

Why removing sex from birth certificates matters to gender diverse people

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Tasmania's lower house will consider a bill to remove sex from birth certificates, which would be a first for an Australian state or territory. Credit: Shutterstock

Next month, Tasmania's parliament [will consider](#) a bill that would remove sex from birth certificates. If it passes, it would be the first state in Australia to take such a step.

Under the proposed law, a baby's sex would still be recorded in the register of births and hospital records, enabling the state to track sex information for statistical purposes, but it would not appear on the child's [birth](#) certificate.

The argument behind the proposal is that people who do not identify with the sex of their birth – transgender, gender-diverse and intersex people – are forced to "out" themselves constantly throughout life when their birth certificate is requested. This can cause embarrassment, raise privacy concerns and potentially lead to discrimination.

The difference between sex and gender

Sex is a biological concept that relates to a

person's physical features and characteristics, including genitalia and other reproductive anatomy, chromosomes and hormones. These features don't always fit neatly within "male" and "female" categories. For instance, between [0.05% and 1.7%](#) of people are born intersex.

In contrast, gender is a social concept that describes the way a person self-identifies or expresses themselves. A person's gender identity may not always be exclusively male or female and may not always correspond with their sex assigned at birth.

The majority of Australian states and territories already permit birth certificates that record an individual's sex as something other than male or female. South Australia, the ACT, NSW and the Northern Territory all provide a range of gender-neutral options for recording a person's sex on their birth certificate, including non-binary, indeterminate, intersex, other and unknown.

In April, Queensland announced a [review](#) that would consider introducing similar measures.

Other countries, including New Zealand, India, Germany and Bangladesh, as well as recently [New York City](#), also permit gender-neutral and/or non-binary designations on birth certificates.

The proposal being debated in Tasmania goes a step further. While providing a gender-neutral option on birth certificates may improve the situation for non-binary and intersex Australians, there is growing interest in removing sex designations from birth certificates altogether.

A March 2018 [discussion paper](#) produced by the Law Reform Commission of Western Australia recommended doing this on the basis that: "it is preferable to avoid conflating information about a person's biological sex (recorded at birth) with information about a person's gender identity (which

cannot be known at birth and only becomes apparent at a later time when the child is able to form and articulate their own gender identity)."

Other jurisdictions around the world are now moving in this direction. The Canadian provinces of [Ontario](#) and [Saskatchewan](#), for instance, recently amended their laws to permit individuals to opt out of displaying a sex designation on their birth certificate.

Why remove sex from birth certificates?

For the transgender and intersex communities, removing sex from birth certificates just makes life less complicated.

Having a gender identity that does not match the sex designation on a birth certificate can create confusion and potentially expose people to discrimination when an identity document is requested, such as when they register at a school or university or apply for a passport. Birth certificates are also used to accumulate identity "points" for anything from applying for a credit card to commencing a job.

As Dr. David Cox, chairman of the Law Commission of Western Australia's recent [review](#), put it: "For the vast majority of the population it's not going to make one iota of difference ... it's not going to affect the fabric of government, it's not going to affect the fabric of society, it's not doing anything really, but it's going to make life a lot easier for a small group of people."

Removing sex from birth certificates would also eliminate the need for the parents of an intersex child to choose a sex for their baby to be publicly recorded.

This can be a highly difficult and emotional decision for parents and, in some instances, will not reflect the child's understanding of their gender later on. Leaving the birth certificate blank allows the child to make that decision once they have the knowledge and maturity to confirm their [gender identity](#).

In some states, such as Victoria and Tasmania, people can only change the sex on their birth

certificates if they undergo gender reassignment surgery. The decision to have this costly and invasive surgery should be based on one's health and emotional needs alone.

Would this impact society in any way?

Even though such a move wouldn't impact society at large, opposition to the proposed Tasmanian legislation has been extremely vocal.

The Australian Christian Lobby, for instance, said the proposed reforms "greatly diminish" the significance of birth certificates because they would erase "historical truths".

This suggests a fundamental misunderstanding of the purpose of birth certificates. As the Victorian Law Reform Commission recently [concluded](#), the primary purpose of a birth [certificate](#) is to provide verification of a person's *legal* identity, not to record biological details.

For example, birth certificates for people who were adopted or conceived via assisted reproduction reflect their legal parentage, not their genetic origins. It is birth and hospital records that provide an historical record of birth, along with adoption and donor conception registers.

Tasmanian Attorney-General Elise Archer also expressed her concern, [saying](#) such a move: "exposes the state to a range of potentially serious unintended consequences."

She didn't articulate what those "unintended consequences" might be.

Allowing transgender and intersex people to accurately state their legal identity and giving them control over their sensitive personal information will greatly improve their lives, without any impact on the broader population.

Like past decisions to remove race and parental occupations from birth certificates, eliminating sex is another step towards combating discrimination.

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