

**LAW REFORM COMMISSION OF WESTERN AUSTRALIA — “PROJECT 108: FINAL REPORT”**

*Statement by Leader of the House*

**HON SUE ELLERY (South Metropolitan — Leader of the House)** [10.06 am]: I rise on behalf of the Attorney General to table the latest report of the Law Reform Commission of Western Australia, titled “Project 108: Final Report: Review of Western Australian legislation in relation to the registration or change of a person’s sex and/or gender and status relating to sex characteristics”.

On 16 January 2018, the Attorney General announced a referral to the commission to report on issues and inconsistencies in Western Australia’s current legal framework relating to the legal recognition of sex and gender. The terms of reference sought a review of the existing practices under the Gender Reassignment Act 2000 and the Births, Deaths and Marriages Registration Act 1998, as well as consideration of practices in other states and overseas. The commission published a discussion paper in August 2018 that prompted public debate, including over its proposal for a baby’s sex classification to be held by the Registrar of Births, Deaths and Marriages but not displayed on birth certificates.

The final report, received by the Attorney General last week, makes 17 recommendations. The government is yet to consider the full contents of the report, but will not be accepting recommendations 5 and 6, which are to remove and expressly prohibit the recording of sex or gender on birth certificates. However, there is a need for some reform in this area. The final report states that the High Court has held that not all human beings can be classified by sex as either male or female. Therefore, the state government is proposing that when the attending midwife or doctor at the birth is unable to identify the sex of the baby and the Registrar of Births, Deaths and Marriages is notified of this, it seems reasonable that the parents could also notify the registrar that their baby’s sex at that stage is indeterminate and for privacy reasons ask that the words “indeterminate sex” not be printed on the birth certificate. When the sex of a newborn baby is known, the sex should be identified on the birth certificate as per the current practice; that is, the child will be identified as male or female.

In accordance with section 11(7) of the Law Reform Commission Act 1972, and for the benefit of members, I table the final report, which will be presented to the other place in the new year. On behalf of the Attorney General, I thank the commission and acknowledge the significant amount of time and thought that has gone into this project.

[See paper 2311.]