

Submission on the Inquiry into Supplementary Order Paper 59 on the Births, Deaths, Marriages, and Relationships Registration Bill

To the Government Administration Committee
14th September 2021

This submission is from members of the Rainbow Support Collective:

InsideOUT Kōaro Gender Minorities Aotearoa
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Rainbow Support Collective is an alliance of organisations which primarily work to support the human rights, health, and well being of rainbow populations in Aotearoa. The collective comprises both national and regional organisations. All together, this collaboration represents organisations with over 450 rainbow community workers and regular volunteers.

We strongly support the proposed update to the BDMRR Act, as amended by Supplementary Order Paper 59, which will make it easier for transgender and intersex people in New Zealand to update the sex marker on their birth certificate through a self-identification process.

The current process through the Family Court is harmful, time-consuming, inaccessible and costly. The focus on medical transition in the current process is inappropriate. This Bill creates an opportunity to give trans, non-binary, takatāpui and intersex people basic human rights in regards to privacy and legal documents, in line with international human rights standards. We believe this Bill will help protect people from being outed and misgendered in settings such as school and work, which is currently a significant issue facing our communities. Our organisations collectively hear regularly from people across Aotearoa who are facing issues due to incorrect identification documents and we strongly believe this Bill provides an opportunity to address some of their struggles.

These are recommendations which we agree are important from across our diverse perspectives.

Recommendations

1. Applicants aged 15 or under should be able to change their name and sex marker on identifying documents with support of *either* their parent or legal guardian *or* a qualified third person's support. This change would help support young people with unsupportive or estranged guardians.
2. Applicants aged 16 or 17 should be able to change their name and amend the sex marker on their birth certificate without the need for any additional consent or support from a qualified third person, or a parent/guardian. This would bring the Bill in line with the age for consent, or refusal to consent, to medical treatment which is 16.
3. The Bill must provide avenues for all people in Aotearoa New Zealand to change their sex marker or have legal documentation that reflects their gender, whether born in Aotearoa New Zealand or overseas. The Bill should include an option for migrants that is a simple administrative process, similar to that being introduced for transgender or intersex people born in Aotearoa. These options should provide for both permanent residents born overseas, as well as people on a temporary visa (such as asylum seekers and Convention refugees). We support Rainbow Path's submission which has more detailed recommendations.
4. Intersex must be removed from the list of nominated sex markers in 22 B, (a) and (b) also the categories which can initially be listed on birth certificates. As stated in the Darlington Statement (of which the Intersex Trust Aotearoa New Zealand and other members of our collective are signatories): attempts to classify intersex people as a third sex do not respect diversity or right to self determination. These can inflict wide-ranging harm regardless of whether an intersex person identifies with the binary legal sex assigned to them at birth or not. As there will be amendments to the Regulations regarding including non-binary sex categories, the removal of sex as a required category on birth certificates as well as the possibility of multiple sex markers should also be considered.

5. The reference to 'birth mother' in the wording of section 11 (2) and 11 (3, c) and in other similar references be changed to 'birthing parent', to reflect that there are those who give birth who are neither women nor mothers. Section 20(2)(b), the phrase 'man who is the child's father' could be changed to 'the child's other parent, as determined by the below criteria' to also reflect more inclusive language.
6. The 18-month delay planned before the commencement of the Bill should be shortened as the Bill has already been delayed significantly. The extended delay is causing harm to our communities and we do not believe 18 months are required to make the changes around self-identification which will prevent further harm.
7. Implementation of the Bill should include provision of education and support for people going through the process of changing the sex marker on their birth certificate, with a particular focus on young people and their whānau. For example, clear and accessible information should be made available about the process for changing birth certificates and other official records. When a young person applies to change sex marker without their guardian's support, psychosocial support should be available to the young person and their whānau or guardian. This would recognise that supporting children and their whānau to build understanding and strengthen relationships is the priority, rather than increasing administrative barriers to legal gender recognition.
8. As part of implementing the Bill, trans, non-binary and intersex organisations should be engaged and resourced to participate in consultation on the development of additional sex marker options for birth certificates, any associated Regulations, and design of the 5-year statutory review of the Bill.

Thank you for the opportunity to submit on this Bill. Representatives of the Rainbow Support Collective would be delighted to answer questions or present to the committee on any of the issues discussed herein.

Nāku, nā
Rainbow Support Collective