

Ms Julia Knight
Committee Secretary
The Social Policy Scrutiny Committee

Email: SPSC@nt.gov.au

Dear Committee,

**INQUIRY INTO THE BIRTHS, DEATHS AND MARRIAGES REGISTRATION AND OTHER
LEGISLATION AMENDMENT BILL 2018**

Thank you for the opportunity to make a submission to the Social Policy Scrutiny Committee on these important reforms.

It is acknowledged that the reforms being sought are to bring relevant Northern Territory legislation into line with the *Marriage Act 1961* (Cth), following amendment by the *Marriage Amendment (Definition and Religious Freedoms) Act 2017* (Cth) and the *Sex Discrimination Act 1984* (Cth). These are significant and positive reforms targeted at lessening discrimination experienced by gender diverse, Trans and Intersex communities. Our comments are aimed at further improving the laws to ensure processes are dignified, informed and accessible.

1. Consultation

Consultation is key to ensure that these amendments best serve the communities that are affected. The people affected by this law are best placed to respond to what processes will work and will be respectful. No consultation apart from this submission processes has allowed individuals impacted by the laws to comment. It is noted that some who will be impacted reside in remote parts of the Northern Territory and are unlikely to be aware of this process or be able to participate.

2. Proposed Model

Whilst the move away from requiring proof of surgery for gender re-assignment is commended, the ADC believe the approach taken still medicalises what is a societal issue, by requiring proof of “appropriate clinical treatment” to enable change of gender identity or sex. We know from research the limited access to medical services by Sister Girls and Brother Boys, and gender diverse people in remote communities across the NT. From the contacts and stories we hear, many gender diverse Aboriginal people have been living in their community as that gender identity since childhood or teen years.

The preferred approach is self-identification of sex or gender identity as the most empowering and accessible. However if third party verification or involvement is required, that a person’s family or community confirm their gender identity. This should not be at the discretion of the Registrar but an alternative under the legislation.

3. Restrictions on Registration changes

The proposal to limit the number of times a person can apply for a change in sex or gender identity trivialises the life changing nature of making such a decision and the importance and significance of having documents that properly reflect a person’s identity. We understand it is in response to one or two incidences in SA, however the broader message it sends to the wider community far outweighs minor inconvenience to registry staff of processing a person’s claim on numerous occasions. The mental health statistics and general health issues for people likely to take advantage of these reforms indicates just how much of an impact getting this right has for these vulnerable communities.

4 Time to Record Birth

Enabling families of children with one of the many variations in sex characteristics time so that they do not need to record a binary of male or female on a birth certificate soon after birth would assist in long term better decision making, remove some of the pressures and enable time for education and more informed decision making.

5 Terminology

The Bill explicitly identifies people classify as “intersex” as a group that may seek to change their gender identity or sex. The ADC is concerned that the term “intersex” is not current acceptable terminology – sex characteristics is. It is noted that acceptable terminology is always going through a process of refinement and there should be preference for broad criteria rather than the use of labels that may quickly date. This is an issue where consultation with affected communities would be of great assistance.

In terms of selecting a gender or sex for a birth certificate, the preference would be to make selection of either optional. We note amendments being considered in Tasmania, equating to this position that raise the question as to whether birth certificates need to identify sex or gender at all.

We also believe that “intersex” should not be an option on the birth certificate form unless further consultation shows it is required.

7. Registration rights by youth over 16 years of age

The *Births, Deaths and Marriages Registration Act* should allow older children (for example, age 16 years and over) to register a change of sex without parental consent, as is the case in South Australia. This approach is consistent with recognising the autonomy and capacity of children or young people as they mature.

We thank you for an opportunity to make this submission.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Sally Sievers', with a stylized, looping initial 'S'.

Sally Sievers

Anti-Discrimination Commissioner
Northern Territory Anti-Discrimination Commission

12 November 2018

