



This comment is in response to the proposal issued by the State Department on February 18, 2025, to update form DS-82, "U.S. Passport Renewal Application for Eligible Individuals" (OMB control # 1405-0020).

Trans Maryland is a multi-racial, multi-gender, trans-led community power building organization dedicated to Maryland's trans community. Trans Maryland runs the state's largest name and gender marker change program, offering peer-to-peer guidance and financial assistance to Marylanders seeking a name and gender marker change. As part of this work, we have helped hundreds of transgender Marylanders update their identity documents, and we have witnessed firsthand the challenges trans Marylanders face in trying to obtain ID documents that affirm their identity and human dignity, as well as the barriers they face when trying to navigate everyday activities that many of us take for granted when their identity documents are not consistent or not aligned with how they present in the world.

In 2019, the Maryland General Assembly passed legislation to permit individuals to select for their driver's license the third gender marker of X, defined in statute as "unspecified or other," in lieu of the traditional M or F designations. This legislation also clarified the process for Marylanders to self-select a M or F gender marker regardless of their sex assigned at birth. Many transgender Marylanders have also updated the gender marker on their birth certificates. As a result, many transgender Marylanders have state-issued legal identification documents which contain a gender or sex marker that is different than their sex assigned at birth, including M, F, and X markers. These changes have not opened a Pandora's box of unanticipated problems - it has merely improved the ability of transgender Marylanders to obtain affirming ID documents and reduce their exposure to discrimination.

Furthermore, since 2021, Trans Maryland has collaborated with a team of researchers supported by funding from the University System of Maryland Wilson H. Elkins Professorship on a state-wide assessment of trans community experiences. Our new report on identity documents found:

- Only 14.4% of trans Marylanders had their correct gender on all IDs
- Individuals making \$35,000 or less annually and individuals with disabilities were significantly less likely to have their gender reflected on their ID documents
- With Maryland driver's licenses and state IDs, respondents with X gender markers felt significantly safer after changing their marker to X

Our data highlight the importance of making accurate identity documents with X gender markers accessible to trans people. Making changes that create inconsistencies will increase the burden of the proposed collection and disproportionately so for people with disabilities and lower incomes.



In response to [EO 14168](#), the U.S. State Department has [proposed changes](#) to the way in which passports are processed. These changes apply to three forms: [DS-11](#) (new passport application); [DS-82](#) (passport renewal); and [DS-5504](#), (name change or data corrections for a recently issued passport). For all three forms, the proposed changes are:

- Replaces the term “gender” with “sex”
- Requests biological sex at birth, with the only options being “M” or “F”

Trans Maryland opposes the proposed changes, which put Marylanders at risk of having a federal identification document that is not aligned with state identification documents and does not accurately reflect who they are, unnecessarily subjecting them to discrimination when required to present these identification documents for proof of identity, citizenship, and right to work in the United States, among other purposes.

Trans Maryland appreciates the opportunity to provide detailed comments on the questions laid out in the Federal Register notice:

- *Evaluate whether the proposed information collection is necessary for the proper functions of the Department.*
- *Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.*
- *Enhance the quality, utility, and clarity of the information to be collected.*
- *Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.*

Evaluate whether the proposed information collection is necessary for the proper functions of the Department

The change is not necessary for proper functions of the Department. There has been no documented harm to Department functions under the current system, which (a) collects gender information, rather than sex assigned at birth, and (b) includes M, F, and X as options. The government has not demonstrated that the proposed changes will result in any improvement to Department functions. If anything, the proposed change will harm Department functions by creating unnecessary burden and confusion. No specific process has been proposed to ensure a consistent approach for staff adjudicating whether various identification documents accurately reflect sex assigned at birth, meaning there is likely to be confusion to both the public and to staff about what counts as adequate documentation. Any situation in which the process and requirements are unclear will result in staff needing to use their discretion, which is entirely inappropriate for a gold standard identity document used by countless institutions and domestic



and foreign governments as definitive proof of identity and citizenship. It will also result in situations where a Department of State employee can choose to reject a valid birth certificate under merely their suspicion that it may have been modified, even if that document is not marked as amended - a very dangerous precedent to set. A passport is a right of citizenship, and this proposal is likely to result in U.S. citizens delayed or unable to receive a passport. **We oppose the proposed changes because the government has not demonstrated how it is necessary for the proper functions of the Department at all, and therefore a change which will generate unnecessary burden and confusion and is reasonably likely to result in U.S. citizens experiencing delays and denials of receiving a passport is completely unjustified.**

Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used

This estimate is insufficient to account for the complexity of using these forms when an individual's gender marker on other identification documents (e.g., birth certificate, driver's license) does not conform to the new requirements.

- The uncertainty in what information is required will increase the time required for individuals to verify requirements and submit the forms.
- It will also require some individuals to submit their forms multiple times as Department staff will almost certainly make mistakes in trying to apply individual discretion in determining what identification documents do or do not conform to the department's vague requirements.
- The government's time and cost burden analysis does not account for the time and cost associated with individuals not having a valid passport for longer periods of time due to having an initial application delayed or denied. There are already reports of individuals whose application has been significantly delayed due in anticipation of the proposed changes.¹
- Finally, the government's time and cost burden analysis does not account for the time and cost burden of having a passport that does not conform to other identification documents as those individuals navigate other types of transactions requiring a passport to demonstrate citizenship and right to work in the United States.

We oppose the proposed changes because the government's time and cost burden is insufficient to reflect the burden on individuals whose other identification documents do not conform to the new requirements, or may be perceived to not conform.

¹ <https://www.usatoday.com/story/travel/news/2025/01/28/state-department-passport-gender-marker/77976486007/>



Enhance the quality, utility, and clarity of the information to be collected

The proposed changes will do the opposite: it would reduce the quality, utility, and clarity of the information being collected. There will be many cases where an individual's gender or sex marker on other documents does not meet the new requirements for sex assigned at birth, meaning the sex marker cannot be supported with legal documentation, resulting in reduced quality of the information to be collected. Utility and clarity will be reduced because sex assigned at birth may not be helpful – or may cause additional confusion – for the purpose of identifying someone using their passport. **We oppose the proposed changes because the proposal will reduce the quality, utility, and clarity of the information to be collected relative to practices prior to January 2025, as there will be situations in which the sex marker selected by the State Department cannot be substantiated with other legal documents (reduced quality of data), and sex assigned at birth may not be clear or useful for its intended purpose of identifying someone's identity and citizenship.**

Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology

As noted above with respect to the time and cost burden analysis, this proposal will increase reporting burden on individuals whose other identification documents do not conform to the proposed requirements. **We oppose the proposed changes because it will increase the reporting burden relative to the current practice of accepting and aligning to other valid legal identity documents.**

Summary

Trans Maryland opposes the proposed changes, which will hinder the ability of transgender Americans to obtain accurate, useful government identification documents, which are necessary for travel, proving identity, and other basic rights. It will increase burden on the general public and on the Department of State while simultaneously reducing the utility and clarity of the information collected, and is not necessary to the proper functions of the Department. We request instead that the Department continue to collect gender information with M, F, and X as options as it has prior to January 2025.

Submitting on behalf of Trans Maryland:

Charlotte Persephone Hoffman, Esq. (they/she)

Policy Director

charlotte@transmaryland.org