



## SUBMISSION TO THE LEGAL AFFAIRS AND SAFETY COMMITTEE ON THE BIRTHS, DEATHS AND MARRIAGES REGISTRATION BILL 2022 (QLD)

### Introduction

1. Women's Forum Australia is an independent think tank established in 2005 that undertakes research, education and public policy advocacy about economic, social and health issues affecting women and girls, with a particular focus on addressing behaviour and practices that are harmful and abusive to them. Such issues include the sexualisation and objectification of women and girls particularly in media and advertising, violence against women, pornography, prostitution, trafficking, abortion, adoption, surrogacy, and harmful gender ideology driven policies and practices.
2. We are a national organisation with supporters from across Australia, including in Queensland, many of whom are deeply concerned by the proposed legislation.
3. Like similar legislation passed in other jurisdictions, the *Births, Deaths and Marriages Registration Bill 2022* allows anyone to change their legal sex with minimal barriers for both adults and children. As a result, sex as a legal concept would effectively be abolished with grave social, health, legal and other repercussions. From both a legal drafting perspective and in terms of its numerous adverse implications, Women's Forum Australia believes that the Bill is unfit for purpose and should be withdrawn.
4. We have had the benefit of reading Professor Emeritus Patrick Parkinson's [submission](#)<sup>1</sup> and agree with his comments on the Bill's legal consequences and its shortcomings in terms of its poor legal drafting. With Professor Parkinson's legal analysis in mind, our submission will focus on the practical harmful impacts of the legislation on women and girls, vulnerable children, health care and all Queenslanders.
5. We would also like to note at the outset our disappointment in the process surrounding the Bill thus far and indications that the Queensland Government is not interested in hearing from all concerned Queenslanders or in consulting with all stakeholders. By introducing the Bill in December and making submissions due during the holiday

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<sup>1</sup> Law Professor Emeritus Patrick Parkinson, Submission to the Legal Affairs and Safety Committee on the Birth, Deaths and Marriages Amendment Bill 2022, December 2022.

[https://assets.nationbuilder.com/wfa/pages/506/attachments/original/1671831244/Parkinson\\_Submission\\_to\\_the\\_legal\\_affairs\\_and\\_safety\\_committee.pdf?1671831244](https://assets.nationbuilder.com/wfa/pages/506/attachments/original/1671831244/Parkinson_Submission_to_the_legal_affairs_and_safety_committee.pdf?1671831244)

period, many Queenslanders will not have the opportunity to have their voices heard by the Committee. On such an important, far-reaching piece of legislation, the timing is entirely inappropriate. Women's advocates and groups have also been refused meetings to discuss their concerns and have been blocked on email and social media by the Bill's sponsor, Attorney-General and Minister for Justice, Women, and the Prevention of Domestic and Family Violence, Shannon Fentiman. That the Minister for Women has been ignoring women's voices on a bill which so critically affects women and girls is unacceptable.

### **Harmful implications for women and girls**

6. Under the Bill, men who 'identify as women', can change their legal sex with little more than some paper and a few strokes of a pen. Women as a sex class are effectively erased along with all the corresponding protections and rights afforded to them on the basis of sex (including single-sex exemptions currently in force under the *Anti-Discrimination Act 1991*). The implications for women and girls cannot be understated.

#### *Threat to women-only activities, spaces, services and events*

7. The importance of female-only spaces has long been recognised around the world. Yet, the Bill will effectively allow men to self-identify into female-only activities, spaces, services and events, including bathrooms, changing rooms, fitting rooms, rape and domestic violence refuges, hospital wards, schools, accommodation, gyms, swimming pools, prisons, social apps and even lesbian events (like we've seen in Tasmania).<sup>2</sup>
8. But women's relative physical vulnerability and male patterns of criminality do not dissipate simply because of a piece of paper. Indeed, the UN Special Rapporteur on violence against women and girls recently highlighted the potential for sexual predators to abuse such laws.<sup>3</sup>
9. In addition to research showing that 'transwomen' retain male patterns of criminality,<sup>4</sup> examples of women being harmed by them in (what should be) women-only spaces abound. For example, in Victoria, a biological male rapist who self-identifies as a woman is now housed in a female prison.<sup>5</sup> In Canada, the USA and the United Kingdom, there are several cases where self-identifying transgender prisoners were housed in female prisons only to sexually assault and rape female inmates (you can read our [submission](#) to the United Nations Subcommittee on the Prevention of Torture for more information on the harm posed by biological male inmates to female prisoners

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<sup>2</sup> Matthew Denholm, 'Tribunal bans female-only lesbian events', The Australian, 28 November 2022.

<https://amp.theaustralian.com.au/nation/tribunal-bans-femaleonly-lesbian-events/news-story/4aa6295b32c1b628e90be2d217fa9a85>

<sup>3</sup> Mandate of the Special Rapporteur on violence against women and girls, its causes and consequences, Ref.: OL GBR 14/2022, 29 November 2022.

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?qId=27681>

<sup>4</sup> Dhejne, Cecilia et al. 'Long-term follow-up of transsexual persons undergoing sex reassignment surgery: cohort study in Sweden.' *PloS one* vol. 6,2 e16885. 22 Feb. 2011, doi:10.1371/journal.pone.0016885

<sup>5</sup> Mark Buttler and Kieran Rooney, 'Women inmates demand removal of trans prisoner guilty of attacking females while a man', Herald Sun, 11 August 2022. [www.heraldsun.com.au/truecrimeaustralia/police-courts-victoria/prisoners-fight-to-remove-transgender-inmate-with-history-of-sex-offences/news-story/f5bff0dc73ae0ce3af945c04eb38d7b7?amp](http://www.heraldsun.com.au/truecrimeaustralia/police-courts-victoria/prisoners-fight-to-remove-transgender-inmate-with-history-of-sex-offences/news-story/f5bff0dc73ae0ce3af945c04eb38d7b7?amp)

and prison staff).<sup>6</sup> In Canada, sexual predators have gained entry into female refuges.<sup>7</sup> And in the United Kingdom, a trans-identifying male patient raped a female patient on a single-sex female hospital ward.<sup>8</sup>

10. This last example from the UK is particularly disturbing. The female patient reported her assault to the police, who were told by the hospital that there had been no male there and so therefore the rape could not have happened. It took almost a year for the hospital to admit that yes, there was a trans-identifying male patient on the ward, and that yes, this rape happened. During that year, the woman was utterly distraught and on the verge of a nervous breakdown for being disbelieved. It is unconscionable that this woman was put in a position where this could happen, and even more unconscionable that it was lied about.
11. All of this is *not* to say that all trans-identified males are rapists. They are clearly not. The reality, however, is that males are much more likely to be the perpetrators of sexual violence and females are far more likely to be victims. This does not change because the male perpetrator happens to be transgender. Gender identities do not rape women, male bodies do. This fact, coupled with females' inherent vulnerability when it comes to their smaller size and strength, is one of the key reasons men should not be allowed to identify into women's single-sex spaces and services, and why such spaces must be based on biological sex, not gender.

*Bill incompatible with efforts to end violence against women*

12. According to a report by the Australian Institute of Health and Welfare 2022, 1 in 6 women experience physical or sexual violence, which is a primary reason women and children leave their homes to seek safety elsewhere.<sup>9</sup> The Australian Bureau of Statistics shows in 2022, Queensland recorded a 35% increase in reports of sexual assault,<sup>10</sup> the largest increase in the country and that it also has the highest number of offenders prosecuted for breaching intervention orders.<sup>11</sup>
13. In October last year, the Queensland Government endorsed the National Plan to End

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<sup>6</sup> Women's Forum Australia, Joint submission to the United Nations Subcommittee on the Prevention of Torture: Housing men in women's prisons is a human rights violation, 2022. [https://assets.nationbuilder.com/wfa/pages/476/attachments/original/1666011210/Joint\\_submission\\_by\\_Australian\\_women's\\_advocates\\_to\\_UN\\_SPT\\_2022.pdf?1666011210](https://assets.nationbuilder.com/wfa/pages/476/attachments/original/1666011210/Joint_submission_by_Australian_women's_advocates_to_UN_SPT_2022.pdf?1666011210)

<sup>7</sup> Jennifer Sieland, 'Sex offender identifies as woman to access women's shelter, allegedly raped a female resident', Reduxx, 18 October 2022. <https://reduxx.info/male-sex-offender-identified-as-woman-to-access-womens-shelter-allegedly-raped-a-female-resident/>

<sup>8</sup> Baroness Nicholson, UK Parliament debate on single-sex wards, 2022. [https://www.facebook.com/WomensForumAustralia/posts/pfbid0kUJjefMusBs7YovTjosC691QjqT8UCksinD82pTne2reQW4QC7JngSeaUzWF9XNeI?notif\\_id=1673017764928523&notif\\_t=feedback\\_reaction\\_generic&ef=notif](https://www.facebook.com/WomensForumAustralia/posts/pfbid0kUJjefMusBs7YovTjosC691QjqT8UCksinD82pTne2reQW4QC7JngSeaUzWF9XNeI?notif_id=1673017764928523&notif_t=feedback_reaction_generic&ef=notif)

<sup>9</sup> Australian Institute of Health and Welfare, Specialist homelessness services annual report 2021-22, December 2022. <https://www.aihw.gov.au/reports/homelessness-services/specialist-homelessness-services-annual-report/contents/clients-who-have-experienced-family-and-domestic-violence>

<sup>10</sup> Australian Bureau of Statistics, Recorded crime – victims, 28 July 2022. <https://www.abs.gov.au/statistics/people/crime-and-justice/recorded-crime-victims/latest-release#victims-of-family-and-domestic-violence-related-offences>

<sup>11</sup> Australian Bureau of Statistics, Recorded crime – offenders, 10 February 2022. <https://www.abs.gov.au/statistics/people/crime-and-justice/recorded-crime-offenders/2020-21#family-and-domestic-violence-statistics>

Violence Against Women and Children 2022-2032. And yet, it is clear that self-ID laws and policies, both in Australia and overseas, have resulted in preventable catastrophic outcomes for women and girls by men who exploit them and are utterly incompatible with efforts to end violence against women and children.

14. Incredibly, the Bill would mean an end to dedicated safe spaces for women and children who are victims of violence. It is not difficult to understand why women who have suffered abuse at the hands of men, may need to access a women-only service for their trauma. This should be particularly obvious for the Bill's sponsor – a Minister of both Women and Prevention of Domestic and Family Violence.
15. The high rates of violence against women and children are our national shame. The Queensland Government's efforts – and especially those of the Minister for the Prevention of Family Violence and Women – should focus on tightening loopholes abused by misogynistic opportunists rather than introducing reckless and irresponsible legislation to assist them further.

#### *Repercussions for women's sport*

16. As with female-only activities, spaces, services and events, the Bill would allow males who self-identify as female to participate into female-only sports, raising both fairness and safety concerns for female athletes of all levels. This would likely include elite sporting competitions, as the exemption in section 111 of the *Anti-Discrimination Act* which allows participation to be restricted to either males or females would likely be rendered meaningless by the Bill.
17. Last year, Women's Forum Australia released a comprehensive research report titled, '*A Fair Playing Field: Protecting Women's Single-Sex Sport*'.<sup>12</sup>
18. Our report explains how allowing biological males who identify as women to compete in female sporting events jeopardises the physical safety of women and girls, fairness in competition, and the full range of opportunities afforded by sport (see full report for references to below points).
19. In events where power, stamina and strength are deciding factors, athletes that have passed through male puberty have a life-long advantage that tilts the playing field very significantly in their favour. Research has shown that male athletes are up to 50% stronger, 30% more powerful, 40% heavier, and about 15% faster than female athletes. Testosterone suppression has minimal impact on decreasing these advantages, despite the fact that this is often used as the qualifying standard for males being able to compete in women's sports. To appreciate the inherent unfairness of allowing males to compete against females, one only has to look to trans-identifying male athletes like Lia Thomas, who catapulted from #462 in men's swimming to #1 in the female ranks, blitzing female swimming competitors, and taking team spots and awards from them.

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<sup>12</sup> Women's Forum Australia, A fair playing field: Protecting women's single-sex sport, 2022.  
[https://assets.nationbuilder.com/wfa/pages/261/attachments/original/1656632149/A\\_Fair\\_Playing\\_Field.pdf?1656632149](https://assets.nationbuilder.com/wfa/pages/261/attachments/original/1656632149/A_Fair_Playing_Field.pdf?1656632149)

20. Allowing biological males to compete against women and girls also elevates the risk to their safety, particularly for contact sports. For example, World Rugby modelling has shown that males competing against women in contact sports can put female athletes at a 20–30% greater risk of being injured. A confronting example of this playing out in reality involves trans MMA fighter Fallon Fox. Fox, who is a biological male, began identifying as a female and started mixed martial arts. He seriously injured his first two opponents, with the first suffering career-ending skull injuries in the course of a fight that only lasted 39 seconds. His second opponent escaped with concussion, seven staples to the head and a broken orbital bone, declaring that she had never felt that kind of strength in a fight or felt so overpowered in her whole life. Neither opponent was made aware that Fox was a biological man. One commentator has aptly noted that in the past, if a man hit a woman so hard that he sent her to the hospital, he'd be in prison. Over the course of an entire professional career, Fox went on to win every competition but one.
21. In addition to fairness and safety issues, allowing male athletes to compete in women's sport limits career progression for young female athletes. Their inclusion means that women and girls who would otherwise have a chance to compete or to excel, miss out, either because a male athlete has taken their spot or their placing. This could put some girls off certain sports entirely, and will lead to lost opportunities when it comes to careers, sponsorship, leadership and more. This can be seen in the US, where in 2019, transgender high school runners Andraya Yearwood and Terry Miller cleaned out the girls' events, between them taking first place in 13 out of 14 girls events in seven state-level competitions. The same times that would have earned them 1<sup>st</sup> and 2<sup>nd</sup> place in the girls' events would have seen them ranked 120<sup>th</sup> and 195<sup>th</sup> in the boys' events that year.
22. Biological sex differences clearly matter in sport and legislation which ignores them negates the very purpose of establishing a separate female sporting category, namely, to provide a forum in which women and girls enjoy a sporting chance of success.

#### *Impact on data collection*

23. If a man can change his legal sex to a woman and vice versa, this will inevitably impact and effectively falsify crucial data collection informing public policy and services in the areas of health, crime, employment and so on.
24. Accurate, sex-disaggregated data is essential in order to understand differences in the lives of women and men, and in order to combat sexism.<sup>13</sup>

#### **Harmful implications for vulnerable children**

25. In addition to the erosion of sex-based rights for women and girls, the Bill also erodes safeguards for children.
26. Children and adolescents presenting with gender dysphoria often have a history of

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<sup>13</sup> Fair Play for Women, 'Data on sex is important so it needs to be accurate', 1 May 2021. <https://fairplayforwomen.com/data-on-sex-is-important-so-it-needs-to-be-accurate/>

childhood trauma, family dysfunction, sexual abuse or discomfort with their sexuality, as well as comorbid mental health issues, including anxiety, depression, behaviour disorders and autism.<sup>14</sup> When it comes to women and girls, added to this are the unique pressures they face in the areas of sexual objectification in porn and entertainment, and the more general body image issues resulting from phenomena like social media, eating disorders, and unhealthy interpersonal relationships, which can cause them to hate their bodies and indeed being female.

27. Indeed, we are seeing a huge surge in girls wanting to change their gender. US Journalist Abigail Shrier has written about this in her book *'Irreversible Damage: The Transgender Craze Seducing our Daughters'*, particularly the social contagion aspect, and the influence of social media, youtube, friends, 'gender affirming' health care and so on. Between 2016 and 2017, the number of transgender surgeries for females in the US quadrupled, and in the UK, the number of girls referred for gender reassignment treatment rose by over 4000% percent in the past decade.<sup>15</sup> Similar increases have been observed in Australia as well.
28. Rather than addressing these myriad issues, the legislation will allow vulnerable young people to concretise a transgender identity by legally changing their sex, encouraging them further down a process of 'social transitioning', towards the track of 'medical transitioning', which has been proven to cause serious harm in both the short and long-term.<sup>16</sup>
29. Medical transitioning has not only failed to address the complex social and mental health issues these young people are suffering from, it has often exacerbated them or added new issues. As a result, the number of people (especially young women) who regret their gender reassignment and are seeking to "detransition" is growing.<sup>17</sup> However, the effects of transgender surgery or hormone therapy for many of these detransitioners is tragically irreversible. Women who have had their breasts removed cannot grow them back. Many will be rendered infertile and have to live with atrophied genitals, a loss of sexual function, a permanently changed voice and are at greater risk of osteoporosis and other health conditions.
30. Internationally, there is a shift from a 'gender affirmation' approach in treating children with gender dysphoria to psychotherapeutic interventions.<sup>18</sup> Allowing children to concretise a transgender identity in law, is at odds with developing approaches that recognise that gender dysphoria is often both transient and the result of underlying social and mental health issues.

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<sup>14</sup> See for example: Kasia Kozłowska et al, 'Australian Children and Adolescents with Gender Dysphoria: Clinical Presentations and Challenges Experienced by a Multidisciplinary Team and Gender Service' (2021) 1(1) Human Systems: Therapy, Culture and Attachments, 70.

<sup>15</sup> Abigail Shrier, 'How peer contagion may play into the rise of teen girls transitioning', New York Post, 27 June 2020. <https://nypost.com/2020/06/27/how-peer-contagion-plays-into-the-rise-of-teens-transitioning/>

<sup>16</sup> See for example: Megan Twohey and Christina Jewett, 'Puberty blockers can help transgender youth. Is there a cost?', New York Times, 14 November 2022. <https://www.nytimes.com/2022/11/14/health/puberty-blockers-transgender.html>

<sup>17</sup> See for example female detransitioners: [Keira Bell](#), [Chloe Cole](#), [Jay Langadinos](#), [Helena, Cat, and Grace](#).

<sup>18</sup> See for example: Society for Evidence Based Gender Medicine, 2022 Year-end summary, 1 January 2023. <https://segm.org/gender-medicine-developments-2022-summary>

31. The Bill also pits children against their parents and parents against one another by allowing children under 16 to change their registered sex with the permission of one parent only, or without any parental permission at all in certain circumstances.
32. Finally, the Bill seeks to repeal s28 of the *Anti-Discrimination Act*, which provides that it is not unlawful to discriminate on the basis of gender identity in work involving the care or instruction of minors, in order to protect their wellbeing. This would see the removal of protections against trans-identified males working in female-only groups and organisations, and for example, sharing accommodation and changing facilities with young girls.

### **Harmful implications for health care**

33. One significant risk that arises from allowing people to change their legal sex to correspond with a gender identity is in the area of health care.
34. Women and men have different health care needs and risks based on their sex, due to for example, hormonal differences, anatomy, and risk factors for certain diseases. For example, only women can get breast or cervical cancer, menstruate, become pregnant, or go through menopause, and thus only women require screening or treatment for such things. Similarly, only men can get prostate or testicular cancer, and so only they need screening or treatment for such conditions.
35. If a transgender person is legally registered as a sex that is not their biological sex, this could impede them from receiving appropriate health care.
36. Similarly, if the result of allowing anyone to legally change their sex means that language used in health care must be de-sexed and made 'gender neutral', this could adversely impact female specific health care like maternity services.

### **Harmful implications for all Queenslanders**

37. As well as the harms posed to women and children, the legislation puts at risk the freedom of speech and conscience of all Queenslanders who, for example, may not be comfortable calling a man a woman and treating him as such.
38. The freedom to openly discuss important issues is critical if we are going to ascertain truth, make progress and take into consideration the needs and voices of all those concerned. However, all around the world, people – and especially women – are being harassed and silenced for voicing their concerns about the harmful impact of gender ideology driven laws, policies and practices on women's sex-based rights and the welfare of children. This comes in the form of abuse and ostracisation from peers, online vilification and media pile-ons, loss of employment, censorship, discrimination claims and accusations of hate crimes.
39. What legal and social repercussions will ordinary Queenslanders face, if they decide to choose reality, and refuse to acknowledge a person's 'self-identified sex', whether in language or practice?

## Conclusion

40. The Bill elevates gender identity over biological reality, women's and children's safety, and common sense. Given its particularly adverse implications for women and girls and victims of violence, it is extraordinarily disappointing that it has been introduced by the Minister for Women and Prevention of Domestic and Family Violence.
41. Ms Fentiman has said that the bill "will bring Queensland into line with most other jurisdictions". But given the way 'consultation' is unfolding in Queensland – were citizens in those jurisdictions really consulted? Is the erasure of sex and corresponding rights and protections really what they wanted?
42. Human beings cannot change sex. Legislation which attempts to deny that incontrovertible reality, is as illogical and unscientific as it is dangerous.
43. Persons with gender dysphoria who identify as transgender must be respected and cared for just like any other citizen, but this does not entail attempting to rewrite reality for all Queenslanders. In situations where there are, for example, safety concerns for transgender persons using the same spaces as members of their biological sex, alternative, third options like 'gender neutral' spaces could be created, without effectively abolishing female-only spaces and compromising the rights, safety and privacy of women and girls.
44. We call on the Legal Affairs and Safety Committee to listen to the concerned voices of women and the community and to recommend that this harmful legislation is withdrawn. At the very least, Part 5 should be removed from the Bill, as should Part 12 insofar as it amends the *Anti-Discrimination Act*.
45. We urge the Committee to consider the many valid concerns that have been raised about this Bill, and to work to protect the rights and welfare of all Queenslanders.