

ID DOCUMENTS AND PRIVACY

In today's world, identification documents are frequently needed to travel, open bank accounts, start new jobs, purchase alcohol, and purchase even some cold medicines. Recent voter suppression efforts by some state legislatures have also added voting as an activity in which trans people may face unfair difficulties without accurate ID.

Historically, state and federal governments have imposed intrusive and burdensome requirements—such as proof of surgery and court orders—that have made it impossible for many trans people to obtain accurate and consistent ID. For many people financial barriers, medical contraindications or the simple lack of medical need for surgeries make these requirements impossible to satisfy.

As a result, only one-fifth (21%) of transgender people who have transitioned in the National Transgender Discrimination Survey have been able to update all of their IDs and records with their new gender and one-third (33%) had updated none of their IDs or records. At the time of the survey, only 59% had been able to update their gender on their driver's license or state ID; 49% had updated their Social Security Record; 26% their passport; and just 24% their birth certificate¹. The survey results also confirmed what most trans people already knew—that gender-incongruent identification exposes people to a range of negative outcomes, from denial of employment, housing, and public benefits to harassment and physical violence².

Because of work by NCTE and activists around the country, this trend is now reversing. About half of states no longer impose such burdensome requirements for driver's licenses and state ID and growing numbers

1 *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*, at 140-50.

2 *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*, at 152-53.

are streamlining procedures. In 2010, the U.S. State Department eliminated the surgical requirement for updating passports. In 2011, state-level efforts won improvements in birth certificate laws in both California and Vermont, and NCTE worked with the American Association of Motor Vehicles Agencies to educate state agencies about current best practices. These developments represent a growing recognition that older, more restrictive policies have served little, if any purpose, and that reasonable policies enabling everyone to obtain accurate and consistent ID best serve both government agencies and individuals. At the same time, several federal agencies still maintain outdated and harmful restrictions on document change.

In addition to ID documents, other government records and programs currently cause the unintended disclosure of information about a person's transgender status without their consent. Chief among these are computer matching programs used by the Social Security Administration (SSA) for identity verification, which have outed individuals when gender data is inconsistent between records. In response to NCTE's efforts, SSA announced in 2011 that it would halt gender matching in its Social Security Number Verification System, the largest matching service used by private employers. This change alone will prevent workplace problems for many trans people. However, automated gender matching has not yet been eliminated in some SSA programs used to share data with state programs and other entities.

Government should not compel unnecessary or unaffordable medical procedures for purely bureaucratic purposes, nor should it needlessly compel the disclosure of a person's medical history or transgender status. The federal government has taken important steps to end these problems and should act promptly to modernize and harmonize policies across agencies.

ID Documents and Privacy

Policy steps

- The Social Security Administration should update its policy for changing gender markers on Social Security records to be consistent with the requirements for U.S. passports.
 - The Social Security Administration should eliminate computer matching of gender data in every one of its matching programs, including the Electronic Number Verification system and any other system that matches gender for client agencies and private entities.
 - The Department of State should further update the passport gender marker policy to allow for certification of gender change by licensed therapists and psychologists.
- The Center for Medicare and Medicaid Services should remove sex as a data field on Medicare cards.
 - The National Center for Health Statistics should issue an updated Model State Vital Statistics Act that provides for gender change on birth certificates without proof of specific medical or surgical procedures and without a court order.
 - The Office of Management and Budget should review all new government forms and updates to forms to eliminate collection of gender data in cases where it does not serve a clear programmatic purpose.