

WOMEN SPEAK TASMANIA



14 November 2018

THE COMMITTEE SECRETARY,
SOCIAL POLICY SCRUTINY COMMITTEE,
GPO BOX 3721, DARWIN NT 0801
BY EMAIL TO: SPSC@nt.gov.au.

Dear Ms Knight,

We are writing in response to the proposed legislative changes intended to amend the Births, Deaths and Marriages Registration Act.

Presently there is a concerted effort to allow transgender individuals to more readily alter the sex marker on their birth certificates. Women Speak Tasmania was formed in response to these campaigns to ensure the voices of biological females are represented.

Women Speak Tasmania is a network of women and their supporters based in Tasmania. We operate as a secular group and are not aligned with any political party or ideology. We share research and information on a broad range of women's rights issues. These include – female only spaces, services, groups and facilities; the sexualisation of girls and women; pornography/prostitution and the harms of the global sex trade; surrogacy as a violation of women's human rights; and ending male violence against girls and women.

We understand that sex-based oppression affects all women, and underlies all abuses of female rights. We support the right of women to speak freely about the inequities and discrimination they experience. We aim to give a

voice to girls and women in the pursuit of justice, peace and security. We support full autonomy and personal freedom for all women.

Below we highlight our concerns about the proposed amendments and encourage the Committee to seriously consider the impact of these changes on biological females.

We do not support the bill being passed in its present state. The term 'sex' as it currently stands in the Birth, Deaths and Marriages Registration Act reflects the important recognition of biological sex. The proposed amendments to include the words 'or gender identity' after all references to 'sex' gives equal weight to a person's 'gender identity' and their 'biological sex'.

We do not believe 'gender identity' should be conflated with a person's biological sex. A person's sex is an immutable and unchangeable part of their genetic make-up. If legal recognition of 'gender identity' as a legitimate alternative to biological sex is made possible, this will negatively impact on women's and girls' access to female-only space, facilities and services.

'Gender identity' is a confusing term, which is not adequately defined in the current law. 'Social identity' more accurately describes the incongruence with biological sex that characterises transgenderism. We maintain that 'sex' or specifically 'biological sex' should remain in the Act and we do not support the inclusion of the term 'gender identity'. As far as ensuring protections for transgender individuals, we suggest that other legislative changes be considered such as the inclusion of 'social identity' as a protected attribute in anti-discrimination law.

We do not support changes to sex markers on birth certificates. Birth certificates are historical records that serve a number of demographic functions and inform both government policy and legislation in a wide range of areas – they should not be altered on the basis of incongruence with 'gender identity'.

We propose, instead, a process of application for a social identity Recognition Certificate, to be issued after consideration by a dedicated, properly constituted Board.

Changes such as those proposed will effectively allow biological males to be declared legally female. This will erode the rights of women and girls to female-only spaces and services. If male-bodied persons are permitted to be legally recognised as female while remaining biologically male, women's sex-based rights will be negatively impacted.

Our concerns in relation to the alteration of birth certificates are shared by the Feminist Legal Clinic in New South Wales, which recently released a paper titled *Impacts of Transactivism on the Human Rights of Women and Girls*. They state -

'Enabling the alteration of birth certificates in any manner amounts to a changing of history - always something that should be carefully considered - but in the manner proposed it will have the consequence that individuals who were born men, and who now identify as female, with or without male genitals, will have the right to be accepted as women in all contexts and all respects. Aside from anything else, a loosening of requirements for the alteration of birth certificates makes it impossible to preserve women only spaces and protect women from abusive or criminal intentions. This open access to women's spaces has significant consequences in many contexts'.¹

As an alternative to the proposed amendments, we would support individuals who have adopted a social identity incongruent with their biological sex having the opportunity to apply for a Recognition Certificate. Intersex persons who have a social identity incongruent with the biological sex registered in their name at birth should have the same opportunity. A

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□ <https://feministlegal.files.wordpress.com/2018/10/impacts-of-transactivism-on-the-human-rights-of-women-and-girls.pdf>

Recognition Certificate should not be a substitute for a birth certificate, but an acknowledgment of social identity for those who require it.

Transgender activists often claim there is no impact on the safety of women and girls from transgender individuals accessing women's only spaces. However, international evidence increasingly highlights opportunism from male sex offenders to present as females in order to access women's only spaces, target women and children and gain access to victims.

One example of this was seen in Canada, where in 2016 a man named Christopher Hanbrook was arrested for sexually assaulting several women at two separate Toronto based women's shelters after he gained access to the facilities upon presenting to the services as 'Jessica'.²

We do not believe the proposed bill ensures the rights of biological females to access female-only spaces, services and facilities will be protected.

The risk remains that changes such as those proposed open the floodgates for the admission of female identifying biological males to sex segregated areas such as bathrooms, change rooms, hospital wards, refuges, women's health centres and women's prisons.

And, the implications of such changes go beyond access to female-only spaces. They could also diminish the efficacy of any protocols and policies put in place to address inequality of the sexes. They could negatively impact on sex quotas and the representation of female persons on boards, in organisations or in politics. They could also see female identifying biological males applying for female-only employment positions that have been approved as female-only through anti-discrimination exemptions. Further, we could see female scholarships and awards given to 'female identifying' biological males.

A clear example of this was seen in 2015 when Caitlyn Jenner was

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□ <https://www.dailywire.com/news/5190/5-times-transgender-men-abused-women-and-children-amanda-prestigiacomio>

presented with a prestigious Woman of the Year award. This prompted an angry response from a number of women, particularly when Rose McGowan posted a Facebook comment saying –

*‘Caitlyn Jenner you do not understand what being a woman is about at all. You want to be a woman and stand with us - well learn us. We are more than deciding what to wear. We are more than the stereotypes foisted upon us by people like you. You're a woman now? Well f...ing learn that we have had a VERY different experience than your life of male privilege’.*³

We also hold concerns about the wider implications of the proposed amendments, particularly in relation to the provision for sex based exemptions under s 42 of the Anti-discrimination Act. Are these provisions sufficiently robust to enable female-only organisations to reject biological males who are ‘legally’ female?

We encourage the committee to actively consult with women’s rights groups before passing legislation that could effectively prioritise the rights of transgender persons to the detriment of the human rights of female persons.

We look forward to hearing from you and assisting the committee in any way we can.

Kind regards

Women Speak Tasmania

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