



Committee Secretary
Legal Affairs and Community Safety Committee
Parliament House
George Street
Brisbane QLD 4000

19 March 2018

Dear Committee

Submission on the Births, Deaths and Marriages Registration Amendment Bill 2018

We congratulate the Queensland Government on your strong commitment to equality for all Queenslanders and for the introduction of the *Births, Deaths and Marriages Registration Amendment Bill 2018 (Bill)*. In particular, we thank the Queensland Government for its commitment to expungement of historical homosexual convictions, equalising the age of consent, introducing civil partnerships and adoption equality. These reforms will have a significant positive impact on the everyday lives the LGBTI Queenslanders.

We also write to congratulate you and the people of Queensland on Queensland's resoundingly positive response to the recent Marriage Survey. Almost 1.5 million Queenslanders voted Yes to marriage equality – a total of 61% of all Queenslanders who participated in the postal survey.

On 7 December 2017, a Bill to reform Australian marriage law was passed in the Commonwealth Parliament and marriage equality is now a reality for most Australians. However, there are some consequential legislative issues for Queensland. One important example is the procedure by which a person may apply to alter the sex marker on their birth certificate.

Section 22 of the *Births, Deaths and Marriages Registration Act 2003 (Qld) (BDM Act)* requires that a person be unmarried in order to change their sex marker on their birth certificate. This requirement forces transgender people to choose between changing their sex on official documents (for legal recognition of their gender identity) and their marriage (for legal recognition of their marriage). Practically speaking, a transgender person would be unable to demonstrate the requirements for a divorce unless their relationship has irretrievably broken down. This leaves married transgender people unable to change their birth certificate to reflect the gender they live as, simply because they have found a life-long partner.

With the passage of marriage equality, the justification for requiring a person to be unmarried no longer exists. The exemption for state and territory governments to include an unmarried requirement in birth certificate laws in s 40(5) of the *Sex Discrimination Act 1984 (Cth)* will accordingly be removed in 12 months.

We submit the Bill, through the removal of 'only if the person is not married' from section 22 of the BDM Act, appropriately addresses this issue.

The BDM Act also contains a number of other outdated, unnecessary and invasive requirements that significantly disadvantage transgender, gender diverse and intersex people in Queensland. For example:



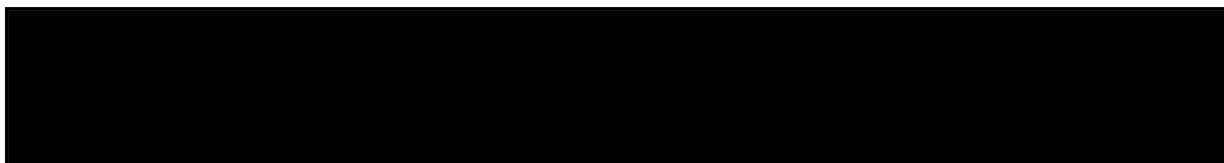
- In order to apply for their sex marker to be changed, individuals are still required to have undergone sexual reassignment surgery (BDM Act s 23(4)), and medical evidence is required instead of self-affirmation (BDM Act s 23(4)).
- Contrary to best practice and the jurisprudence of the High Court¹, the BDM Act does not yet expressly allow a person to specify their sex marker as categories other than male or female.

We look forward to providing a submission on the remaining discriminatory provisions to the Registry of Births, Deaths and Marriages in relation to the discussion paper titled, *'Registering life events: Recognising sex and gender diversity and same-sex families.'*

Queenslanders have recently demonstrated that they believe in fairness and equality for LGBTI people. We ask that Committee make the recommendations to remove the unmarried requirement from the BDM Act so that all LGBTI people are able to marry the person they love and be recognised as the gender they live as. In addition, we ask that you continue to consult with transgender, gender diverse and intersex Queenslanders and LGBTI organisations about further amendments to the BDM Act.

We thank the Committee for the opportunity to provide a submission and welcome any further discussion on these issues as required.

Yours sincerely,



Anna Brown
Human Rights Law Centre

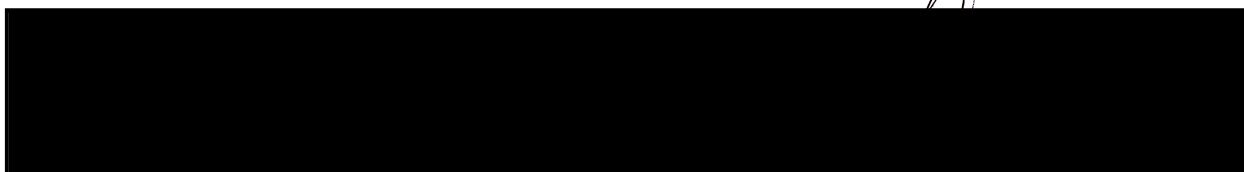


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A handwritten signature in blue ink, appearing to be "Bridget Clinch".



Bridget Clinch

Kristine Johnson
Australian Transgender Support
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¹ *'NSW Registrar of Births, Deaths & Marriages v Norrie (2014) 250 CLR 490*