

Births, Deaths and Marriages Registration Bill 2022

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Submission to the Legal Affairs and Safety Committee of the Queensland Parliament

Re: Birth, Death & Marriages Registration Bill 2022

Date: 11 January 2023

I am writing to express my concerns about the proposed draft Birth, Death & Marriages Registration Bill 2022, which seeks to amend people's historic birth certificates to match their current gender identity presentation. By changing historic documents to suit a temporary phenomenon, the government appears to me to be facilitating discrimination against women, girls and lesbians in Queensland. The government could benefit from studying evidence-based methods that have worked in other countries to achieve these goals and applying them to Queensland.

We are all born with various skills and talents and traits, but biological sex is the major predictor of a person's life outcomes, whether they can bear children, whether they are more likely to be imprisoned, or be subjected to violence, or suffer from specific diseases. The Justice system records outcomes by biological sex, for example that women are far more likely to be victims of violence than men, and men are far more likely to go to prison than women. Unlike biological sex, gender identity presentation is not a legal characteristic in Queensland, nor is it defined, and there is flimsy evidence presented by the Queensland Government for the solution of amending historic documents to improve outcomes for our society. I suggest that noting gender identity presentation, in addition to documenting biological sex correctly, could be a kinder way forward. The proposed solution of conflating gender identity and sex has been shown in the UK to lead to further confusion, violence and discrimination against women, girls and lesbians.

I would like to highlight three main areas for concern in the proposals:

1. Only one group has been consulted, not the many groups of other people whose lives will be adversely affected by this legislation, most notably women and girls.
2. The Minister for Women states she is unaware of any evidence from other countries of significant problems for women resulting from similar legislation to this draft. I provide evidence from the UK.
3. The statistics on which the draft legislation is based are either totally inadequate for the purpose or assertions are presented as evidence; I highlight two examples. There is no proposed solution suggested to capture the results of the draft legislation so future governments or individuals to ascertain meaningful outcomes from these changes.

1. Consultation

Parliament needs to balance the rights of the various communities they serve –like balancing the legal recognition of trans individuals against the rights of women and the rights of children. In presenting the draft Birth, Death & Marriages Registration Bill 2022, the Minister for Women acknowledges the '*advocacy and contribution*' of '*the many trans and diverse people and their allies in the gallery today*' to the draft legislation, as '*these are the people this legislation is for*'. I urge the Queensland Parliamentary Committee to consult more widely with other groups who will have new members identify into their spaces, become eligible for their rights, sports, prisons, shelters and jobs. These groups would include but not be limited to

- Women's groups,
- Mothers' groups,
- Lesbian and Gay Rights groups,
- Girls' schools,
- Women prisoners, their representatives and prison staff

- Women patients in hospital, hospital administrators,
- Women's sports representatives,
- Girls' sports representatives
- DV groups, and those who run DV shelters.

2. International experiences

In the Minister's Introduction to the draft Birth, Death & Marriages Registration Bill 2022, she asserts that *"there is no evidence, domestically or internationally, to support these outrageous claims"* (... of trans women accessing women's spaces...) (page 3932 [2022 12 02 WEEKLY \(parliament.qld.gov.au\)](#)). I would ask the Committee to read [This Never Happens](#) link which has aggregated 123 examples from the United Kingdom of trans-identified males who have raped, assaulted, abused and/or murdered women and/or children in spaces that were previously not accessible by males, and consider if they can give the Minister for Women's assertion any credibility?

As is happening in the UK, I anticipate a swathe of opportunist civil claims against public service providers for inadvertent misgendering, similar to the points put forward in this [blog post](#). The legal costs alone will be crippling for Queensland.

3. Statistics

There is a need for **clear language on evidence and statistics**, in order to both encapsulate the problem this legislation seeks to address, and in order to measure the outcome of the draft Birth, Death & Marriages Registration Bill 2022.

3.a) The statistics used as a basis for the legislation – Trans Pathways Report

The draft legislation is based on Trans Pathways research ([trans-pathways-report.pdf \(telethonkids.org.au\)](#) where it can be noted:

- This was a 2017 study. There has been no follow up study.
- Of a survey of 859 self-identified trans and gender diverse young Australian people aged 14-25 years, 17% or 146 were 'from Queensland'. It was noted that Queensland was under-represented in the survey. 'From Queensland' was not defined, nor was there a statement on the age or sex of the 'from Queensland' participants.
- Details on the study participants showed that
 - 74.4% had birth certificates with sex as Female, 25.6% had birth certificates had sex as Male, zero were intersex,
 - 33.5% (or roughly one third) were Children and two thirds were Adults,
 - 70% answered questions on the degree of their social transition, 30% did not answer.
 - survey participants were self-selected, and thus are biased in favour of a particular outcome.
 - No breakdown of ethnicity, religion, co-morbidities, nor sociological evidence was provided, which other countries (Netherlands, UK) have shown to significantly skew data on gender dysphoria.

So all participants were treated as a single population, and this inadequate population has been used to draft wide ranging legislation to apply to the entire population of Queensland.

3.b) The statistics used as a basis for the legislation – assertions replaced evidence

The Minister for Women asserts (page 3931 [2022 12 02 WEEKLY \(parliament.qld.gov.au\)](https://www.parliament.qld.gov.au/2022/12/02/2022-12-02-weekly)) that “*it is an unfortunate reality that trans and gender diverse people face much higher rates of discrimination, violence and social exclusion than their cis counterparts*”; but no evidence is presented to back this assertion. Additionally, the conflation of terms renders this assertion meaningless, for example comparing ‘trans and gender diverse people’ to ‘cis counterparts’ means comparing who to whom exactly? The ABS records that 87% of [Sexual Assault](#) victims in Queensland were female, so is the Minister for Women asserting that males whose gender identity presentation is as a female suffer higher rates of sexual assault than females, or than males, or than all people - it isn’t clear is it? And is it sufficient to base new legislation on?

3.c) Evidence and statistics will need to be re-calibrated

I ask that the Committee considers how **statistics** used by governments, businesses and individuals will be affected by such legal changes, and how the need for accurate data, disaggregated by sex is necessary in order to understand differences in the lives of men and women. Conflating sex, gender and gender identity in statistics leads to economic systems, including transportation, medical devices, tax structures and consumer products ignoring the needs of women.

Examples where structures will have to be amended or reconsidered include:

- Measurement of gender pay gaps if people can self-ID into a different category.
- Protection of a biologically female prisoner from being raped by a ‘female’ prisoner with a penis, housed in the same prison.
- The Australian Government including Queensland in its commitments on [gender balance on Government Boards](#), with its reporting relying on ABS recording of binary biological sex in Australia, when Queenslanders can self-ID into a different category.
- How employers can take positive action to promote diversity and inclusion, and report accurately on these, if employers are neither legally able to acknowledge the different realities of staff or clients, nor the legitimate diversity of views and beliefs about gender identity and sex in each organisation?
- By enforcing the belief that sex is overwritten by gender identity, how can employers not risk discriminating against other staff on the basis of other protected characteristics?

Thank you for considering my submission on the draft Birth, Death & Marriages Registration Bill 2022.