

Births, Deaths and Marriages Registration Bill 2022

Submission No: 270
Submitted by: Chelsea Morrigan
Publication: Making the submission and your name public

See attached:

I am very grateful that this bill has been put before parliament. It is a sorely needed update to various acts that have made life legally difficult for transgender people.

The pathways to legal transition for children, as well as the recognition that pathways must be in place in the case of hostile parents, are very much required. Affirmation does reduce distress, also reducing suicidality, reduce the likelihood of self-harm, and reduce the risk of developing many other disorders and mental illnesses. Likewise the paths provided that to not require the Children's Court will further reduce stress on those children with a supportive parent.

The extraordinarily low number of applications to change sex since it was permitted two decades ago indicate that it was far too great a barrier to affirmation. The current bill before parliament not only allows those that fit into more traditional categories to affirm themselves without the expensive and inaccessible requirement of surgery, but also allows for the expression and affirmation of all the diversity of humanity. After all, humans are not all that sexually dimorphic.

Likewise the update on families acknowledges the diversity of families. The change in how people are identified in relation to children acknowledges that birth registrations are more of social importance rather than some kind of definite genetic lineage. The change in the definition of birth in relation to mother is also appreciated. Cisgender women are still entirely free to call themselves mothers, we can also acknowledge the role that two women may play in raising a child together, but we do not need to force men to call themselves mothers.

The update on the definition of gender identity and the independent acknowledgement of intersex people greatly clarifies the laws in place and ensures that people are included properly. It also removes the entirely unnecessary provisions to legally discriminate against those people on the basis of that protected characteristic when working with children. That clause was never properly justified and I am glad it is being removed. I do wonder, however, whether these changes in effect broaden anti-discrimination laws in an unintended manner. The previous definition of gender identity did not include cisgender people, but since it now does it may provide trans-hostile cisgender people to harass trans people using anti-discrimination laws. Trans people simply do not hold the structural power to be able to discriminate against cisgender people in the ways that anti-discrimination laws generally aim to safeguard against.

The ability for of people born outside of Queensland to be recognised within Queensland authentically is very important for those people living in Queensland but were born in a place that

does not allow the person to register authentic details. I have known many foreign-born students that have been forced to interact with various institutions using their deadname and sex assigned at birth. This is at the very least incredibly stressful if not outright traumatic on them, so this is very much appreciated.

I do not understand the claims that the number of lifetime name changes had to be limited to three for fraud reasons. It seems to act merely to make the Bill more cumbersome and more onus on vulnerable people to prove themselves should they have been through several name changes prior. Perhaps the government could provide some evidence for something specific about an unlimited number of name changes being used for fraud.

I don't think it's reasonable to require the written permission of the corrective services chief executive for someone to apply for a change of sex. Historically such people have not been accepting of transgender persons, and I think it far more likely that the chief executive will misuse this power to deny a genuine transgender person from changing their sex marker rather than a prisoner misusing this change in sex to cause offence. Transgender women in men's prisons often end up being put in solitary confinement "in their best interests". This is torture under the U.N. definitions and is far too often the standard treatment for a class of people with a protected characteristic.

I also have some concerns about some apparent oversights absent from the Bill as written:

While the introductory speech in the Hansard and the explanatory notes for the Bill talk about the mismatch in sex marker outing transgender people, something vastly more likely to out trans people and increase discrimination is the requirement to include all prior names in many areas of life, including most government forms, and rental forms, if not also appearing in background checks. As far as I can tell transgender people have no exemption from providing their deadname on those forms.

Something else I believe is an oversight of this bill is the Queensland Mental Health Act 2016. This Act permits health workers to consider transgender people to have a mental illness solely on the basis of being transgender, whereas it specifically prohibits the same on the basis of sexual orientation and even prior mental illness. Being transgender has not been considered a mental illness by reputable professional bodies for many years now thanks to the long time advocacy of transgender people themselves, but those bodies have not also demonstrated the willingness to

censure professionals that demonstrate and act upon these stigmas and bigotries. This Act means that hospitals are less safe for transgender people if they can enact the wide-reaching powers of the Mental Health Act merely on the basis of someone being transgender. The proposed BDMR Bill does not address the Queensland Mental Health Act 2016 whatsoever.

I once again am thankful that this Bill is finally before parliament, but I do ask that you consider the issues I've outlined as potential adjustments to strengthen the Bill further.