



Speech By  
**Hon. Shannon Fentiman**


**MEMBER FOR WATERFORD**

---

Record of Proceedings, 2 December 2022

## **BIRTHS, DEATHS AND MARRIAGES REGISTRATION BILL**

### **Message from Governor**

 **Hon. SM FENTIMAN** (Waterford—ALP) (Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence) (11.16 am): I present a message from Her Excellency the Governor.

**Mr SPEAKER:** The message from Her Excellency the Governor recommends the Births, Deaths and Marriages Registration Bill. The contents of the message will be incorporated in the *Record of Proceedings*. I table the message for the information of members.

MESSAGE

BIRTHS, DEATHS AND MARRIAGES REGISTRATION BILL 2022

*Constitution of Queensland 2001*, sections 68

I, DR JEANNETTE ROSITA YOUNG AC PSM, Governor, recommend to the Legislative Assembly a Bill intitled—


A Bill for an Act to provide for the registration of births, deaths and marriages, and for other purposes, and to amend this Act, the Adoption Act 2009, the Anti-Discrimination Act 1991, the Coroners Act 2003, the Corrective Services Act 2006, the Dangerous Prisoners (Sexual Offenders) Act 2003, the Guardianship and Administration Act 2000, the Meriba Omaker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020, the Powers of Attorney Act 1998, and the legislation mentioned in schedule 3, for particular purposes

GOVERNOR

Date: 1 December 2022

*Tabled paper:* Message, dated 1 December 2022, from Her Excellency the Governor recommending the Births, Deaths and Marriages Registration Bill 2022 [2051](#).

### **Introduction**

 **Hon. SM FENTIMAN** (Waterford—ALP) (Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence) (11.16 am): I present a bill for an act to provide for the registration of births, deaths and marriages, and for other purposes, and to amend this act, the Adoption Act 2009, the Anti-Discrimination Act 1991, the Coroners Act 2003, the Corrective Services Act 2006, the Dangerous Prisoners (Sexual Offenders) Act 2003, the Guardianship and Administration Act 2000, the Meriba Omaker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020, the Powers of Attorney Act 1998, and the legislation mentioned in schedule 3, for particular purposes. I table the bill, the explanatory notes and a statement of compatibility with human rights. I nominate the Legal Affairs and Safety Committee to consider the bill.

*Tabled paper:* Births, Deaths and Marriages Registration Bill 2022, No. xx [2052](#).

*Tabled paper:* Births, Deaths and Marriages Registration Bill 2022, No. xx, explanatory notes [2053](#).

*Tabled paper:* Births, Deaths and Marriages Registration Bill 2022, No. xx, statement of compatibility with human rights [2054](#).

Today I am proud to rise to introduce the Births, Deaths and Marriages Registration Bill 2022. I want to start by acknowledging the many trans and diverse people and their allies in the gallery today. These are the people this legislation is for. I want to thank each of them for their advocacy and for their contribution to these reforms.

This bill will replace the current Births, Deaths and Marriages Registration Act 2003, which has been in force since early 2004. To aid the committee in its examination of the bill, I also table a draft Births, Deaths and Marriages Registration Regulation 2022 and draft explanatory notes and human rights certificate for the regulation.

*Tabled paper:* Draft Births, Deaths and Marriages Registration Regulation 2022 [2055](#).

*Tabled paper:* Draft Births, Deaths and Marriages Registration Regulation 2022, explanatory notes [2056](#).

*Tabled paper:* Draft Births, Deaths and Marriages Registration Regulation 2022, statement of compatibility with human rights [2057](#).

I stress that the regulation is an indication only and is subject to further consultation. Should the bill be passed, the bill will commence by proclamation and the regulation will commence at the same time.

In the almost 20 years since our current births, deaths and marriages laws came into effect, social attitudes have grown and evolved. We have seen an increasing awareness and acceptance of LGBTIQ+ rights in recent years—from the passage of marriage equality to the banning of conversion therapy. As the community's values and norms change, so too must our laws and our systems. This legislation will ensure that our services are in line with modern values and reflect the true diversity of our community.

At the core of this bill is strengthening legal recognition of trans and gender diverse Queenslanders. We will remove the outdated requirement to undergo surgery and allow for non-binary and gender diverse descriptions to be used. The bill also makes a range of other important changes including better recognition of same-sex parents, strengthened fraud prevention measures and updating the Anti-Discrimination Act to remove the 'working with children' exemption.

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. In developing the bill, we have carefully considered the experiences of LGBTIQ+ stakeholders, the difficulties they face and the recommendations they made in order to get these reforms right. Quite simply—we listened and this bill is the result. Not only does this bill recognise the existence and validity of trans and gender diverse people; it affirms them. As I have said many times, we want to make sure that Queenslanders' legal identity matches their lived identity.

As work has progressed on these reforms, I have met with many trans and gender diverse people who have shared their stories about why these reforms matter. A common theme across all of these conversations is a simple desire to have their identity documents match their identity. Without this, they face the prospect of outing themselves every time they apply for a job, go for a rental property or enrol in university. Most of us take for granted that our birth certificate accurately reflects our lived identity, but for many people that is not the case. As Emily recently told my office—

I look at my birth certificate and it's wrong; it's my last remaining identity document that's in error, something that's wrong.

Whenever I must present my birth certificate, I get anxious, worried that the person reading it will think I'm a fraud, or worse, mentally ill—merely because I know I'm a female and yet my birth certificate says I'm a male.

This legislation will mean I'll get to correct something that has been wrong for 50 years. However, to me this is not just about fixing my birth certificate, it's for all the trans and non-binary people in the future who won't have to suffer that anxiety and embarrassment that I have over the years, because their birth certificate won't be in error.

These reforms will have immense impacts not only on the public lives of trans and gender diverse people but on their private lives too. We know that, for many trans people, being required to present documents that do not reflect who they are and being faced with situations where they are required to reveal deeply personal information about themselves to virtual strangers can be deeply distressing. I recently met with Caden, who said—

With these reforms I can finally feel seen for who I am as a non-binary person and will no longer be forced into adopting a label that doesn't adhere to my identity.

Ultimately, I will have access to better employment opportunities, healthcare services and housing because with legal recognition of one's identity comes legal protections as well.

This is a much-needed step in the right direction and will improve the lives of many.

We know that these reforms will not be a panacea to the issues that trans and gender diverse people face, but they are an important step to ensuring every Queenslanders can live authentically. However, it is an unfortunate fact that, through this debate, there will be members of the community

who will seek to denigrate trans people's lives and identities by making ludicrous claims about how people will be able to identify. No-one who engages in this process will do so lightly. It is a deeply personal process and decision which must be respected.

We also know that some groups will try to cloak their transphobia in the guise of women's safety—making claims about trans women accessing women's spaces, including change rooms or even domestic violence shelters. I want to be clear: there is no evidence, domestically or internationally, to support these outrageous claims. I note the Australian Psychological Society has warned against casting undue suspicion on an individual's motives for stating a particular sex.

In addition, I am proud to say that these reforms are in line with our Queensland Women's Strategy and Queensland's Domestic and Family Violence Strategy. Both of those strategies recognise trans women and gender diverse people, because Queensland women and girls with diverse backgrounds and experiences have the right to be safe and be provided with the same opportunities as everyone else.

While it is not the focus of the legislation, we know that affordable, accessible and appropriate health care is an important issue for many trans and gender diverse people. I am committed to continuing to work with, and advocate for, the community in this space.

At its core, this legislation is about strengthened legal recognition of trans and gender diverse Queenslanders. I encourage members of this House to meet with trans and gender diverse constituents to hear firsthand what these changes will mean, to reflect on the importance of having your birth certificate reflect your identity—something that many of us have never had to do before. Most importantly, please think about the impact your words will have on trans and gender diverse people in your communities and across Queensland. For their sake, I call on every member of this House not to spread division and transphobic ideas, regardless of how they ultimately vote on this bill.

As I said earlier in my speech, these reforms will remove an outdated requirement to undergo sexual reassignment surgery, which unnecessarily medicalises the recognition of a person's lived identity. Not all transgender people are able, or want, to undergo such surgery. It is a serious and invasive procedure that carries a number of health risks, is not covered by Medicare and is not readily available in Australia.

The requirement for sexual reassignment surgery is also a particularly onerous threshold for young transgender people who are a particularly vulnerable group in our community. I recently met D'Arcy, a fantastic young man from the Sunshine Coast and a good friend of the member for Caloundra. He told me how dehumanising it can be to have to constantly out himself and he worried that his QCE certificate would display his former name. He said—

I've dealt with the transphobia and homophobia before.

But it's made worse by the fact that you have to identify as two people, which brings on great anxiety.

It is important that young trans and gender diverse Queenslanders feel supported to live their true lives. The bill introduces an accessible framework for people aged 16 years and older to apply to change their record of sex. A person will be required to include a statutory declaration that they identify as the sex specified in the application and live, or seek to live, as a person of that sex, and to nominate a sex descriptor. In addition, the application must be accompanied by a 'supporting statement' made by an adult who has known the person making the application for at least a year. This means that people's legal identities can be based on what is appropriate and meaningful to them, using an appropriate descriptor to reflect that.

I have heard from many people who knew from a young age that they were trans or gender diverse. Roz, for example, told me about when she was acting in a skit when she was eight or nine years old at Cub Scouts. She said—

The cub mistress had pulled out a trunk of clothes for use as costumes and as other cubs pulled out clothing meant for boys, I pulled out a dress.

Wearing the dress, the role came so easy and natural to me, so much so I experienced a sadness on packing the costume away, especially on the realisation I would have to hide such feelings from my family. Those deemed to be boys in Queensland society weren't supposed to feel that way back then.

For children under 16 years of age, the bill establishes two pathways to change a record of sex: first, an administrative pathway which enables both parents or guardians, or one parent or guardian in certain circumstances, to apply directly to the registrar; and, second, a court pathway which allows one supportive parent or guardian to apply to the Childrens Court to approve a change of sex. There will also be a pathway for a child aged 12 to 15 years, where there is no supportive parent or guardian, to apply to the Childrens Court. In this scenario, the court must be satisfied it is in the child's best interests

to alter their record of sex. In deciding that, the court can consider a medical assessment, the views of the child, and whether the child is mature enough to understand the meaning and implications of the change.

Under either pathway, an application must include an assessment by a developmentally informed practitioner. The assessment must confirm that the application is supported and that the child understands the meaning and legal implications of the alteration of their record of sex. The types of professions which make up a developmentally informed practitioner are in the draft regulation, which I tabled at the outset of my speech.

The ability for young transgender people to more easily update their birth certificates to reflect their lived identity will better support health and wellbeing outcomes for this vulnerable group. The bill also enables a change of name to be made at the same time as a change of sex so that trans and gender diverse people can have their legal identity match their lived identity in full. I recently heard from Selina, the mother of a trans child. She told me—

My daughter is 17 and has just completed year 12.

She is at a stage in her life where she should be applying for a learner's permit, looking for casual work and applying to tertiary institutions for further education.

These are all things that she very much desires to do, just like any other teenager, however these are also things that require her to present her birth certificate to verify her Australian citizenship.

But because she was born in Queensland, her birth certificate identifies her as male.

Young people should be thinking about what they want to do after school, not worrying about being outed.

To properly recognise the full scope and spectrum of identities, this framework allows people to nominate the sex descriptor that is best for them. Some of the more common sex descriptors a trans or gender diverse person may nominate include: trans man or woman, agender, genderqueer or non-binary. The application process will be supported by robust safeguards which will ensure alterations are only made when they are genuine and in good faith. The registrar cannot approve a sex descriptor which is: obscene, offensive or absurd; could not practically be established by repute or usage; or is contrary to the public interest. This test is broadly consistent with how things are done in Victoria.

Having documents that reflect one's sense of identity is important for a range of reasons, including self-affirmation and acceptance by the government. It says, 'Yes, this is who you really are.' Today I say to trans and gender diverse people throughout this state: the Palaszczuk government sees you, we hear you and, most importantly, we stand with you.

The bill also expands protections for LGBTIQ+ families. We are extending birth registration time frames for parents of children born with sex characteristic variations so they can more fully consider the most appropriate pathway for them.

We are also expanding recognition of same-sex and gender diverse parents so their child's birth certificate reflects their parenting role. As is currently the case, up to two people can be registered as parents but the three descriptors mother, father or parent can be used in any combination. This will enable a same-sex couple to register as mother and mother or father and father. These changes will also allow older half-siblings to be recorded on the birth registration of their younger siblings and the details of a de facto partner of a deceased person to be reflected on a death registration.

The bill also accelerates changes to the Anti-Discrimination Act to provide stronger protections for some of the most vulnerable groups in our community. These changes will: modernise the definition of 'gender identity' to reflect best practice contemporary understanding; introduce a new protected attribute of 'sex characteristics' to provide protections for members of the intersex community; and repeal an outdated and offensive exemption which allows for lawful discrimination on the basis of gender identity and lawful sexual activity if the work involves the care or instruction of minors. These changes are all in line with the recommendations contained in the Queensland Human Rights Commission's recent review of the Anti-Discrimination Act.

The bill also provides a framework for people born outside of Queensland with a new type of recognised details certificate. This will mean that, regardless of where they are from, people in Queensland will be able to have their legal identity match their lived identity.

In addition to strengthening recognition of, and protections for, our LGBTIQ+ community, the bill makes a number of changes to improve how our registry operates, including amendments to the system that responds to community expectations, including the express power for fees to be waived for vulnerable people such as survivors and victims of domestic violence as well as those impacted by natural disasters.

This bill removes discriminatory and unfair barriers to trans and gender diverse people obtaining legal recognition of their lived identity. The changes will not significantly impact people who are opposed to them, but it will make real improvements to the lives of our LGBTIQ+ community. The bill will remove a discriminatory regime and help reduce the distress, fear, discrimination and privacy violations that many people in our community face on an all-too-frequent basis.

The Palaszczuk government is committed to ensuring Queensland is a safe and inclusive community for all of its members. With this bill and its recognition of the inherent human dignity in all of us, we move a step closer. I commend the bill to the House.

*An incident having occurred in the public gallery—*

**Mr DEPUTY SPEAKER** (Mr Kelly): Order! Order in the gallery. I appreciate your enthusiasm, but we cannot hold a vote while there are disruptions in the gallery.

### **First Reading**

**Hon. SM FENTIMAN** (Waterford—ALP) (Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence) (11.34 am): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.


Bill read a first time.

### **Referral to Legal Affairs and Safety Committee**

**Mr DEPUTY SPEAKER** (Mr Kelly): In accordance with standing order 131, the bill is now referred to the Legal Affairs and Safety Committee.

## **LEGAL AFFAIRS AND SAFETY COMMITTEE**

### **Reporting Date**

 **Hon. SM FENTIMAN** (Waterford—ALP) (Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence) (11.35 am), by leave, without notice: I move—

That, under the provisions of standing order 136, the Legal Affairs and Safety Committee report to the House on the Birth, Deaths and Marriages Registration Bill by 24 February 2023.