

Births, Deaths and Marriages Registration Bill 2022

Submission No: 109
Submitted by: Philip Morris AM
Publication: Making the submission and your name public

Submitter Comments:

I wish to endorse the recommendations made by Prof Patrick Parkinson AM concerning the Births, Deaths and Marriages Registration Bill 2022 concerning the section on 'Acknowledgement of Sex'. In particular I wish to endorse his suggested amendments to this Legislation as set out below.

What amendments are necessary? The need for a full inquiry
With respect, this Bill is being rushed through without proper consideration. It was introduced in December and submissions close on 11th January. This launch of a Bill and a parliamentary committee review during the Christmas season and January holiday period creates the perception that the process has been designed to ensure the Bill does not attract much attention. Prior to pushing through this Bill, the Attorney-General needs to refer to the Law Reform Commission or to a public inquiry consideration of all the effects of the proposed section 47 for Queensland laws where a distinction between being male or female arises. The relevant inquiry should be asked to make recommendations for how balances are to be found with women's rights and their need for safety as well as for the sensible governance of a society in which biological sex still matters for a multitude of reasons. Such an inquiry should also consider the implications for the practices of all government departments and public entities if section 47 is enacted. Further, it should consider what the legal consequences are likely to be in other Queensland laws and governmental practices if someone registers themselves as, say, of an 'agender' sex. The problems of this are noted above. If, in the meantime, the Government wants to press ahead with its other changes to the law on registration of births, deaths and marriages, Part 5 should be removed from the Bill, as should Part 12 to the extent that it amends the Anti-Discrimination Act 1991. A better approach
In my view, the optimal outcome in terms of public policy would be for the government to work on a separate Bill, allowing for registration of gender identity as a matter that does not involve changes to the birth certificate. A simple reform would be to say that the registration should be for the purposes of section 58(3)(c) of the Electoral Act 1992, (Electoral Commission to record details of a person's 'sex' in the electoral roll); and the Photo Identification Card Act 2008, and any other relevant laws that apply to registration of sex by government entities. Children under 18 should not be permitted to seek a registration of a gender identity certificate, but otherwise, access to such registration of identity could be quite liberal so long as its legal effects are limited to those that do not have an adverse effect on the rights and freedoms of others. An application should contain a letter of support from a qualified mental health professional to the effect that the person has been living as another sex for at least 12 months, expects to continue in that gender identity for the rest of his or her life, and does not have a mental health disorder that impairs his or her capacity to make this decision. These are reasonable requirements, and do not have the mountain of either intended or unintended consequences that allowing for changes of sex on birth documents will entail if this Bill is enacted. If the Government does push ahead with Part 5 in its present form, it should at the very least provide that 'sex' is defined for the purposes of the Anti-Discrimination Act in such a way as to exclude females by registration under Part 5 of this legislation, and to make clear that it is not discrimination on the basis either of gender identity or sex characteristics to exclude someone who is a natal male from female facilities or services.