

DEPARTMENT OF REVENUE

Division of Motor Vehicles

DRIVER'S LICENSE – DRIVER CONTROL

1 CCR 204-32

RULE 1 SEX DESIGNATION FOR DRIVER LICENSES, IDENTIFICATION CARDS, AND IDENTIFICATION DOCUMENTS

BASIS, PURPOSE, and STATUTORY AUTHORITY

The purpose of the rule is to ensure the accuracy of the sex designation on driver licenses, identification cards, and identification documents issued by the Division of Motor Vehicles. The rule authorizes individuals to obtain a correct sex designation on their license, identification card, or identification document. The rule also ensures that the Division of Motor Vehicles collects and maintains accurate sex designation data, ~~which data will be consistent with birth certificates issued by the Colorado Department of Public Health and Environment.~~

Pursuant to the rule, an applicant may choose from one of three sex designations, including female, male, and intersex. Under the rule, the holder of an existing license, identification card, or identification document may amend their sex designation using a form created by the Department, which form requires confirmation from a licensed treating medical or behavioral healthcare provider that the individual has received appropriate clinical treatment for their correct sex. The rule does not require that an individual undergo any specific surgery, treatment, clinical care, or behavioral healthcare. The rule also does not require that the treating medical or behavioral healthcare provider be licensed by the State of Colorado, and may instead be licensed in another jurisdiction.

The rule is consistent with a recent Colorado federal district court decision ordering the U.S. Department of State to issue a passport with an intersex sex designation to a Colorado citizen. *See Zzyym v. Pompeo*, Case No. 15-CV-2362-RBJ, 2018 WL 4491434 (D. Colo. Sept. 19, 2018). Adopting the rule allowing the designation will also make the Division of Motor Vehicle's practices consistent with American Association of Motor Vehicle Administrators (AAMVA) Card Design Standards as well as the practices of four other states and the District of Columbia.

The statutory authorities for the rule are sections 24-4-103, 24-4-104, 42-1-201, 42-1-204, 42-2-107, 42-2-108, 42-2-302, 42-2-303, 42-2-403, 42-2-505, C.R.S.

1.0 Definitions

1.1 Department – The Colorado Department of Revenue

1.2 Sex or Gender – For purposes of Article 2 of Title 42, and all rules, regulations, and forms related to Article 2 of Title 42, "sex" or "gender" means female, male, or intersex.

2.0 Changing a Sex Designation

2.1 Before changing the sex designation on a driver's license, identification card, or identification document issued by the Division of Motor Vehicles, the Department must:

2.1.1 Confirm that the name on the driver's license, identification card, or identification document and the name of the individual for whom the change is requested, match or can be linked through submitted documentation.

2.1.2 Receive a "Change of Sex Designation" (DR2083) form completed by a licensed treating medical or behavioral healthcare provider confirming the individual has received appropriate clinical treatment for their correct sex. The form must be signed and include the provider's license or certificate number and the issuing U.S. State/Foreign Country.

3.0 Sex Designation Changes Must Be Processed in Person

3.1 Requests for a change of sex designation must be processed in person, at a Driver's License Office. Online renewal and renewal by mail cannot be used to change the sex designation on a Colorado driver license, identification card, or identification document.

4.0 No Surgery, Treatment, Clinical Care, or Behavioral Healthcare Requirements

4.1 Nothing in this rule should be read to require an individual to undergo any specific surgery, treatment, clinical care, or behavioral healthcare to change the sex designation on a Colorado driver license, identification card, or identification document.