

# EXHIBIT 2

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**IN THE FIRST JUDICIAL DISTRICT COURT  
LEWIS & CLARK COUNTY-**

**JESSICA KALARCHIK, an individual, )  
and JANE DOE, an individual, on )  
behalf of themselves and all others )  
similarly situated, )  
Plaintiffs, )**

v. )

**STATE OF MONTANA; GREGORY )  
GIANFORTE, in his official capacity as )  
the Governor of the State of Montana; )  
the MONTANA DEPARTMENT OF )  
PUBLIC HEALTH AND HUMAN )  
SERVICES; CHARLES T. )  
BRERERTON, in his official capacity )  
as the Director of the Montana )  
Department of Public Health and )  
Human Services; the MONTANA )  
DEPARTMENT OF JUSTICE; and )  
AUSTIN KNUDSEN, in his official )**

**Case No. DV-25-2024-261-CR**

**Hon. Judge Mike Menahan**

**DECLARATION OF JANE DOE IN  
SUPPORT OF PLAINTIFFS'  
MOTION FOR A PRELIMINARY  
INJUNCTION**

**capacity as Attorney General of the** )  
**State of Montana,** )  
 )  
**Defendants.** )  
 )

I, Jane Doe, declare as follows,

1. I am a transgender woman who has not changed the sex designation on her birth certificate or her driver’s license and one of the Plaintiffs in this case. I submit this declaration in support of Plaintiffs’ Motion for Preliminary Injunction against the enforcement of Montana Administrative Rule 37.8.311(5), the Montana Motor Vehicle Division’s (“MVD”) new policy and practice as applied to issuing amended driver’s licenses, and Senate Bill 458 as applied to issuing amended birth certificates and driver’s licenses.

2. I am a 25-year-old woman who was born and raised in Helena, Montana and currently reside there.

3. I am a transgender woman. At birth I was assigned the sex designation of male, so the sex designation on my birth certificate also incorrectly identifies me as male. I have experienced discomfort surrounding my assigned sex and have had symptoms of gender dysphoria since I was in middle school. I understood that I was transgender when I was in college.

4. I began living and presenting as the woman I know myself to be over two years ago. I have worked with medical and mental health providers to assist me in bringing my physical appearance and presentation into alignment with the sex I know myself to be. I was diagnosed with gender dysphoria and have been taking feminizing

hormone therapy since January of 2022. I socially transitioned after I graduated from college. I have changed my federal social security card to accurately reflect who I am.

5. I would like to change the sex designation on my birth certificate and driver's license to match the sex I know myself to be but have been unable to do so due to the state's policies. I have attempted to change the sex designation on both my birth certificate and driver's license but have been unable to do so.

6. I went to the office of the Vital Records of the Montana Department of Health and Human Services ("DPHHS") on or about September 28, 2023, and initially was told by one employee that changes to sex designation on birth certificates were not allowed. Shortly after during the same visit, I was told by another employee that sex designation changes were still allowed by DPHHS and the second employee assisted me in filling out the paperwork. I was advised that it would take about six months for the sex designation to be made and I paid the required fee. On or about March 4, 2024, I received a letter from DPHHS stating that under Montana Administrative Rule 37.8.311(5) I could not change my sex designation on my birth certificate.

7. I went to the Helena MVD to change the sex designation on my driver's license on or about December 14, 2023. I brought my updated social security card with the correct sex designation which I planned to use in support of my application to amend my driver's license. They told me at the MVD that I could not amend my sex designation on my driver's license without a court order and a corrected birth certificate. My inability to obtain a birth certificate and a driver's license that accurately reflects my sex is stigmatizing, humiliating opens me up to discrimination, and undermines the purpose of my driver's license which is to identify me.

8. Denying me an accurate birth certificate and driver's license places me at risk of discrimination, harassment and even violence every time I am required to present my identity documents because they incorrectly identify me as male. This is not only a violation of my privacy but also denies me the ability to correctly use an essential government document necessary for employment and for identification purposes in the many other contexts where that is required.

9. I am two years into my social transition and typically people identify me as a woman. My appearance has changed significantly following my transition and no longer matches my driver's license photo or the sex designations on my driver's license and birth certificate. Any time I am forced to present a driver's license or birth certificate that incorrectly identifies me as male, I am outed as transgender. Being outed to a stranger causes me anxiety because I do not know if the stranger will discriminate against me based on my transgender status. I am well aware of the kind of discrimination and humiliation that transgender people commonly face.

10. I have faced discrimination because I am transgender in both my professional and personal life. For example, there are people at my current job who refuse to use my pronouns, or any pronouns, when referring to me. I have been pulled over by law enforcement and the interaction was prolonged because the officer struggled to determine whether I, a woman, was in fact the same person identified by my driver's license, which lists my sex as male and includes a photograph of me prior to my transition. It took the officer a long time to stare at my photo and accept that it was my driver's license. I am concerned that in the future, as I appear more and more feminine, this will get worse, and I will face discrimination when I present my identity documents

or that law enforcement will not be able to identify me at all putting me at risk of criminal prosecution.

11. In my personal life, most of my family has effectively disowned me because I am transgender, and in the past one of my parents kicked me out of my home. I know that if my family can treat me like that, people who do not know me could be even more cruel. I currently do everything in my power to avoid violence or discrimination, as I know it is prevalent that transgender people experience these consequences of people learning they are transgender. For instance, I do not use public dressing rooms or restrooms. I have learned to take these extra precautions for my personal safety and have continued concerns about being outed in places where I do not know others or trust that they will act appropriately toward transgender people.

12. For all these reasons, I urgently need to correct the sex designations on my birth certificate and driver's license.

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I, Jane Doe, declare under penalty of perjury that the foregoing is true to the best of my knowledge and belief.

Dated: <sup>May</sup> ~~May~~ 16<sup>th</sup>, 2024.

Jane Doe

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Jane Doe

