

Committee Secretary
Legal Affairs and Community Safety Committee
Parliament House
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Sunday 18 March 2018

Dear Committee

Births, Deaths and Marriages Registration Amendment Bill 2018

Thank you for the opportunity to provide a submission in relation to the Births, Deaths and Marriages Registration Amendment Bill 2018.

In short, I strongly support this legislation. As noted by Attorney-General, the Hon Yvette D'Ath, in her second reading speech, the Bill 'makes an important and necessary amendment to ensure true marriage equality is realised for sex and gender diverse Queenslanders.'

The existing provisions of the *Births, Deaths and Marriages Registration Act 2003*, which require that married transgender people must divorce their spouses before they are able to have the reassignment of their sex noted on the birth register, are a gross violation of human rights.

Forced trans divorce does not respect the right to personal autonomy and self-determination of trans and gender diverse people.

Forced trans divorce also does not respect the ability of all people to choose who they marry, and then to decide between themselves whether they remain married – rather than having that decision made for them by government.

Forced trans divorce is in direct contravention of Article 26 of the International Covenant on Civil and Political Rights which provides that:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The amendments proposed in this Bill will help address these human rights breaches. If passed, it will ensure that nobody is left in the impossible situation of having to choose between staying married to the person they love and being able to access identity documentation that reflects their gender identity.

I therefore urge the Legal Affairs and Community Safety Committee to recommend the passage of the Births, Deaths and Marriages Registration Amendment Bill 2018 and for all members of Queensland Parliament to act on that recommendation.

Before I conclude this submission I would also note that forced trans divorce is not the only aspect of the *Births, Deaths and Marriages Registration Act 2003* which breaches the human rights of trans and gender diverse people in Queensland.

In particular, their right to personal autonomy and self-determination is violated in three key ways:

1. The requirement that people must have 'sexual reassignment surgery'ⁱ before being able to update their sex on the birth register. This is inappropriate as not all transgender people want or are able to undertake such procedures (for a variety of reasons, including financial).
2. The requirement that applications to note the reassignment of a person's sex 'must be accompanied by statutory declarations, by 2 doctors, verifying that the person the subject of the application has undergone sexual reassignment surgery' [section 23(4)(b)]. The medicalisation of identity recognition processes is also inappropriate – doctors should not be 'gatekeepers' of the identity of trans and gender diverse people.
3. The requirement that sex be marked as either male or female on the register. This binary categorisation does not recognise the diversity of sex and gender which exists in the community, and therefore imposes inaccurate identity documentation on some people.

I note that in her second reading speech Ms D'Ath stated that:

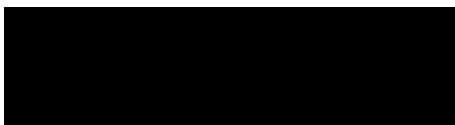
The Palaszczuk government is strongly committed to ensuring our laws support the rights of sex and gender diverse Queenslanders. The focus of the first public discussion paper for the recently commenced review of the BDMR Act is examining how Queensland life event registration services can improve legal recognition of lesbian, gay, bisexual, transgender and intersex Queenslanders and their families. I encourage all Queenslanders to access the discussion paper on the Get Involved website and have their say.

I look forward to the three human rights violations identified above being addressed through that process. However, I believe it is important they are highlighted here because, while the Births, Deaths and Marriages Registration Amendment Bill 2018 is an important step forward, it is by no means the end of the journey towards the full recognition and acceptance of trans and gender diverse Queenslanders.

If you would like additional information, or to clarify any of the above, please do not hesitate to contact me at the details provided below.

Sincerely

Alastair Lawrie



Footnotes:

ⁱ Defined in the Act as:

'means a surgical procedure involving the alteration of a person's reproductive organs carried out:

- (a) to help the person to be considered a member of the opposite sex; or*
- (b) to correct or eliminate ambiguities about the sex of the person.'*