



10 January 2023

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

By email: [lasc@parliament.qld.gov.au](mailto:lasc@parliament.qld.gov.au)

Dear Secretary

**Births, Deaths and Marriages Registration Bill 2022  
Submission to Legal Affairs and Safety Committee**

**1. SUMMARY**

Transcend Australia Limited (**Transcend**) welcomes the opportunity to provide feedback on *the Births, Deaths and Marriages Registration Bill 2022 (the Bill)*. We are encouraged by the commitment to consider the realities of, and issues faced by those with lived experience. Reform in Queensland is overdue. The current *Births, Deaths and Marriages Registration Act 2003 (Qld) (the Act)* has long denied transgender and gender diverse (**TGD**) Queenslanders essential recognition that has, as a result inhibited their legal right self-determination.

Transcend welcomes both the introduction of the Bill and amendments made by the Attorney General's Department that have adopted a number of Transcend's previous recommendations. However, in order to properly address the stated goals of the Bill, Transcend raises several further points below which need further consideration.

**2. INTRODUCTION**

Transcend is a registered Charity with the Australian Charities and Not for Profits Commission that provides advocacy and support for TGD children, their families, and carers. Our primary focus is on the health, safety, and wellbeing of young TGD people.

Transcend maintains that every person should be legally recognised for who they are. This fundamental recognition is instrumental in how society categorises and recognises an individual impacting their everyday interactions and use of identifying documents.

TGD people are born with a gender identity or expression that is different from that which was assigned at birth or that which is expected of them by society. Trans people generally identify as male or female and gender diverse people generally as a non-binary gender (i.e. outside categories of male and female).

Outdated laws continue to disproportionately affect TGD people, significantly impacting their sense of self, enforcing stigma and creating practical daily challenges and discrimination. Queensland, New South Wales and Western Australia remain the only three jurisdictions in Australia to not have amended legislation to allow TGD people to change their birth certificates without first requiring inaccessible, invasive, and costly surgery.

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**Transcend Australia**

Submission to Queensland Legal Affairs and Safety Committee

RE: Birth, Deaths and Marriages Registration Bill 2022

**3. FEEDBACK ON BILL**

Transcend supports the intentions of this Bill, and we are pleased to see that the comments made in our original submission to the Department have been adopted. We thank all those who worked on this Bill and hope that the Committee supports the Bill in its current form (as it relates to changes for TGD people).

Transcend provides the following feedback in the hope that further clarity can be provided for TGD people and families affected by these changes:

**A. Application to the Queensland Children's Court**

Transcend welcomes the creation of a pathway for unsupported minors (between age 12 and 16) to apply to the Children's Court of Queensland (**the Court**) under the Bill to change the sex on their birth certificate. Birth certificates are vital for young people as they do not generally hold other forms of ID (such as an 18+ card or a drivers licence). When young people enrol in sporting clubs, school or other they are often reliant on their birth certificate alone. By allowing a young person to apply to change their sex on their birth certificate we will enable them to exercise their right to self-determination in the absence of unsupportive parental figures.

Transcend is concerned that the process proposed under the Bill and Regulation will require a young person to seek formal legal assistance to prepare submissions and attend the Children's Court. This is of particular concern given the lack of support given to TGD children (especially those between the ages of 12-15).

Transcend recommends that the Committee consider clarifying whether the intention of ss 45 and 46 of the Bill requires that the child be subjected to a full, (very formal) litigated hearing, or whether such an application will be considered on the papers by the Judge alone in Chambers, or alternatively via more informal, alternative dispute resolution methods such as mediation. Further, Transcend seeks further clarity over whether (in the case of s 45(8) a parent or person with parental responsibility has a right to provide submissions in response to the Child's Application and whether these will be considered by the Court as part of its assessment of the child's best interests at s 45(8).

We also seek that the Government continue to work with LGBTIQ+ groups, the Queensland Human Rights Commission and Legal Aid to prepare information material outlining the processes once this Bill is passed.

Further, it has been previously mentioned during the round-table discussions, that the Queensland Government will allow Legal Aid Queensland (and or Community Legal Centres) to provide advice and assistance to young TGD people as they navigate this application process. Transcend strongly supports this approach, however, seeks confirmation that such processes will be implemented at the time/before the Bill is passed (not after) with sufficient funding provided to allow TGD young people to be adequately supported.

**B. Fee waiver**

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Transcend welcomes the ability for Applicant's to request a waiver of the application fees associated with a change in name or sex on the Birth Register. However, Transcend is concerned that as it currently stands, s 18 of the Regulation does not provide the Registrar with sufficient clarity to encourage the waiver of application fees for unsupported minors. Transcend recommends that s 18 be amended to include a specific right for unsupported minors to make a fee waiver application.

**C. General comments**

Transcend supports the requirements in the Bill that necessitates that an Application be made along with a statutory declaration and supporting statement from a third party. We consider that such requirements, while prescriptive, strike the right balance between true 'self-id' and the current medico-legal model used in Queensland.

**4. CONCLUSION**

We thank the Parliament for this opportunity to provide feedback on the Bill and look forward to seeing this Bill progress to Parliament with the aim of creating a safer environment for all trans and gender diverse adults and children in Queensland.

In our view, the Bill adequately balances the concerns of some with the right of TGD people to live their lives without unnecessary discrimination by the state.

We look forward to continuing to assist where required and would welcome the opportunity to continue to assist the Parliament.

For all other issues contained in the bill relating to the LGBTIQ+ community, we refer to and support the submissions made by Equality Australia and PLFAG.

Please do not hesitate to contact Dr Rachel Richardson or I on the details below should you wish to discuss any part of this submission.

Yours sincerely



**Jeremy Wiggins**  
CEO



**Dr Rachel Richardson**  
Chair of the Board

