




Speech By  
**Michael Berkman**

**MEMBER FOR MAIWAR**

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**BIRTHS, DEATHS AND MARRIAGES REGISTRATION BILL**

 **Mr BERKMAN** (Maiwar—Grn) (2.16 pm): This is an historic moment for Queensland. This bill will allow intersex, transgender and gender-queer people greater control over their personal documentation and identification. In doing so, this bill is a prominent and public recognition of the diverse, physiological, social and gender spectrum on which we all sit. I want to thank and congratulate the trans and gender-queer community, the intersex community, the broader LGBTQIA+ community and all of their allies and supporters who continue to fight for recognition and respect of diversity.

Two years ago, I was incredibly proud to sponsor a petition to parliament from Maiwar local, now fellow Greens member and dear friend, Esther Vale, calling on this document to reform documentation laws to better recognise trans and gender-diverse people. In her petition, Esther wrote:

People should have the right to legally register as they self-identify. This means removing the requirement for a person to undergo sex reassignment surgery to change the sex listed on their birth certificate. The sex marker should also be changed without 'annotation', as there is no reason for these documents to out people.

In its response to Esther's petition, the government committed to update our registry laws. While this bill was introduced nearly a year later than promised, it will bring Queensland into line with other states, and I am incredibly grateful and proud to see that happen.

This is an important bill for non-binary and gender-queer people. By creating an opt-in approach for including sex markers on a birth certificate and allowing people to choose a gender marker other than male or female, we recognise that a binary understanding of gender, based on simplistic, physiological categorisation, is insufficient to describe the complexity of human biology, thinking, relationships and social behaviour.

It is an important bill for intersex people. By passing this bill, we acknowledge that not everyone is born with physical features like genitals, chromosomes or hormones that neatly fit a binary category. Intersex people are incredibly common. For every 200 children born, approximately three will have genital, chromosomal or hormonal characteristics that do not match what is considered typical for the rest of the population. This bill acknowledges that people who are born intersex have the right to decide for themselves what this means for them and who they are and to have this legally recognised in their documentation.

This is an important bill for trans people. By removing the requirement for surgery before changing a gender marker on a birth certificate we acknowledge that gender is not definite and immutable but ambiguous and nuanced. Each of us has a right to documentation that reflects who we are and the relationship we have with ourselves and the community around us.

It is an important bill for families. By giving more options for the terminology to register parents on a birth certificate we recognise that not every family is just one father, one mother and their traditionally conceived children. Our communities include many such families but also include families with queer partners, families whose children are born with the aid of IVF, families whose children are birthed by transmen and non-binary people.

This important legal recognition for intersex, queer and trans people and their families has been a very long time in the making. Thank you to Professor Noah Riseman from the Australian Catholic University for including in his submission a brief history of the struggle, which I think is very important for us to reflect on as lawmakers.

Many cultures across the world and for thousands of years accepted people transitioning gender roles or had additional gender roles other than just man and woman. In this country 'brotherboy', 'sistergirl' and 'two-spirit' are common English translations of First Nations words and concepts which were used to describe members of the community well before colonisation. The moral panic and toxic culture war over trans people's lives is much more recent.

In the west it was only around the end of the 19th century that we started to see moral panic being pushed by bigots over what had, until that point, been considered a pretty constant and accepted part of human communities. Since then the struggle for queer liberation has been concurrent with the struggle against racism, sexism, imperialism, capitalism and the struggle for workers and ordinary people.

In the eighties in Queensland the acts of the right-wing Bjelke-Petersen government included, amongst the general suppression of workers and the left, gross discrimination against queer people. Openly queer people were barred from the Public Service and up until 1991 gay men in Queensland could be sent to prison for seven years for having consensual sex. It was a coalition of workers, queer activists, Aboriginal activists, unionists and anti-racists that not only secured an end to the Bjelke-Petersen government but ended gay criminalisation and won the introduction of anti-discrimination laws. However, trans people fell outside the remit of these anti-discrimination protections. It was around this time in addition to trans people fighting for the same right to protection that was being afforded to others on the basis of gender, sexuality, race and religion that trans people and their allies across the country also began to push for changes to documentation laws.

As early as 1979 birth certificate revision for people who had undergone gender-affirmation surgery was a standing item for the Standing Committee of Attorneys-General. This is not a recent trend or a fad, as some like to claim and have claimed in this debate. In 1992 Kerri Petrie, founder of the Australian Transgender Support Association of Queensland, made a submission to the Electoral and Administrative Review Commission into a proposed human rights bill calling for trans people to be allowed to make changes to their documentation regardless of whether they had undergone gender-affirming surgery. The commission endorsed Petrie's submission stating, 'recognition of an individual's right to determine their own sex is paramount and should not necessarily be dependent on a willingness to suffer onerous medical intervention'. That is from 1992.

Activists eventually won protection for trans people under the Anti-Discrimination Act and the right for those who had had surgery to update their details. In 2014 other jurisdictions around Australia began recognising trans people who had not had surgery and their right to appropriate documentation. In Queensland we are now finally removing the surgery requirement as well as exemptions in the Anti-Discrimination Act that allow employers to discriminate against trans and gender-diverse folk and sex workers on the basis of outdated, prejudiced ideas that they are somehow inherently unfit to work with children.

I reached out to Esther, the campaigner who gathered more than 10,000 signatures for this cause, for her thoughts on the bill. I think it is important that her voice is heard at the end of decades of struggle by trans people for these changes. She said—

It's not easy being trans when you have to face discrimination, hatred and legal gatekeeping. We just want the same opportunities to live a good life as everyone else without being put into undue stress and hardship. The common-sense change to allow certificates to match who people are without requiring surgery lowers one of those discriminatory barriers, and lets people focus more on living their life than jumping legal hurdles.

Of course, there is still more this bill could have done. For example, submitters like Intersex Human Rights Australia raised concerns that requiring parents of intersex children to register a sex within 180 days could incentivise pre-emptive, premature surgery and recommended that the limit be removed altogether. Equality Tasmania and the LGBTI Legal Service recommended removing the two-parent limit on a birth certificate for families where, for example, a lesbian couple wishes to also recognise a sperm donor as a parent.

In Esther's petition she also noted that the cost of making a change to one's birth certificate functions as a prohibitive trans tax. Although this bill creates a legislative basis for exercising conventions around case-by-case fee waivers, too many people will still be prevented from accessing accurate documentation due to the prohibitive cost. That is why I intend to move amendments to scrap

fees for accessing and updating key identity documentation like a birth certificate, and I will table a copy of those amendments, the statement of compatibility and the explanatory notes now.

*Tabled paper:* Births, Deaths and Marriages Registration Bill 2022, amendments to be moved by Mr Michael Berkman MP [855](#).

*Tabled paper:* Births, Deaths and Marriages Registration Bill 2022, explanatory notes to Mr Michael Berkman's amendments [856](#).

*Tabled paper:* Births, Deaths and Marriages Registration Bill 2022, statement of compatibility with human rights contained in Mr Michael Berkman's amendments [857](#).

At a time when Queenslanders are already struggling with rising costs of living and financial stress, this is just one way we can make sure our most vulnerable do not fall further behind. They may be a mother and child leaving an abusive relationship, a refugee who has fled war or someone who has had their home destroyed by flood or fire. Regardless of their situation, almost no-one is changing or replacing these documents for fun and they should not have to face \$200 fees or filling out more forms and paperwork to request a waiver on top of everything else.

In their submissions Equality Australia, Amnesty International and ATSILS all supported waiving fees to remove financial barriers to accessing up-to-date documentation. The Greens amendments would ensure this barrier is removed on a universal basis because we believe documents that are essential to participating in public life should be free. Lack of accurate documentation prevents people enrolling in school, obtaining a driver's licence, getting a job, opening a bank account, accessing government benefits and applying for private and public housing. ATSILS note in their submission that First Nations people are 10 times more likely than the rest of the population to suffer from legal invisibility due to this. By removing these fees and making documentation services free, we can ensure that the intent of this bill is fully realised and that all Queenslanders can have up-to-date and accurate documentation that reflects their identity and allows them to participate in public life.

I thank Labor for listening to the community and supporting a bill with so many positives. I, again, want to thank all of those who have campaigned and fought for these rights over the years. Thank you and congratulations. We are with you for whatever comes next.

*(Time expired)*