

**23.3.171 PURPOSE**

(1) The purpose of these rules is to establish the various requirements for the issuance, replacement, or renewal of a REAL ID compliant driver's license or identification card.

History: 61-5-125, 61-5-128, MCA; IMP, 61-5-128, 61-5-129, MCA; NEW, 2018 MAR p. 1956, Eff. 10/6/18.

**23.3.172 DEFINITIONS**

(1) "AAMVA" means the American Association of Motor Vehicle Administrators.

(2) "Applicant" means any individual applying to the department for a Montana credential.

(3) "Authorized presence" means an individual who is a U.S. citizen or who is a foreign national admitted for permanent or temporary residence in the United States.

(4) "Certified birth certificate" means a copy of the whole or part of a record of birth registered with the state that the state considers to be the same as the original record of birth on file with the state Office of Vital Statistics or equivalent government agency in an applicant's state of birth.

(5) "Credential" means any department-issued driver's license, driver permit, or identification card that contains the applicant's full legal name, digital photograph, date of birth, and address. This definition excludes department-issued employee identification cards.

(6) "Department" means the Montana Department of Justice.

(7) "DHS" means the United States Department of Homeland Security.

(8) "Employee identification card" means an identification card issued by the department for identification of employees of an entity without proving identity.

(9) "Exception processing" means the procedure the department has established for persons who are unable, for reasons beyond their control, to present all necessary documents and must rely on alternative documents to establish identity, date of birth, and authorized presence. Alternative documents to demonstrate authorized presence are only allowed to demonstrate U.S. citizenship.

(10) "First name" means the name that appears first in an individual's full name or is the individual's first given name.

(11) "Foreign national" means an individual who is in the United States and is not currently a citizen.

(12) "Full legal name" means the applicant's first name, middle name(s), and last name, without the use of initials or nicknames, as it appears on the applicant's presented source documents.

(13) "Identification card" means a credential issued by the department but that does not permit the individual to operate a motor vehicle.

(14) "Identity" means any information which can be used to distinguish or trace an individual, such as their name, driver's license or identification card, social security number, biometric record, including physical characteristics or a photograph or digital image, or signature; alone, or when combined with other personal or identifying

information, which is linked or linkable to a specific individual, such as a date and place of birth or address.

(15) "Last name" means the final name or surname on a primary document. When the final two names are connected with a hyphen, it is both names connected by the hyphen.

(16) "Mailing address" means the postal address where the individual receives mail.

(17) "Middle name" means the name or names between the individual's first name and last name.

(18) "Montana resident" means an individual who resides in Montana as determined under 1-1-215, MCA.

(19) "Nonresident" means an individual who is not a Montana resident.

(20) "Permanent resident status" means a foreign national whose authority to lawfully remain in the United States is permanent.

(21) "REAL ID Driver's License or Identification Card" means a driver's license or identification card that has been issued by a state that has been certified by the DHS to be in compliance with the requirements of the REAL ID Act and accompanying regulations, including limited-term driver's licenses or identification cards.

(22) "Residency" means the physical address of where an individual lives.

(23) "SAVE" means the Department of Homeland Security Systematic Alien Verification for Entitlements system.

(24) "Source document" means an original document certified by the issuing agency, an amended original document certified by the issuing agency, or a true copy certified by the issuing agency, excluding miniature, wallet sized, or photocopies of documents.

(25) "SSA" means the Social Security Administration

(26) "SSN" means the Social Security Number issued to an individual by the SSA.

(27) "SSOLV" means Social Security Online Verification managed by the Social Security Administration.

(28) "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.

(29) "Temporary lawful status" means a foreign national whose authority to lawfully remain in the United States is temporary.

(30) "United States citizen" means an individual who is either a natural born citizen or who has lawfully become a citizen of the United States under the U.S. Constitution and laws.

(31) "United States passport" means a passport booklet or card issued by the U.S. Department of State that denotes identity and citizenship as determined by the U.S. Department of State.

History: 61-5-125, 61-5-128, MCA; IMP, 61-5-128, 61-5-129, MCA; NEW, 2018 MAR p. 1956, Eff. 10/6/18.

### **23.3.173 DECLARATION**

(1) Each applicant shall declare under penalty of perjury that the information submitted on their application is true and correct in a format approved by the department.

History: 61-5-125, 61-5-128, MCA; IMP, 61-5-128, 61-5-129, MCA; NEW, 2018 MAR p. 1956, Eff. 10/6/18.

### **23.3.174 SOURCE DOCUMENTS**

(1) When applying for a credential, the applicant shall provide source documents verifying proof of legal name, date of birth, social security number, authorized presence, and Montana residency.

(2) All documents presented must be legible and unaltered from the original (for example, no lamination, hand-writing, or hole punch), or a copy certified by the issuing agency.

(3) An applicant shall appear in person to apply for a REAL ID credential for the first time.

History: 61-5-125, 61-5-128, MCA; IMP, 61-5-128, 61-5-129, MCA; NEW, 2018 MAR p. 1956, Eff. 10/6/18.

### **23.3.175 SOURCE DOCUMENT TRANSLATION PROCESS**

(1) All documents submitted to the department by the applicant must be in English or have been translated into English.

(2) The original and corresponding translated documents must be presented together at the time of application.

(3) All translated documents must have the following signed declaration included at the end, or of substantially similar wording (must be typed or electronically printed on the same page as the translation, not on separate pieces of paper or the translation will not be accepted by the department):

(a) "I, [insert printed translator's full name], declare under penalty of perjury that: (1) the translation is a complete and accurate translation from [insert foreign language] to the English language to the best of my ability. (2) I am fully competent to translate from [insert foreign language] to the English language and I am proficient in both languages."

(b) the number and state of issuance of the translator's unexpired driver's license, instruction permit, or identification card.

(c) translator's signature.

(d) date of translation.

(4) All translated documents and information required under this rule must be included in the applicant's driver record.

(5) Applicants are responsible for all translation costs.

History: 61-5-125, 61-5-128, MCA; IMP, 61-5-128, 61-5-129, MCA; NEW, 2018 MAR p. 1956, Eff. 10/6/18.

### **23.3.176 TRANSLATOR REQUIREMENTS**

(1) A translator shall be:

(a) certified by the American Translators Association;

- (b) approved by an embassy or consulate of the United States or diplomatic or consular official of a foreign country assigned or accredited to the United States;
  - (c) affiliated or approved by the DHS, or other U.S. government agency;
  - (d) an attorney licensed to practice in the U.S.; or
  - (e) an individual approved by the department at a regional manager level or above.
- (2) A translator shall not be related by blood or marriage to the applicant, except as authorized by the department at a regional manager level or above.

History: 61-5-125, 61-5-128, MCA; IMP, 61-5-128, 61-5-129, MCA; NEW, 2018 MAR p. 1956, Eff. 10/6/18.

### **23.3.177 PROOF OF NAME AND DATE OF BIRTH**

- (1) When applying for a REAL ID driver's license or identification card, each applicant shall submit one of the following primary source documents to prove full legal name and date of birth:
- (a) certified U.S. birth certificate;
  - (b) valid, unexpired U.S. passport;
  - (c) consular report of birth abroad issued by the U.S. Department of State, Form FS-240, DS-1350, or FS-545;
  - (d) certificate of naturalization issued by DHS, Form N-550 or Form N-570;
  - (e) certificate of citizenship, Form N-560 or Form N-561, issued by DHS;
  - (f) valid, unexpired permanent resident card, Form I-551, issued by DHS;
  - (g) valid, unexpired REAL ID driver's license;
  - (h) valid, unexpired REAL ID identification card;
  - (i) unexpired employment authorization document issued by DHS, Form I-766 or Form I-688B; or
  - (j) unexpired foreign passport with a valid, unexpired U.S. visa affixed accompanied by the approved I-94 form documenting the applicant's most recent admittance into the United States or an I-551 stamp.

History: 61-5-125, 61-5-128, MCA; IMP, 61-5-128, 61-5-129, MCA; NEW, 2018 MAR p. 1956, Eff. 10/6/18.

### **23.3.178 ESTABLISHMENT OF NAME**

- (1) The department shall use the full legal name as recorded on the presented primary source document, unless:
- (a) the applicant submits one or more documents specified in ARM 23.3.190 verifying a name change; or
  - (b) the name has been truncated according to (2).
- (2) The department shall use the applicant's full legal name on the credential unless the name must be truncated to fit in the available space. The department will apply the AAMVA 2016 card design standards for truncation.
- (3) The department shall:
- (a) record the individual's last name. If an individual has only one name, the department shall record the name as the individual's last name.

(b) only record hyphenations if the name is hyphenated on the presented primary source document.

(c) record a personal name suffix only if it appears in the presented primary source document (for example, "Jr." or "III").

(d) not record address titles (for example, "Ms." or "Dr.").

(e) not record an individual's first name if it is unknown.

(f) not record professional or academic name suffixes (for example, "Esq." or "MBA").

History: 61-5-125, 61-5-128, MCA; IMP, 61-5-128, 61-5-129, MCA; NEW, 2018 MAR p. 1956, Eff. 10/6/18.

### **23.3.179 ESTABLISHMENT OF NAME OTHER THAN THE NAME THAT APPEARS ON THE PRIMARY SOURCE DOCUMENT**

(1) When an applicant wants to establish a name other than the name that appears on the primary source document, the individual shall present one of the listed documents proving the name change. There must be evidence of the name change on the presented document.

(2) An applicant shall submit one of the following documents by a government agency or court to prove a name change because of a marriage, common law marriage, or domestic partnership:

(a) marriage license;

(b) certificate of marriage;

(c) declaration of marriage;

(d) domestic partnership registration; or

(e) an equivalent documentation of marriage or domestic partnership from the issuing government jurisdiction.

(3) The department cannot accept an affidavit of common law marriage to prove a name change.

(4) An applicant shall submit one of the following documents to prove a name change because of a divorce or dissolution from a court of competent jurisdiction:

(a) dissolution of marriage decree;

(b) divorce decree; or

(c) an equivalent documentation of a dissolution.

(5) An applicant shall submit one of the following documents to prove a name change by other means:

(a) court order from a court of competent jurisdiction granting a name change;

(b) certificate of naturalization issued by DHS, Form N-550 or Form N-570; or

(c) certificate of citizenship issued by DHS.

(6) All documents presented must be certified by the issuing agency.

History: 61-5-125, 61-5-128, MCA; IMP, 61-5-128, 61-5-129, MCA; NEW, 2018 MAR p. 1956, Eff. 10/6/18.

### **23.3.180 SOCIAL SECURITY NUMBER**

(1) Individuals who apply for a REAL ID compliant credential shall present their SSA card.

(2) If an SSA card is not available, the individual may present any of the following documents bearing the applicant's name and SSN:

- (a) W-2 form;
- (b) SSA-1099 form;
- (c) non-SSA-1099 form; or
- (d) pay stub.

(3) Individuals who present an unexpired foreign passport shall present a SSN or demonstrate non-work authorized status.

(4) The department shall verify the SSN with the SSA or through another method approved by DHS. The department cannot issue a REAL ID credential to an applicant until the information is verified with SSA.

History: 61-5-125, 61-5-128, MCA; IMP, 61-5-128, 61-5-129, MCA; NEW, 2018 MAR p. 1956, Eff. 10/6/18.

### **23.3.181 CHANGE TO NAME, DATE OF BIRTH, OR SOCIAL SECURITY NUMBER**

(1) If there is any change to the applicant's name, date of birth, or social security number, after the department issues a credential to an applicant, the department shall not issue a new credential, a replacement, or renew the credential unless the applicant appears in person and submits proof of the change.

(a) The department cannot issue a REAL ID credential to an applicant until the information is verified with SSA.

(2) The applicant shall pay the associated fees for either a new issuance, replacement, or renewal to receive a credential with the name as demonstrated on the presented documents.

History: 61-5-125, 61-5-128, MCA; IMP, 61-5-128, 61-5-129, MCA; NEW, 2018 MAR p. 1956, Eff. 10/6/18.

### **23.3.182 PROOF OF AUTHORIZED PRESENCE**

(1) When applying for a REAL ID driver's license or identification card, each applicant shall present satisfactory evidence of authorized presence.

(2) It is satisfactory evidence of authorized presence when the applicant submits one of the following primary source documents:

- (a) certified U.S. birth certificate;
- (b) valid, unexpired U.S. passport;
- (c) consular report of birth abroad issued by the U.S. Department of State, Form FS-240, DS-1350, or FS-545;
- (d) certificate of naturalization issued by DHS, Form N-550 or Form N-570;
- (e) certificate of citizenship, Form N-560 or Form N-561, issued by DHS; or
- (f) valid, unexpired permanent resident card, Form I-551, issued by DHS.

(3) Secondary source document. If an applicant submits a primary source document not listed in (2), the applicant must also submit:

(a) a second document from ARM 23.3.177; or

(b) documentation issued by DHS or other federal agencies demonstrating lawful status.

(4) The department shall complete all required document verifications.

History: 61-5-125, 61-5-128, MCA; IMP, 61-5-128, 61-5-129, MCA; NEW, 2018 MAR p. 1956, Eff. 10/6/18.

### **23.3.183 PROOF OF MONTANA RESIDENCY**

(1) When applying for a REAL ID driver's license or identification card, each applicant shall submit satisfactory evidence of Montana residency (physical address).

(2) If the applicant has a different mailing address than residency (physical address), the applicant shall provide a separate mailing address.

(3) The Montana residency address must be displayed on the credential except that an alternative address may be displayed for an applicant whom a statute, regulation, or department business standard permits the display of an alternative address.

(4) The residency of an unmarried minor is:

(a) the residency of the minor's parents or parent;

(b) the residency of the legal guardian or custodian appointed by a court of competent jurisdiction;

(c) as determined by district court order; or

(d) as approved by the department.

(5) The residency of a married minor is the minor's residency.

(6) The residency of an emancipated minor is the minor's residency.

(7) The residency address must be:

(a) the number and street name assigned for U.S. mail delivery;

(b) an address convention used by the U.S. postal service in areas where a number and street name have not been assigned; or

(c) a descriptive address of the location where the applicant resides (for example, under the west end of the east street bridge) if the applicant does not have a standard address or is homeless.

(8) The document must show the applicant's name and current residency.

(9) Each applicant shall establish residency by submitting two documents from the following list:

(a) valid Montana credential;

(b) valid Montana REAL ID credential;

(c) expired Montana credential;

(d) expired Montana REAL ID credential;

(e) a Montana hunting or fishing license or permit;

(f) utility bill;

(g) credit card statement;

(h) school transcript or report card;

(i) bank statement;

(j) mortgage document;

- (k) rental agreement or rent receipt;
  - (l) insurance policy;
  - (m) tax document;
  - (n) pay stub;
  - (o) vehicle registration or title;
  - (p) voter registration;
  - (q) phone bill;
  - (r) federally recognized tribal identification;
  - (s) Montana recognized tribal identification;
  - (t) certified court documents (for example, court order, judgment, subpoena, warrant); or
  - (u) first class mail with postmark.
- (10) If the applicant is homeless, the applicant shall submit:
- (a) a separate mailing address;
  - (b) a written statement from a social service agency on the agency's letterhead verifying the applicant's homeless status and the descriptive address given by the applicant.

History: 61-5-125, 61-5-128, MCA; IMP, 61-5-128, 61-5-129, MCA; NEW, 2018 MAR p. 1956, Eff. 10/6/18.

### **23.3.184 EXCEPTION PROCESS**

- (1) Applicants who, for reasons beyond their control, are unable to present all necessary documents may request that the department issue a REAL ID credential through an exception process.
- (2) If an exception is necessary, an applicant shall request an exception in writing on a form approved by the department and provide alternative documents.
- (3) Alternative documents to demonstrate authorized presence will only be allowed to demonstrate U.S. citizenship.
- (4) The request for an exception must be reviewed by the department. The department shall make reasonable efforts to establish the authenticity of the alternative documents at the time they are submitted.
- (5) If the department grants an exception, the department shall note this decision on the driver record.

History: 61-5-125, 61-5-128, MCA; IMP, 61-5-128, 61-5-129, MCA; NEW, 2018 MAR p. 1956, Eff. 10/6/18.

### **23.3.185 DOCUMENT VERIFICATION REQUIREMENTS**

- (1) For foreign nationals, the department shall verify the authenticity of the document through the SAVE system or alternative methods approved by DHS.
- (2) The department shall verify social security numbers with SSA or through another method approved by DHS.
- (3) The department shall verify the authenticity of U.S. passports through the U.S. passport verification system.

(4) If the documents presented do not appear authentic, the data does not match, and the use of an exception process is not warranted, the department shall not issue a credential and refer the applicant to the issuing office for resolution.

History: 61-5-125, 61-5-128, MCA; IMP, 61-5-128, 61-5-129, MCA; NEW, 2018 MAR p. 1956, Eff. 10/6/18.

### **23.3.186 DENIAL OF APPLICATIONS**

(1) The department may delay issuing a credential to verify any document presented by an applicant.

(2) The department shall deny an application if the applicant presents fraudulent or altered documents or commits any other fraud in the application process.

History: 61-5-125, 61-5-128, MCA; IMP, 61-5-128, 61-5-129, MCA; NEW, 2018 MAR p. 1956, Eff. 10/6/18.

### **23.3.187 FULL FACIAL DIGITAL PHOTOGRAPH**

(1) The department shall take a full facial photograph of the applicant and place it on the front of the credential.

(a) The applicant shall remove all head coverings.

(b) The applicant shall not wear eyewear that obstructs the iris or pupil of the eyes and shall not take any action to obstruct a photograph of their facial features.

(2) The department shall:

(a) ensure lighting is equally distributed on the face;

(b) ensure that the head from crown to the base of the chin and from ear-to-ear is clearly visible and free of shadows;

(c) ensure where possible, that there are no dark shadows in the eye-sockets due to the brow and that the iris and pupil are clearly visible; and

(d) take care to avoid "hot spots" (bright areas of light shining on the face).

(3) An applicant requesting to wear a head covering for religious purposes shall complete a statement under penalty of perjury on a form designated by the department.

(4) If the department grants a religious exception, but receives credible evidence that the applicant does not wear a religious head covering while in public, except when removal is necessary, the department shall cancel the credential.

(5) An applicant requesting to wear a head covering for medical reasons shall complete a statement under penalty of perjury on a form designated by the department.

(6) If the department grants a religious or medical exception, the applicant may wear a head covering that does not obscure any facial features. The exception must be noted on the driver record.

History: 61-5-125, 61-5-128, MCA; IMP, 61-5-128, 61-5-129, MCA; NEW, 2018 MAR p. 1956, Eff. 10/6/18.

### **23.3.188 FOREIGN NATIONAL WITH TEMPORARY AUTHORIZED PRESENCE**

(1) The department may only issue a temporary or limited-term credential to a foreign national after verifying the individual's authorized presence in the United States.

(2) The department shall not issue a temporary or limited-term credential for a period longer than:

(a) the expiration of the applicant's authorized stay in the United States, or, if there is no expiration date, for a period longer than one year; and

(b) the maximum credential duration term.

(3) The department shall clearly indicate on the face of the credential that the license or card is a temporary or limited-term credential.

History: 61-5-125, 61-5-128, MCA; IMP, 61-5-128, 61-5-129, MCA; NEW, 2018 MAR p. 1956, Eff. 10/6/18.

### **23.3.189 PROHIBITION AGAINST HOLDING MORE THAN ONE REAL ID CREDENTIAL**

(1) An individual may hold only one REAL ID credential. An individual cannot hold a REAL ID driver's license and a REAL ID identification card at the same time.

(2) An individual may hold at the same time:

(a) a REAL ID driver's license and a non-REAL ID identification card;

(b) a non-REAL ID driver's license and a REAL ID identification card;

(c) a non-REAL ID driver's license, a REAL ID identification card, and a non-REAL ID identification card; or

(d) a non-REAL ID driver's license and non-REAL ID identification cards at the same time.

(3) If the department confirms an individual holds a driver's license or identification card in another state, the department shall void the other state's credential and notify the other state to cancel the other state's credential.

History: 61-5-125, 61-5-128, MCA; IMP, 61-5-128, 61-5-129, MCA; NEW, 2018 MAR p. 1956, Eff. 10/6/18.

### **23.3.190 SOURCE DOCUMENT RETENTION**

(1) The department shall retain copies of the application, declaration, and documents submitted to prove legal name, date of birth, social security number, authorized presence, and Montana residency.

(2) The department must scan and retain the digital images for the retention period required under state law, but not less than ten years.

History: 61-5-125, 61-5-128, MCA; IMP, 61-5-128, 61-5-129, MCA; NEW, 2018 MAR p. 1956, Eff. 10/6/18.