

**BIRTHS, DEATHS AND MARRIAGES REGISTRATION AMENDMENT
(SEX OR GENDER CHANGES) BILL 2024**

Introduction and First Reading

Bill introduced, on motion by **Mr J.R. Quigley (Attorney General)**, and read a first time.

Explanatory memorandum presented by the Attorney General.

Second Reading

MR J.R. QUIGLEY (Butler — Attorney General) [12.21 pm]: I move —

That the bill be now read a second time.

The Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 will repeal the Gender Reassignment Act 2000, abolish the Gender Reassignment Board, amend the Births, Deaths and Marriages Registration Act 1998, and make consequential amendments to other acts, to create a new streamlined administrative process for sex and gender recognition in Western Australia. Western Australia and New South Wales are the only Australian jurisdictions that require applicants to have undergone medical or surgical reassignment in order to change the sex on their birth certificate. All other states and territories have reformed their processes regarding the registration of a person's sex or gender. Western Australia is also the only jurisdiction in which a board determines a person's application to change sex. In all other Australian jurisdictions, applications are administered by the Registrar of Births, Deaths and Marriages. Through this reform, the Cook Labor government upholds an important value—that everyone deserves the respect and dignity of being recognised as themselves, and to have their legal identity align with their lived identity. These reforms will mean that trans and gender-diverse members of our community will no longer be required to undergo medical or surgical reassignment if they want to change their gender on their birth certificate. Significantly, this bill will implement a commitment taken to the 2017 state election to abolish the Gender Reassignment Board and ensure that all trans and gender-diverse people have proper access to official identity documents that match their lived identities.

In January 2018, I asked the Law Reform Commission of Western Australia to report on issues and inconsistencies in WA's legal framework relating to the recognition of sex and gender. In the final report dated December 2018, the Law Reform Commission of Western Australia recommended abolishing the board and introducing a new administrative application process for people seeking to change their sex or gender on their birth certificate. Over 500 written submissions were received by the Law Reform Commission of Western Australia, the majority of which supported the abolition of the Gender Reassignment Board. Although many people had a positive experience with the board, others found the process difficult, archaic and onerous, and viewed the role of the board as unnecessary gatekeeping. I understand and accept that the current process is viewed as challenging and problematic to many. In December 2022, the government committed to repealing the Gender Reassignment Act 2000 and the Gender Reassignment Regulations 2001, abolishing the board and introducing a modern administrative process to change sex or gender to be implemented through the Registry of Births, Deaths and Marriages. I am delighted to deliver on this commitment through the introduction of the Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024.

The bill will strike a balanced approach between providing ease of access to those who wish to change their sex or gender on their birth certificate and ensuring appropriate safeguards and thresholds, particularly for children. With the abolishment of the Gender Reassignment Board, the reforms in the bill will be a significant leap forward for gender recognition in Western Australia and represent a key step towards a more respectful and inclusive approach to gender diversity in our state.

I will now take the house through the key reform features of the bill.

The bill will insert proposed part 5A into the Births, Deaths and Marriages Registration Act 1998. Division 2 of proposed part 5A will provide an administrative process to change a person's sex or gender in the registration of the person's birth. It is important to note that the reform will not change the existing procedures that relate to the registration of sex on a birth certificate when a child is born. Currently, a person's birth certificate displays information against the following fields—surname, given names, date of birth, place of birth and sex. The reforms will enable a person to apply to the Registrar of Births, Deaths and Marriages to change the registration of sex or gender on their birth certificate. Sex or gender classifications will be specified in the Births, Deaths and Marriages Registration Regulations 1999. This approach is similar to that in South Australia and the Northern Territory, where reforms were introduced in 2016 and 2018 respectively. The sex or gender classifications I intend to prescribe in the regulations will be male, female, non-binary and intersex/indeterminate. I reiterate that these descriptors will be available for a change to a person's sex or gender under the new regime introduced by the bill, and not available when a child is born.

The classifications proposed for WA are largely consistent with those available in South Australia and the Northern Territory. The commonwealth government has also offered non-binary, indeterminate and intersex options

on an Australian passport since 2011. Under the new process for WA, applications will be made directly to the Registry of Births, Deaths and Marriages by adults—that is, persons 18 years and over. The reforms will remove the requirement for surgical or medical reassignment and bring WA broadly into line with most Australian jurisdictions.

Under the new process, applications for a change in sex or gender must be supported by a statement by a doctor or psychologist certifying that the person has received appropriate clinical treatment regarding the person's sex or gender. The evidence requirements largely reflect those in place for applications for an Australian passport. Since 2011, a person has been able to apply for an Australian passport in their preferred gender by providing a statement from a registered medical practitioner or psychologist confirming the person's gender.

Applications for children will understandably involve a few more steps and appropriate safeguards. Applications for children aged 12 years and over must be made by both parents or guardians and must be accompanied by a statement from the child consenting to the change. In addition, the supporting statement from a doctor or psychologist must certify that the child has received appropriate clinical treatment in relation to the person's sex or gender and that the child understands the meaning and implications of the application.

When making an application for a child, each parent or guardian must believe the child's sex or gender to be the sex or gender specified in the application. For cases in which both parents or guardians do not support the change in sex or gender, or when the child is applying with no parental support, a pathway for applications will be provided through the Family Court of Western Australia. All applications for children under 12 years of age must be considered by the Family Court. The bill also contains provisions to expressly allow the CEO (Children and Community Services) to make an application when a protection order is in force in respect of a child. The provision will ensure that consideration is given to the role of the parents before an application is made.

People who were born outside of Australia will be able to access a formal document that acknowledges their sex or gender. Currently, recognition certificates issued by the Gender Reassignment Board are available to adults and children who have been resident in WA for at least 12 months. To ensure continued access to a formal recognition of sex or gender, division 3 of proposed part 5A of the bill provides for the Registrar of Births, Deaths and Marriages to issue a document acknowledging a person's sex or gender. The availability of an acknowledgement document is significant for people who live in Western Australia but are not able to amend their birth certificate in their country of birth.

To apply for an acknowledgement document, a person must have been born outside of Australia and have lived in WA for at least 12 consecutive months immediately prior to the application being made. The application process and evidence requirements for adults and children for an acknowledgement document will be the same as the process for a person born in WA applying to change their registration of sex or gender. This will include approval by the Family Court, under certain circumstances, for applications for an acknowledgement document for children. People born in other Australian states and territories will continue to have access to change of sex or gender processes in their birth state or territory.

Division 4 of proposed part 5A will provide restrictions on changes of registration of sex or gender and the issue of acknowledgement documents. The first type of restriction is based on frequency of change. A person will not be able to change their sex or gender in the registration of their birth or obtain an acknowledgement document more than once in a 12-month period or more than three times in their lifetime. Changes made before the person reached the age of 18 will not be counted for the purposes of these restrictions. These restrictions are consistent with the existing position for changes of name.

The second type of restriction relates to certain classes of offenders, such as prisoners and supervised offenders, who will be restricted from changing their sex or gender without first obtaining the approval of the relevant supervisory authority. Reportable offenders under the Community Protection (Offender Reporting) Act 2004 who change their sex or gender, or are issued with an acknowledgement document, will be required to report this change to the Commissioner of Police within seven days.

The bill provides for commencement on proclamation. This will allow time to draft the necessary subsidiary legislation and to develop and implement the supporting administrative arrangements across multiple agencies that will be required. Implementation of the reforms is a priority, and it is expected that the new processes will commence approximately six months after passage of the bill.

The Gender Reassignment Board has provided an important service to transgender Western Australians since 2001 and I thank the current and past president and members of the board for their contribution to the LGBTQIA+ community. However, it is clear that the more formal processes of the board are no longer appropriate and a more modern approach, as reflected in the bill, is now required.

In introducing this reform, the Cook Labor government acknowledges the tireless efforts of those individuals and organisations who have advocated for advancing equality for all, regardless of their sexual or gender identity. The government looks forward to engaging further with the LGBTQIA+ community in implementing the reform, to ensure it delivers on reducing barriers to accessing identity documents.

The bill strongly supports the government's recent commitment to WA's first LGBTQIA+ inclusion strategy, which will promote inclusiveness and wellbeing to ensure LGBTQIA+ people experience full social and economic participation and recognition. I acknowledge the presence in the chamber on this important day of the president of Rainbow Labor, Avery Wright, and Gabrielle Newman and Seren Moll. We welcome them to the chamber today to witness this historic occasion. They are all from Rainbow Labor LGBTQIA+.

With the reforms to gender recognition, I know many in the LGBTQIA+ community will be asking when the reforms to the state's Equal Opportunity Act will be introduced. Wideranging reforms to the existing discrimination protections in WA remain a priority for government, and a new Equal Opportunity Act is currently being drafted. The new Equal Opportunity Act will implement much broader protections for gender identity than are currently in place. I commend the Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 to the house.

Debate adjourned, on motion by **Mr R.S. Love (Leader of the Opposition)**.