor Vehicle Division

TO: All Driver and Identification Services (DIS) staff, Iowa County Treasurers and County Treasurers' staff that issue driver's licenses and non-operator's identification cards.

SUBJECT

This policy memo explains administrative rules changes adopted in 2017 that impact Application for Licenses, Duplicate Licenses and Non-Operator's Identification Cards.

SUMMARY

The rule changes adopted in 761 IAC, chapters 601, 605 and 630 were part of the department's five-year review of its rules. Many of the rule changes simply conform to current department practices and current state and federal laws and regulations regarding the issuance of driver's licenses (DL) and non-operator's identification cards (ID). Other changes implement new procedures, or in some cases eliminate procedures and forms or update existing forms. The remainder of the memo will provide greater detail on the changes made and how those changes impact the work that you do. **The administrative rules changes are effective December 13, 2017.**

LINK TO IOWA ADMINISTRATIVE RULES CHANGES

<https://www.legis.iowa.gov/docs/iac/chapter/11-22-2017.761.601.pdf>

<https://www.legis.iowa.gov/docs/iac/chapter/11-22-2017.761.605.pdf>

<https://www.legis.iowa.gov/docs/iac/chapter/11-22-2017.761.630.pdf>

Also, see attachment at the end of the memo showing how the rules were amended.

HELPFUL QUESTIONS AND ANSWERS

The following questions and answers provide information regarding new procedures and procedures that are being eliminated or changed. This information will be helpful to you as you issue DLs and IDs and to customers. The questions and answers are broken down into the following categories: Out of State Verification (Interstate Driver's License Compact), Safe at Home Address, Surrender of DL or ID, Certified and Official Copies of Identity Documents, Verification of Social Security Number, Name Change or Date of Birth, Verification of Change of Sex Designation, Parental Consent Form and Duplicate DL or ID.

OUT OF STATE VERIFICATION (INTERSTATE DRIVER'S LICENSE COMPACT)

WHAT IS THE INTERSTATE DRIVER'S LICENSE COMPACT?

The Interstate Driver's License Compact was adopted by the State of Iowa and is found in Iowa Code chapter 321C. The compact generally promotes safety ensuring that drivers will face consistent consequences for driving infractions, regardless of the state in which the infraction occurs. The compact requires that a conviction a driver receives in another state be reported to the driver's home record and be given the same effect as if the conviction occurred in the driver's home state. The compact also requires the department to determine at the time of application for a new license whether the applicant has ever held or currently holds a license issued by another state, and to refuse licensing if the applicant held a license issued by another state but the license has been suspended or revoked because of a violation and the suspension or revocation has not terminated. However, the compact attempts to ensure the safe mobility of drivers that have legitimately moved from one state to another and to allow the new state to give effect to its driving and licensing laws by allowing the licensing authority to grant a new license if the suspension or revocation has terminated or if the revocation has not terminated but it has been more than one year from the date the license was revoked and the licensing authority has determined it is otherwise safe to grant the applicant a driving privilege.

HOW DOES THE COMPACT APPLY TO AN APPLICANT?

The department interprets the compact as applying to applicants who have held a license in another state as well as to applicants who have never held a license, which ensures that the intent of the compact is consistently met for similarly situated applicants. The compact also applies in situations where the applicant's license or driving privilege is showing suspended or revoked in another state and suspension or revocation has terminated, or if the revocation has not terminated, but has been in effect for over one year. In these situations, the applicant may be eligible for licensing in Iowa if the department determines it would otherwise be safe to license the applicant and if the applicant would be eligible had the offense occurred in Iowa.

DOES THIS RULE AMENDMENT CHANGE ANY OF MY CURRENT PROCEDURES?

No, it shouldn't change any of your current procedures when an out of state applicant has a hold on their license from another state. As mentioned above, we have already been operating under the compact according to the provisions in Iowa Code, by ensuring drivers have satisfied the same requirements that we would require if their offense occurred in Iowa and by ensuring applicants are otherwise physically and mentally capable of safely operating a motor vehicle. This rule amendment simply adds those requirements to the out of state verification rule in 761 IAC 601.1(3) and conforms to current procedures.

SAFE AT HOME ADDRESS

MAY A SAFE AT HOME PARTICIPANT PROVIDE THEIR DESIGNATED ADDRESS ON THEIR APPLICATION?

Yes, an applicant who is a participant in the safe at home address confidentiality program with Iowa Secretary of State's Office may submit their designated address when applying for a DL or ID. This is not a change from current practice, but is just updating the rules to match our current practice.

SURRENDER OF DL OR ID

DOES AN APPLICANT ALWAYS HAVE TO SURRENDER THEIR DL OR ID WHEN APPLYING FOR AN IOWA DRIVER'S LICENSE?

Generally, the answer is yes. However, there is an exception to this requirement for situations where the applicant is from a jurisdiction with which Iowa has a reciprocity agreement and that reciprocity agreement provides that the applicant is not required to surrender their DL or ID from that jurisdiction upon application for an Iowa DL or ID. The exception would not apply to an applicant from another state or territory in the United States, but may apply if the applicant is from foreign jurisdiction and Iowa has a reciprocity agreement in place with that jurisdiction providing the applicant is not required to surrender their DL or ID upon application for an Iowa DL or ID. Iowa currently has agreements with the following foreign jurisdictions: France, Germany, South Korea and Taiwan. Only Iowa's agreement with South Korea contains a provision allowing the South Korean applicant to retain (and not surrender) their South Korean DL or ID when applying for an Iowa DL or ID.

CERTIFIED AND OFFICIAL COPIES OF IDENTITY DOCUMENTS

ARE CERTIFIED COPIES OF BIRTH CERTIFICATES AND MARRIAGE CERTIFICATES STILL REQUIRED?

Yes, certified copies of birth certificates and marriage certificates are still required as proof of identity and name change. However, the requirement that the certified document bear a raised seal was removed from the rule. If the document has a raised seal, that is still perfectly acceptable, the rules were broadened to allow acceptance of documents containing the issuing authority's "certification of authenticity" or in other words, to allow for certified or official documents that don't necessarily have a raised seal, but otherwise bear the certification of authenticity from the issuing authority. This rule change provides for the acceptance of electronic identity documents.

DOES A COURT ORDER CHANGING A NAME STILL REQUIRE THE COURT SEAL?

Not necessarily. Similar to the change made to certified copies, the court-ordered name change rule was amended to remove the requirement that the court order contain the official court seal, and instead allows the court order to contain the court's "certification of authenticity." As above, it is still perfectly acceptable if the court order contains the official raised court seal, but the rule conforms to current practice of accepting electronically-filed court orders.

VERIFICATION OF SOCIAL SECURITY NUMBER, NAME CHANGE OR DATE OF BIRTH

ARE THERE NEW WAYS AN APPLICANT MAY PROVIDE PROOF OF THEIR SOCIAL SECURITY NUMBER?

Yes, the rule was amended to allow an applicant to provide Internal Revenue Service Form 1095-A, 1095-B or 1095-C containing the applicant's social security number as proof if the applicant's social

security card is not available. However, the option to use Internal Revenue Service Form 1095-A, 1095-B or 1095-C as proof of social security number is only to be used as a last resort if the customer has no ability to provide any of the other listed forms of proof of social security number. If the scenario arises where this is the only form the customer has available to them as proof of their social security number, please consult with your supervisor who will consult with the Driver & Identification Services Director.

IS AN APPLICANT WITH A NAME CHANGE STILL REQUIRED TO SUBMIT AN AFFIDAVIT OF NAME CHANGE?

No, the affidavit of name change form 430043 is no longer required and the form will be deleted from the DOT forms. If an applicant's current legal name differs from the name on their identity document, they will only need to present the chain of legal documents proving the name change and will no longer be required to also submit the name change affidavit.

MUST A COURT ORDER FOR A NAME CHANGE INCLUDE THE APPLICANT'S FULL LEGAL NAME?

No, the court order must contain the applicant's prior legal name and current legal name. This rule change was made to address situations where the court did not necessarily include the applicant's middle name in the court order.

CAN AN APPLICANT STILL CHANGE THE DATE OF BIRTH LISTED ON THEIR DL OR ID?

Yes. Previously, an applicant could change the date of birth listed on their DL or ID if they presented either an amended birth certificate or a court order changing the date of birth. An applicant is still permitted to submit either an amended or new birth certificate that documents the change of date of birth. However, an applicant will no longer have the ability to submit a court order changing their date of birth. This is because there is no known procedure for obtaining a court-ordered change of date of birth.

VERIFICATION OF CHANGE OF SEX DESIGNATION

WHAT DOCUMENTATION MUST AN APPLICANT BORN IN IOWA SUBMIT TO CHANGE THE SEX DESIGNATION LISTED ON THEIR DL OR ID?

Applicants born in Iowa must submit an amended or new Iowa birth certificate that documents the change of sex designation. The rule used to provide that an applicant could submit a court-ordered change of sex designation, however this option has been removed from the rule as there is no known cause of action under Iowa law for obtaining a court-ordered change of sex designation.

WHAT DOCUMENTATION MUST AN APPLICANT BORN IN ANOTHER STATE OR JURISDICTION SUBMIT TO CHANGE THE SEX DESIGNATION LISTED ON THEIR DL OR ID?

Applicants born in a state other than Iowa or a foreign jurisdiction will now have the ability to change the sex designation listed on their DL or ID either by submitting a new or amended identity document that documents the change of sex designation, or, the applicant may submit a notarized affidavit from a licensed physician and surgeon or osteopathic physician and surgeon that states that by reason of surgery or other treatment, the sex designation of the applicant has been changed. This notarized

affidavit is identical to what an Iowa born applicant must present to the Iowa Department of Public Health in order to obtain an amended or new Iowa birth certificate documenting a change in sex designation. It will be very important to inform applicants born outside of Iowa who wish to change the sex designation on their DL or ID of the specific requirements in administrative rule 761 IAC 601.5(7)(b) so they obtain an affidavit with all of the required information. You may even want to provide the customer with a copy of the rule. Notarized affidavits submitted by applicants born outside of Iowa should be scanned in to the customer's ERMS file and for the time being, Sara Siedsma with central office should then be notified to review the affidavit prior to issuing the DL or ID with the change in sex designation.

IF AN APPLICANT PROVIDES PROOF OF A CHANGE OF SEX DESIGNATION, DOES THAT IMPACT THE APPLICANT'S NAME?

The change of sex designation documentation does not by itself effect a name change of an applicant. In order to obtain a name change, the applicant must still meet the verification of name change requirements in administrative rule 761 IAC 601.5(5).

PARENTAL CONSENT FORM

WHAT CHANGES WILL BE MADE TO THE PARENTAL CONSENT FORM?

This form was updated to accurately reflect the current practice of allowing a parent, guardian or custodian of a minor to provide consent to issue a driver's license, permit or ID to the minor. The rule change also removes the requirement that the form be notarized, and instead allows the consent form to be verified by certification under penalty of perjury.

WHEN WILL THE CONSENT FORM BE UPDATED WITH THE NEW TITLE AND PENALTY OF PERJURY LANGUAGE?

The form has been updated and copy of the form is attached to the end of this memo. The form has not yet been updated in the DOT forms module yet, but that will be done within the next week or so.

DUPLICATE DL OR ID

WHAT CHANGES WERE MADE REGARDING OBTAINING A DUPLICATE DL OR ID FOR ONE THAT HAS BEEN LOST, STOLEN OR DESTROYED?

The rules were changed to simplify the requirements for obtaining a duplicate DL or ID for one that has been lost, stolen or destroyed. Previously, an applicant was required to provide the same documents to prove legal name, date of birth and social security number that the applicant would have to provide when applying for a new DL or ID. Requiring the applicant to again provide these documents is not necessary, however, because we already have this documentation in the file and can verify the legal name, date of birth and social security number based on information provided by the applicant and can additionally verify the applicant's identity based on the applicant's photo(s) on file and through the use of facial recognition technology. Therefore, an applicant seeking a duplicate DL or ID to replace one that has been lost, stolen or destroyed is not required to provide the same documents to prove legal name, date of birth and social security number as long as you are able to verify the applicant's identity and

have the necessary documentation in the customer's file. When issuing a duplicate for a permanent resident who is a foreign national, you may verify their legal status using the proof of legal status document in their ERMS file, or by presentation of their physical proof of legal status document. However, if *renewing* a permanent resident's license, they must provide proof of legal status via their INS documents (this has not changed). Temporary foreign national applicants will still need to provide proof of legal status via their INS documents for every issuance, including duplicates.

WHAT IF I AM NOT SURE OF THE APPLICANT'S IDENTITY WHO IS REQUESTING A DUPLICATE DL OR ID?

You are allowed to conduct further investigation if necessary to verify the applicant's identity, and the duplicate DL or ID must not be issued if the applicant's identity is questionable, cannot be determined or otherwise does not match the identity of record. If you have questions or concerns about the applicant's identity, please consult with your supervisor.

WHAT IF THE APPLICANT'S NAME, DATE OF BIRTH OR SOCIAL SECURITY NUMBER HAS CHANGED?

If the applicant's name, date of birth or social security number has changed since the previous social security number was issued, the applicant shall provide proof of the change as required by subrule 605.11(2).

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been issued disabled veteran plates under Iowa Code section 321.105 or registration plates under Iowa Code section 321.34. A special registration plate parking sticker shall not be issued to a person with a temporary disability or to an organization.

411.5(2) *Validity.* The special registration plate parking sticker shall remain valid for such period of time that the registration for the vehicle remains valid.

411.5(3) *Display.* The special registration plate parking sticker shall be affixed to the lower right corner of the rear registration plate, as required by rule 761—400.53(321).

761—411.6(321L) Persons with disabilities special registration plates. See 761—Chapter 401.

761—411.7(321L) Return of persons with disabilities parking permit. A persons with disabilities parking permit issued pursuant to this chapter and Iowa Code section 321L.2 shall be returned to the department within ten days of an occurrence of any of the events set forth in Iowa Code section 321L.3(1) and in the manner prescribed in Iowa Code section 321L.3(3).

761—411.8(321L) Revocation of a persons with disabilities parking permit.

411.8(1) *Notice of revocation.* Notice of revocation shall be in writing and shall specify the basis of the department's determination.

411.8(2) *Effective date of permit revocation.* Unless otherwise specified by statute or rule, a permit shall be considered revoked 30 days after the department's notice of revocation is served.

411.8(3) *Service of notice.* The department shall send a notice of revocation by first-class mail to the mailing address as shown on the pertinent application for a persons with disabilities parking permit.

411.8(4) *Departmental verification of service of notice.* The department may prepare an affidavit of mailing verifying the fact that a notice was mailed by first-class mail. To verify the mailing of a notice, the department may use its records in conjunction with U.S. Postal Service records available to the department. The department's affidavit of mailing may be attested to and certified in accordance with Iowa Code section 622.1.

761—411.9(321L) Appeal.

411.9(1) A person or organization whose persons with disabilities parking permit has been revoked may request an informal settlement or a contested case proceeding as provided in 761—Chapter 13 to contest said action.

411.9(2) The request shall be submitted in writing, to the director of the office of vehicle and motor carrier services, at the address listed in rule 761—411.1(321L), and may be submitted electronically by facsimile, e-mail or other means prescribed by the department. To be timely, the request must be submitted within ten days of the receipt of notice of revocation.

411.9(3) When the department receives a properly submitted, timely request for an informal settlement or contested case proceeding or an appeal of a presiding officer's proposed decision regarding a revocation, the department shall stay the revocation pending resolution of the informal resolution, contested case, or appeal.

These rules are intended to implement Iowa Code sections 321L.1 to 321L.4 and 321L.8.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/8/17.

ARC 3451C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.12, 307A.2, 321.182, 321.189 and 321.190, the Iowa Department of Transportation, on October 18, 2017, adopted amendments to Chapter

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601, “Application for License,” Chapter 605, “License Issuance,” and Chapter 630, “Nonoperator’s Identification,” Iowa Administrative Code.

These amendments form a comprehensive update of the Department’s rules affecting or involving the initial application for a driver’s license or nonoperator’s identification card to better implement and align with existing legal authority and Department practice and to eliminate outdated or irrelevant requirements or options and accommodate modern, electronic procedures for authenticating official documents and exchanging information. In addition, the amendments relocate requirements regarding the application for duplicate licenses from Chapter 601 to Chapter 605, which specifically addresses the issuance of duplicate licenses in rule 761—605.11(321); clarify the manner in which the Department will determine the eligibility for licensing a person who has moved to Iowa but is subject to a license or driving sanction in another state; and clarify the process for documenting a change in sex designation to ensure that a formal change in sex designation is permitted only under standards consistent with standards set forth in the Iowa Code and maintained by the Iowa Department of Public Health, applied equally and consistently to all Iowa residents who request a change in the sex designation shown on a driver’s license or nonoperator’s identification card.

The following explains each item in the rule making:

- Item 1 amends subrule 601.1(3) to better and more consistently implement Iowa Code chapter 321C, Interstate Drivers License Compacts. Iowa Code chapter 321C generally promotes safety ensuring that drivers will face consistent consequences for driving infractions, regardless of the state in which the infraction occurs. The compact requires that a conviction a driver receives in another state be reported to the driver’s home record and be given the same effect as if the conviction occurred in the driver’s home state and requires the Department to determine at the time of application for a new license whether the applicant has ever held or currently holds a license issued by another state, and to refuse licensing if the applicant held a license issued by another state but the license has been suspended or revoked because of a violation and the suspension or revocation has not terminated. In this manner the compact ensures that unsafe drivers do not go undetected by accumulating convictions in other states or skipping from state to state. However, the compact also attempts to ensure the safe mobility of drivers who have legitimately moved from one state to another and to allow the new state to give effect to its driving and licensing laws by allowing the licensing authority to grant a new license if it has been more than one year from the date the license was revoked and the licensing authority has determined it is otherwise safe to grant the applicant a driving privilege.

The Department’s past practice did not fully realize the intent of the compact in two areas. First, the Department did not have a consistent method for determining whether a driver who had moved to Iowa from another state while under revocation in another state was safe to drive, and simply withheld licensing privileges so long as the driver was revoked in another state. This often left drivers who would otherwise be eligible if the offense had occurred in Iowa in limbo and without driving privileges until the revocation ended in the other state. Second, the Department interpreted this provision as only applying to a person who actually held a license in another state; if the person was subject to a revocation but never had a driving privilege, the Department refused to consider the application of the compact, which likewise left the person in limbo and without driving privileges until the out-of-state revocation ended. The amendments remedy these issues by:

- Clarifying that the Department interprets the compact as applying to persons who have held a license in another state as well as to persons who have never held a license, which ensures that the intent of the compact is consistently met for similarly situated persons.

- Confirming that if the application shows the person’s license or driving privilege was revoked by another state and at least one year has passed since the revocation was imposed, the applicant may be eligible for an Iowa license provided the Department determines it would be safe to grant the application in Iowa. To consistently make that determination, the Department will consider whether the applicant would be eligible for licensing if the violation had occurred in Iowa, will apply the same period of revocation as though the offense had occurred in Iowa, and will grant licensing if the Iowa period of revocation has expired, subject to the same limitations and restrictions that would be imposed on an Iowa driver (other than imposition of a civil penalty), and contingent upon the driver demonstrating adequate

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knowledge and skill to operate a motor vehicle safely and contingent further on the driver otherwise being physically and mentally capable of safely operating a motor vehicle. This part of the amendment better aligns licensing policy with the compact and better promotes safe mobility not only by ensuring out-of-state revocations are recognized and given effect but also by allowing a return to driving on the same terms and conditions that would apply to any Iowa license holder. The amendment permits the Department to make further investigation or require further information if necessary.

- Item 2 clarifies that a participant in the “Safe at Home” program administered by the Iowa Secretary of State, which is an address confidentiality program for victims of domestic violence, sexual assault, trafficking, stalking, or violent crimes, may provide the participant’s address designated by the Secretary of State when applying for a driver’s license and aligns the Department’s rules regarding proof of address to the Department’s practice in implementing this program.

- Items 3 and 8 update implementation sentences within rules 761—601.1(321) and 761—605.11(321) to add Iowa Code section 321.13, which requires the Department to examine and determine the genuineness, regularity, and legality of every application made to the Department and which authorizes the Department to investigate or require additional information as needed to do so and to reject any application if the Department is not satisfied with the genuineness, regularity, or legality of the application or the truth of any statement made within the application, or for any other reason, when authorized by law.

- Items 4 and 11 add language to acknowledge an existing process under which an individual who has a driver’s license or nonoperator’s identification card from a foreign jurisdiction may not be required to surrender the license or card if Iowa has a letter of understanding with the foreign jurisdiction that allows the individual to retain the license or card.

- Item 5 clarifies the proof required when a person is applying for a new driver’s license. Specifically, the following amendments are adopted:

- Paragraphs 601.5(1)“b,” 601.5(5)“a” and 601.5(5)“b” are amended to acknowledge that many certified documents may no longer contain a raised seal but are still acceptable if the documents bear a certification of authenticity from the issuing agency or entity. These amendments allow the Department to accept more electronically issued documents in the future and avoid inconveniencing applicants who may not have access to a document that contains a raised seal.

- Paragraph 601.5(1)“b” and subrules 601.5(6) and 601.5(7), regarding proof of identity and date of birth, are amended to encompass situations where an issuing agency issues an entirely new certificate of birth rather than an amended certificate of birth. This amendment ensures a properly issued certificate of birth will be accepted to document a change shown in the certificate regardless of whether the certificate is marked as amended or is issued as a new document, which will avoid inconvenience to applicants.

- Subrule 601.5(2) is amended to include Internal Revenue Service Forms 1095-A, Health Insurance Marketplace Statement; 1095-B, Health Coverage; and 1095-C, Employer-Provided Health Insurance Officer and Coverage; to the list of documents that may be used to prove an applicant’s social security number. This amendment will increase the types of documents an applicant may use to prove the applicant’s social security number and decrease the chance that an applicant will not have access to an acceptable form of proof, which will also avoid inconvenience to applicants.

- Subrule 601.5(5) is amended to eliminate an outdated requirement to submit an affidavit to prove a name change. Under the amendments, an applicant who has changed the applicant’s name need only provide the legal documents showing the name change to prove the change of name, without submitting a separate affidavit, and the applicant’s request for the name change is captured electronically. This will avoid inconvenience to the applicant associated with completing a paper form and seeking a notary to attest to the application. The amendment also provides that the documentation of a name change must include the applicant’s legal name, rather than the applicant’s “full” legal name, to encompass court orders which may include an applicant’s middle initial rather than the applicant’s full legal name. This ensures the Department’s ability to accept all validly issued court orders for name change and avoids inconvenience to an applicant who might otherwise have to seek an amended order to include the applicant’s full middle name where it has not changed.

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o Subrule 601.5(6) is amended to remove the provision allowing for a court-ordered change of date of birth. There is no known procedure for obtaining a court-ordered change of date of birth.

o Subrule 601.5(7) is amended to ensure that the procedure for changing the sex designation on a person's driver's license remains consistent with the requirements of Iowa law and is applied on equal terms to all Iowa driver's license holders, whether born in Iowa or outside of Iowa. Iowa Code section 321.182 requires a driver's license applicant to provide the applicant's sex at the time of application, and Iowa Code section 321.189 requires the Department to include the applicant's sex on any driver's license issued. Policy on change of sex designation in Iowa is guided by Iowa Code section 144.23(3), which allows the state registrar to establish a new birth certificate for a person born in Iowa that shows a new sex designation when the person submits a notarized affidavit from a licensed physician and surgeon or osteopathic physician and surgeon stating that by reason of surgery or other treatment, the sex designation of the person has been changed. The existing subrule 601.5(7) recognizes this process by allowing a license holder to change the sex designation that appears on the license by presenting an amended birth certificate, and also allows a license holder to change the sex designation that appears on the license by presenting a court-order change of sex designation. However, the existing subrule has produced unequal and inconsistent results for two reasons. First, the option to present an amended birth certificate has excluded similarly situated persons who were not born in Iowa, as not all states have a procedure for amending or changing a birth certificate to reflect a new sex designation. Second, the option to present a court order for change of sex designation, which was intended only to accommodate the possibility that other states might allow a change of sex designation by court order, has been mistakenly construed by some Iowa judges as creating a cause of action in Iowa for a court-ordered change of sex designation that does not otherwise exist in Iowa law, resulting in court orders for change of sex designation that lack proper legal basis or consistent standard. To correct these deficiencies, the amendment to subrule 601.5(7) eliminates the option to prove change of sex designation by court order and inserts a proof structure that treats driver's license holders born either in or outside of Iowa equally and holds them to the same standard that the Iowa Department of Public Health follows for individuals seeking to amend or acquire a new birth certificate that reflects a change of sex designation. The amendment clarifies that a license holder born in Iowa who wishes to change the sex designation on the license must present a new Iowa birth certificate that changes the sex designation, which the state registrar issues according to the standards set forth in Iowa Code section 144.23(3) and Iowa Department of Public Health's rule 641—99.20(144). A person born outside of Iowa must either present a properly amended or new identity document other than an Iowa birth certificate (a birth certificate from the birth state, Consular Report of Birth Abroad, or Certificate of Citizenship) that documents the sex designation change, or may present a notarized affidavit from a licensed physician and surgeon or osteopathic physician and surgeon stating that by reason of surgery or other treatment, the sex designation has been changed. The standards and requirements adopted for proof of change of sex designation by presentation of a notarized affidavit are identical to those set forth in Iowa Department of Public Health's rule 641—99.20(144), which ensures that similarly situated persons have equal opportunity to change the sex designation on their licenses, regardless of whether they were born in or outside of Iowa, but only within the standards for change of sex designation set forth in Iowa Code section 144.23(3). To ensure accurate and consistent application, the amendment to the subrule allows the Department to make further inquiry or investigation when necessary, requires the application for change and all documentation to be submitted centrally to Driver and Identification Services, and confirms that the change of sex designation does not effect a name change unless the license holder verifies a legal name change following the procedures in subrule 601.5(5).

• Item 6 updates rule 761—601.6(321), previously specific to parental consent, to accurately reflect that either a parent, guardian or custodian of a child may provide consent to issue a driver's license or permit to a minor. This change properly aligns the content of this rule with the content of Iowa Code section 321.184 and with the Department's practice. The amendment also removes the requirement that the form documenting the parent's consent be notarized and instead provides that the consent shall be verified by certification under penalty of perjury. Iowa Code section 321.184 does not require notarization, and removing this requirement avoids inconvenience to applicants associated with seeking a notary to complete the form and allows this document to be executed electronically in the

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future. Item 9 updates subrule 630.2(2) to make a coordinating amendment to accurately reflect that a parent, guardian or custodian of a child may provide consent to issue a nonoperator's identification card to a minor.

- Items 7 and 12 simplify the requirements for obtaining a duplicate (replacement) driver's license or nonoperator's identification card for one that is lost, stolen, or destroyed. The Department's rules previously required an applicant who needed a duplicate license or card to provide the same documents to prove legal name, date of birth and social security number that an applicant applying for a new license or card must provide. Requiring the applicant to again provide these documents is not necessary, however, because the Department already has this documentation on file for the applicant and can verify legal name, date of birth and social security number, based on information provided by the applicant, and can additionally verify the applicant's identity based on the applicant's photos on file and through the use of facial recognition technology. Accordingly, the amendments to Items 7 and 12 eliminate the requirement to re-present these proofs when an applicant requests a duplicate license or card. The amendments confirm that the Department is allowed to conduct further investigation if necessary to verify the applicant's identity and provide that the duplicate license or card shall not be issued if the applicant's identity is questionable, cannot be determined or otherwise does not match the identity of record. The updated language also provides that if the name, date of birth or social security number has changed since the previous license or card was issued, the applicant shall provide proof of the change as required by subrule 605.11(2).

- Item 10 strikes the outdated requirement that the county number indicating the county of residence appear on the nonoperator's identification card.

Notice of Intended Action for these amendments was published in the September 13, 2017, Iowa Administrative Bulletin as **ARC 3307C**. These amendments are identical to those published under Notice of Intended Action.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 321.13, 321.182, 321.184, 321.189, 321.190, 321.195 and 321C.1.

These amendments will become effective December 13, 2017.

The following amendments are adopted.

ITEM 1. Amend subrule 601.1(3) as follows:

601.1(3) Out-of-state verification. Upon application for a driver's license, the department shall ascertain whether the applicant has ever held, or is the holder of, a driver's license issued by any other state.

a. The department shall not issue a driver's license to the applicant if:

(1) The applicant has held a driver's license issued by any other state, but the driver's license has been suspended by reason, in whole or part, of a violation and if such suspension period has not terminated.

(2) The applicant has held a driver's license issued by any other state, but the driver's license has been revoked by reason, in whole or part, of a violation and if such revocation has not terminated, except that after the expiration of one year from the date the license was revoked, the applicant may make application for a new license if permitted by law. The department may refuse to issue a license to any such applicant if, after investigation, the department determines that it will not be safe to grant such applicant the privilege of driving a motor vehicle on the highways.

(3) The applicant is the holder of a driver's license issued by another state and currently in force, unless the applicant surrenders such license.

b. If the applicant is subject to subparagraph 601.1(3) "a"(2) or has committed an offense or acted in a manner in another state which in Iowa would be grounds for revocation and it has been more than one year from the date the license or driving privilege was revoked, the department may issue the applicant

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a driver's license only upon such terms and conditions and subject to such restrictions or limitations as if the violation had been committed and the revocation imposed in Iowa. The department shall delay licensing or restrict licensing for such period of time that the applicant would be ineligible for a driving privilege or subject to a restricted driving privilege if the violation had been committed and the revocation imposed in Iowa.

(1) For purposes of determining whether it is safe to grant the applicant a driving privilege, an applicant may be determined to be safe only if the department determines all of the following:

1. The applicant has satisfied the same requirements for the grant of a driving privilege if the violation had been committed and the revocation imposed in Iowa.

2. The applicant is otherwise physically and mentally capable of safely operating a motor vehicle.

(2) However, the department shall not assess a civil penalty to the applicant as a condition of licensing under this subrule.

(3) Pursuant to Iowa Code section 321.13, the department may make further investigation or require further information necessary to determine whether it is safe to grant the applicant a driving privilege.

c. If a ~~person~~ the applicant is licensed in another ~~licensing jurisdiction~~ state but does not have a current out-of-state license to surrender, the department may require an official letter from the out-of-state licensing agency before issuing a license. The official letter must verify verification of the person's applicant's driving record from the state of record, which may be accomplished electronically where possible, to assist the department in determining whether it is safe to grant the ~~person~~ applicant a license.

ITEM 2. Amend subrule 601.1(6) as follows:

601.1(6) Address. The applicant shall provide the applicant's current residential address and the applicant's current mailing address, if different from the applicant's current residential address. The applicant shall not provide as a mailing address an address for which a forwarding order with the United States Postal Service is in place. Notwithstanding anything in subrule 601.1(6), an applicant who is a participant in the "safe at home" address confidentiality program administered by the Iowa secretary of state may submit a designated address issued to the applicant by the Iowa secretary of state as the applicant's residential and mailing address.

ITEM 3. Amend rule ~~761—601.1(321)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.13, 321.182, 321.196 and 321C.1, Article V, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), and 6 CFR Part 37.

ITEM 4. Amend rule ~~761—601.2(321)~~ as follows:

~~761—601.2(321) Surrender of license and nonoperator's identification card.~~ An applicant for a driver's license shall surrender all other driver's licenses and nonoperator's identification cards. This includes those issued by jurisdictions a state other than Iowa or a foreign jurisdiction, unless otherwise provided in a letter of understanding or other written memorialization of reciprocity or understanding. An applicant who renews a driver's license electronically pursuant to ~~761—subrule 605.25(7)~~ shall destroy the previous driver's license upon receipt of the renewed driver's license.

This rule is intended to implement Iowa Code section 321.182.

ITEM 5. Amend rule ~~761—601.5(321)~~ as follows:

~~761—601.5(321) Proofs submitted with application.~~ A person who applies for a new Iowa driver's license or nonoperator's identification card or a duplicate license or card to replace one that is lost, stolen or destroyed, including a person who currently holds a license or card issued by another state or foreign jurisdiction, shall submit proof of identity, date of birth, social security number, Iowa residency and current residential address, and lawful status in the United States.

601.5(1) Verification of identity and date of birth. To establish identity and date of birth, an applicant must submit at least one of the following documents. The department may require additional documentation if the department believes that the documentation submitted is questionable or if the department has reason to believe that the person is not who the person claims to be.

a. No change.

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b. A certified copy of a birth certificate and, if applicable, a certified amended or new birth certificate showing a change in name, date of birth, or sex, filed with a state office of vital statistics or equivalent agency in the applicant's state of birth. The birth certificate must ~~be a certified copy and have the stamp or raised seal of~~ bear the issuing authority's certification of authenticity. A hospital-issued certificate is not acceptable. As used herein, "state" means a state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

c. to k. No change.

601.5(2) Verification of social security number.

a. Except as provided in paragraph 601.5(2) "*b.*" an applicant must present the applicant's Social Security Administration's account number card; or if a social security account number card is not available, the applicant may present any of the following documents bearing the applicant's social security number:

(1) to (4) No change.

(5) An Internal Revenue Service Form 1095-A, 1095-B or 1095-C.

b. No change.

601.5(3) and 601.5(4) No change.

601.5(5) Verification of name change. The name listed on the driver's license or nonoperator's identification card that is issued shall be identical to the name listed on the identity document submitted unless the applicant submits ~~an affidavit of name change on Form 430043. The affidavit must be accompanied by~~ 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 listed on the affidavit. The following documents are acceptable:

a. Court-ordered name change. A court order must contain the applicant's prior ~~full~~ legal name, the applicant's court-ordered ~~full~~ legal name, the applicant's date of birth, and the ~~official court seal~~ court's certification of authenticity. Acceptable court orders include orders under petition for name change, orders for name change set forth in a decree of dissolution, and orders for name change set forth in a decree of adoption.

b. ~~Marriage~~ Certified copy of marriage certificate. The marriage certificate must be filed with a state office of vital statistics or equivalent agency in the person's state or country of marriage. The certificate must ~~be a certified copy and have the stamp or raised seal of~~ bear the issuing authority's certification of authenticity. A church, chapel or similarly issued certificate is not acceptable. As used herein, "state" means a state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

601.5(6) Verification of change of date of birth. The date of birth listed on the driver's license or nonoperator's identification card that is issued shall be identical to the date of birth listed on the identity document submitted unless the applicant submits a certified amended or new birth certificate that documents the change of date of birth and that meets the requirements of paragraph 601.5(1) "*b.*" ~~or submits a court-ordered date of birth change. The court order must contain the applicant's full legal name, the applicant's prior date of birth, the applicant's court-ordered date of birth, and official court seal.~~ 601.5(1) "*b.*"

601.5(7) Verification of change of sex designation. The sex designation listed on the driver's license or nonoperator's identification card that is issued shall be identical to the sex designation listed on the identity document submitted unless the applicant submits does one of the following:

a. Applicants born in Iowa. An applicant born in Iowa must submit a certified amended or new Iowa birth certificate that documents the change of sex designation and that meets the requirements of paragraph 601.5(1) "*b.*" or submits a court-ordered change of sex designation. The court order must contain the applicant's full legal name, the applicant's date of birth, the applicant's prior sex designation, the applicant's court-ordered sex designation, and official court seal. 601.5(1) "*b.*"

b. Applicants born outside of Iowa.

(1) An applicant born outside of Iowa may document the change of sex designation by any of the following methods:

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1. Submit a certified amended or new birth certificate from a state other than Iowa that documents the change of sex designation and that meets the requirements of paragraph 601.5(1)“b.”

2. Submit an amended or new Consular Report of Birth Abroad that documents the change of sex designation and meets the requirements of paragraph 601.5(1)“c.”

3. Submit an amended or new Certificate of Citizenship that documents the change of sex designation and meets the requirements of paragraph 601.5(1)“h.”

4. Submit a notarized affidavit from a physician and surgeon or osteopathic physician and surgeon that documents all of the following:

- The physician and surgeon or osteopathic physician and surgeon completed sex designation treatment for the applicant.

- A description of the medical procedures that constituted the treatment.

- As a result of the treatment, the applicant’s sex designation was permanently changed by surgery or other treatment.

- The physician and surgeon or osteopathic physician and surgeon’s full name, address, state of medical license, and medical license number.

(2) Pursuant to Iowa Code section 321.13, the department may make further investigation or require further information necessary to determine whether a change of sex designation occurred.

c. Documentation. Documentation provided under this subrule shall be submitted to Driver and Identification Services, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa, 50306-9204.

d. Name change. A change of sex designation shall not effect a name change unless the applicant verifies a name change pursuant to subrule 601.5(5).

This rule is intended to implement Iowa Code sections 321.13, 321.182 and 321.189, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), and 6 CFR Part 37.

ITEM 6. Amend rule 761—601.6(321) as follows:

761—601.6(321) Parental Parent’s, guardian’s or custodian’s consent. ~~An~~ The application of an unmarried person under the age of 18 who applies for an Iowa license shall submit parental consent and birth date confirmation on years shall contain the verified consent and confirmation of the applicant’s birthday and shall be signed by either parent of the applicant, the guardian of the applicant, or a person having custody of the applicant under Iowa Code chapter 232 or 600A. Consent and confirmation shall be proved by submission of Form 430018, Parent’s Written, Guardian’s or Custodian’s Consent to Issue Privilege to Drive or Affidavit to Obtain Duplicate Driver’s License or Permit, or its equivalent in an electronic format to be determined by the department. The parent’s signature must be notarized; however, in lieu of notarization it may be witnessed by a driver’s license examiner or clerk. The signature, which may be electronic, shall be dated and shall be subject to the following verification or its equivalent: “I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct.” No exception shall be made for parental the parent’s, guardian’s or custodian’s absence from Iowa. A married person under the age of 18 years shall submit an original or certified copy of a marriage certificate that meets the requirements of paragraph 601.5(5)“b” to avoid submission of the consent form.

This rule is intended to implement Iowa Code section 321.184.

ITEM 7. Amend subrule 605.11(1) as follows:

605.11(1) Lost, stolen or destroyed license. ~~To replace a valid license that is lost, stolen or destroyed, the licensee shall comply with the requirements of 761—601.5(321) provide the licensee’s full legal name, date of birth, and social security number, all of which must be verified by the department, and pay the replacement fee. A licensee subject to 761—paragraph 601.5(2)“b” shall provide the applicant’s U.S. Customs and Immigration Services number, which must be verified by the department. The department may investigate or require additional information as may be reasonably necessary to determine that the licensee’s identity matches the identity of record and shall not issue the replacement license if the licensee’s identity is questionable, cannot be determined, or otherwise does not match the identity of~~

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record. If the licensee's current residential address, name, date of birth, or sex designation has changed since the previous license was issued, the licensee shall comply with subrule 605.11(2).

ITEM 8. Amend rule ~~761—605.11(321)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.13, 321.189, 321.195 and 321.208, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), and 6 CFR Part 37.

ITEM 9. Amend subrule 630.2(2) as follows:

630.2(2) The applicant shall present proof of identity, date of birth, social security number, Iowa residency, current residential address and lawful status as required by rule ~~761—601.5(321)~~. Submission of ~~parental~~ parent's, guardian's or custodian's consent is also required in accordance with rule 761—601.6(321).

ITEM 10. Amend subrule 630.2(3) as follows:

630.2(3) The nonoperator's identification card shall be coded for identification only, as explained on the reverse side of the card. ~~The county number shall indicate the county of residence.~~ The card shall expire eight years from the date of issue. A card issued to a person who is a foreign national with temporary lawful status shall be issued only for the length of time the person is authorized to be present in the United States as verified by the department, not to exceed two years. However, if the person's lawful status as verified by the department has no expiration date, the card shall be issued for a period of no longer than one year.

ITEM 11. Amend subrule 630.2(11) as follows:

630.2(11) An applicant for a nonoperator's identification card shall surrender all other driver's licenses and nonoperator's identification cards, other than a temporary permit held under Iowa Code section 321.181. This includes any driver's licenses or nonoperator's identification cards issued by ~~jurisdictions~~ a state other than Iowa or a foreign jurisdiction, unless otherwise provided in a letter of understanding or other written memorialization of reciprocity or understanding. An applicant who renews a nonoperator's identification card electronically pursuant to ~~subrule 630.2(10)~~ shall destroy the previous nonoperator's identification card upon receipt of a renewed nonoperator's identification card.

ITEM 12. Amend subrule 630.3(1) as follows:

630.3(1) *Lost, stolen or destroyed card.* To replace a nonoperator's identification card that is lost, stolen or destroyed, the cardholder shall ~~comply with the requirements of 761—601.5(321)~~ provide the cardholder's full legal name, date of birth, and social security number, all of which must be verified by the department, and pay the replacement fee. A cardholder subject to 761—paragraph 601.5(2) "b" shall provide the applicant's U.S. Customs and Immigration Services number, which must be verified by the department. The department may investigate or require additional information as may be reasonably necessary to determine that the cardholder's identity matches the identity of record and shall not issue the replacement card if the cardholder's identity is questionable, cannot be determined, or otherwise does not match the identity of record. If the cardholder's current residential address, name, date of birth, or sex designation has changed since the previous card was issued, the cardholder shall comply with 761—subrule 605.11(2).

ITEM 13. Amend ~~761—Chapter 630~~, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 321.13, 321.189, 321.190, 321.195, 321.216, 321.216A, 321.216B and 321.216C, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), and 6 CFR Part 37.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/8/17.



PARENT'S/GUARDIAN'S/CUSTODIAN'S CONSENT

For consent to issue privilege to drive or non-operator's identification card

FOR DOT USE ONLY

DL#: _____

Date: _____

Clerk: _____

Parent's/Guardian's/Custodian's proof of identity when form is used to identify minor

(Read Reverse Side Before Starting)

THE FOLLOWING INFORMATION TO BE GIVEN UNDER OATH

I hereby request that the Department of Transportation accept the application of my minor son daughter ward for:

- Operator Instruction Permit, Intermediate/Full Driver License, Motorized Bicycle License, Motorcycle Instruction Permit, Motorcycle License, Non-Operator's Identification Card, Minor's Restricted License

Subject to such restrictions as may be necessary.

I certify that the following information regarding the minor is true and correct:

Minor's Full Legal Name: _____ First Middle Last

Minor's Date of Birth: _____ Month Day Year

The minor is a resident of the State of Iowa and resides at the following residential address (must be a street or highway address and not a P.O. Box):

Street Address City Iowa State ZIP Code

COMPLETE THE FOLLOWING SECTION IF APPLYING FOR A DRIVING PRIVILEGE

I further certify that I, or a co-parent/guardian/custodian, have and will comply with the provisions of Section 321.180B, Code of Iowa, requiring me/us to provide supervised practice drive time prior to issuance as follows:

INTERMEDIATE DRIVER LICENSE: Twenty hours, two hours were between the hours of sunset and sunrise.

FULL-PRIVILEGE DRIVER LICENSE: Ten hours, two hours were between the hours of sunset and sunrise.

I further certify that, to the best of my knowledge, the minor child named above:

Does not have any mental or physical disabilities that would affect his/her driving ability.

Minor Organ Donor: I hereby give my approval for my minor to be designated as an organ donor under provisions of Chapter 142C., Code of Iowa Yes No

Passenger Restriction: Section 321.180B, Code of Iowa, limits the intermediate license holder to one unrelated minor passenger for the first six (6) months. Parents have the option to waive the passenger restriction.

- Yes, I want my minor to have the passenger restriction for the first six months. No, I do not want my minor to have the passenger restriction for the first six months when being issued the intermediate license.

Parent's/Guardian's/Custodian's Name: _____ First Name Middle Name Last name

Address: _____ Street City State ZIP Code

I certify under penalty of perjury and pursuant to the laws of the State of Iowa that the preceding is true and correct.

Parent's/Guardian's/Custodian's Signature: _____ Date

ALL INFORMATION SHOULD BE PRINTED WITH INK OR TYPED

APPLICATION OF UNMARRIED PERSONS UNDER AGE EIGHTEEN

This form must be signed, under penalty of perjury, in accordance with the requirements listed below.

Section 321.184, Code of Iowa, provides that the application of any unmarried person under the age of eighteen years for a driver license shall contain the verified consent and confirmation of the applicant's birthday and shall be signed by either parent of the applicant, the guardian of the applicant, or a person having custody of the applicant under Iowa Code Chapter 232 or 600A.

Be sure this affidavit is properly filled out before it is presented to the Driver License personnel.

Licenses issued to parents/guardians/custodians may be revoked for one year if they give false information in connection with making application for a license for their son, daughter, or ward.

NOTE: The Iowa Code Provides For The Withdrawal Of Consent If The Parent/Guardian/Custodian Giving Consent Notifies The Department In Writing.

***PERJURY IS A CLASS "D" FELONY PUNISHABLE BY UP TO FIVE (5) YEARS IN PRISON
AND A FINE OF UP TO \$7,500. IOWA CODE § 720.2, 902.9.**

You are required to advise the Driver & Identification Services within 30 days of an address change.