

Births, Deaths and Marriages Registration Bill 2022

Submission No: 99
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See attached:

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

To whom it may concern,

It has come to my attention that a bill entitled, “Queensland Births, Deaths and Marriages Registration Bill 2022” has been introduced to Queensland Parliament by the Hon Shannon Fentiman MP.

I would like to submit my concerns with this bill, and believe it should be altered.

Firstly, I would like to register my general support for the inclusion, recognition and support for gender-diverse and homosexual people and believe all should be able to live freely and without persecution in our society.

However, the bill as stated does highlight many potential concerns, and I believe has not been correctly assessed to ensure it does not erode *existing* rights for all Queenslanders.

The Hon Shannon Fentiman MP made the following statement in her explanatory speech to parliament “We also know that some groups will try to cloak their transphobia in the guise of women’s safety—making claims about trans women accessing women’s spaces, including change rooms or even domestic violence shelters. I want to be clear: there is no evidence, domestically or internationally, to support these outrageous claims”.

Although I strongly disagree with this statement (but setting that aside for one moment), it still does not absolve the government from ensuring the legislation is structured to prevent the possibilities of it being abused in this manner, and the current bill *does not* provide adequate protections in this regard. Additionally, not only is the statement worded to immediately demonise anyone who does not completely agree with it (which is exclusionary and inflammatory in itself), it is demonstrably false. The following are examples of when exactly this type of problem has occurred :

<https://www.thesun.co.uk/news/4400327/transgender-rapist-womens-prison/>

<https://www.buzzfeed.com/laurasilver/puregym-trans-woman-changing-room>

<https://globalnews.ca/news/3300518/concerns-over-transgender-client-at-okanagan-shelter/>

These are just three examples of what Shannon Fentiman MP said there was no evidence of. There are many more, and the internet is full of debate over the issue because it has occurred many times. How can she assert there is no evidence of this being an issue?

There is nothing provided to protect Queenslanders, and women particularly from the actions of a malicious actor hiding behind this bill. While it is proper and right to provide Queenslanders with the ability to identify their gender, it must at the same time specifically point out when this is *not* appropriate, or an abuse of privilege.

Furthermore, discussion of the bill incorrectly uses the term “sex” many times when the word “gender” is the correct term. It is undisputable that at birth, we are born with specific genitalia that will dictate that we are male, female or intersex. For a very small subset of people, their sense of

identity may not actually align with their sex at birth, and a different label and personal role would be more appropriate. While changing the gender of this person might be correct and appropriate, it would not be appropriate to interchange the terms used – sex is biologically observed at birth, and while surgeries can be performed to outwardly give the appearance of the other sex, that should not be confused with gender. This lack of distinction is confusing the issue, making debate around these issues less clear. I believe it is essential that these terms are clearly defined and used correctly in all discussions to ensure that all parties understand the inherent differences.

For example, there are currently “sex based” areas (eg. Women’s shelters, sporting groups, etc) which have been created to ensure safety and equality, and these should remain. Confusing “sex” and “gender” confuses the conversation around who should be allowed into these areas and why. A “women’s karaoke group” as an example, would easily & safely accommodate anyone who identifies as female, regardless of their sexual genitalia. The same could not be said of a “Women’s only refuge shelter” or “Women’s only rugby team” – there are more specific and deeper debates required for these areas and terminology is very important. I do not agree that just identifying as a woman is sufficient to access everything without nuanced discussion!

Please note that I am also not saying that those who identify as women should be automatically excluded from all “women’s only” spaces either. These things need to be determined on a case-by-case basis, and just enshrining in law that anyone who identifies as a woman “is a woman”, despite their original sex, is not providing adequate protections and controls where it is needed. There are sex-based behavioural differences that need to be accounted for (eg. Men have much higher rates of violent behaviour) when determining who can access what, regardless of their identified gender.

Much of the remainder of the explanatory speech by Shannon Fentiman MP went on to provide examples of where a number of trans people encountered difficulty or embarrassment in specific areas of their lives. While this is unfortunate, it is not unique to trans people and hardly a justification for making such wide sweeping legislative changes with massive unconsidered ramifications.

As currently proposed, the bill seeks to redefine what a “woman” or “man” is to simply a feeling, a nebulous and undefinable decision in someone’s head. While I support that in terms of people defining their *gender*, I in no way support this being enshrined in law to determine someone’s *sex*. It has, and always should be defined by clearly observable and quantifiable facts, which can be independently verified by anyone who is able to interpret the rules that define these facts. It should *not* be defined by someone’s feeling or arbitrary decision – that is inherently undefinable and uncontrolled.

I urge the committee to carefully consider the ramifications of allowing people to determine their sex in the eyes of the law based solely on that persons “feeling of being a certain sex”. It is impossible to accurately define or control. It allows for the potential of abuse of privilege, with severe impacts to those in society we have taken great strides to provide protection for : Women and children, homosexuals (particularly lesbians) and sufferers of abuse.

Please, modify the bill to allow freedom of choice for gender, but do not allow people to determine their sex on a whim, or feeling, or any other non-quantifiable criteria that cannot be independently

verified. It should be possible to record both the persons birth sex *and* the gender they have identified with and wish to be associated with, without undue impacts.

Yours Faithfully,

Jacob Cash