

(The Gender Centre advise that this article may not be current and as such certain content, including but not limited to persons, contact details and dates may not apply. Where legal authority or medical related matters are cited, responsibility lies with the reader to obtain the most current relevant legal authority and/or medical publication.)

Western Australia Gets Transgender Law

Gender Reassignment Bill 1997 (W.A.)

by Gayle Richards

Article appeared in Polare magazine: June 1997 Last Update: October 2013 Last Reviewed: September 2015



With the passage of the *Gender Reassignment Bill 1997 (W.A.)* through its second reading in the Legislative Assembly on 9th April (1997), Western Australia has joined with other states and territories having similar legislation, namely S.A. (1988), N.S.W. (1996), A.C.T. and N.T. Other countries which recognise transgendered persons at present include Germany, Greece, Italy and Holland. At least twenty-five jurisdictions in the U.S.A. and several Canadian provinces have similar laws.

The present State Government of Western Australia must be highly commended for this enlightened and progressive legislation, passed by a conservative government at a time when it was beset by far more pressing concerns.

It is estimated that there are at least 250 people in W.A. with gender dysphoria. About eighty have undergone gender reassignment procedures. The legislation has three main purposes.

- The establishment of a Gender Reassignment Board which will be able to issue a recognition certificate to those who have undergone gender reassignment procedures, whether in W.A. or elsewhere;
- To enable the Registrar General to register the gender of an individual as indicated on the recognition certificate and to issue a new birth certificate to accord with the altered register; and
- To protect from discrimination on the ground of gender history where a person has undergone reassignment procedures.

Since the legal status of married persons is governed by the *Marriage Act 1961* of the Commonwealth Parliament, and in respect of this, the state legislation cannot allow for a recognition certificate to be issued to a married person.

The Gender Reassignment Board

The Board will consist of a President appointed by the Governor and who will be, or have been a Judge of the Supreme Court, or the District Court or the Family Court of W.A. and recommended by the Chief Justice of W.A., or a legal practitioner admitted for at least eight years. The Governor may appoint not more than five additional persons to the Board, or whom one shall be a transgendered person and one a person experienced in equal opportunity matters.

Recognition Certificates

To qualify for a recognition certificate, an applicant must satisfy the Board that the applicant believes their reassigned gender is their true gender and has adopted the lifestyle and has the gender characteristics of the reassigned gender and has received proper counselling in respect of his or her gender-identity.

A certificate may be issued if the applicant has had the reassignment procedure carried out in W.A., or has been a resident of W.A. for at least twelve months.

A recognition certificate may be issued if one or more of the following criteria applies:

- The reassignment procedure was carried out in W.A.;
- The applicant was born in W.A.; or
- The applicant has resided in W.A. not less than twelve months.

A new birth certificate, which must not include any reference to the applicant's previous gender status, can be issued after registration

with the Registrar General.

Discrimination Prohibited

It is unlawful to discriminate against a person on the grounds of their gender history; by being required to comply with conditions not normally suited to the reassigned gender; in employment regarding promotion or dismissal; as a commission agent; as a contract worker; in a partnership; as a member of a professional or trade organisation or professional or trade qualifying bodies; with employment agencies; in education; in access to places and vehicles, goods, services and facilities; in accommodation; in real estate transactions; in clubs; in sporting activities; with application forms; and with superannuation and provident funds.

The present State Government of Western Australia must be highly commended for this enlightened and progressive legislation, passed by a conservative government at a time when it was beset by far more pressing concerns.

Polare Magazine is published quarterly in Australia by The Gender Centre Inc., which is funded by the Department of Family & Community Services under the S.A.A.P. program and supported by the N.S.W. Health Department through the AIDS and Infectious Diseases Branch. Polare provides a forum for discussion and debate on gender issues. Unsolicited contributions are welcome, the editor reserves the right to edit such contributions without notification. Any submission which appears in Polare may be published on our internet site. Opinions expressed in this publication do not necessarily reflect those of the Editor, The Gender Centre Inc., the Department of Family & Community Services or the N.S.W. Department of Health.

The Gender Centre is committed to developing and providing services and activities, which enhance the ability of people with gender issues to make informed choices. We offer a wide range of services to people with gender issues, their partners, family members and friends in New South Wales. We are an accommodation service and also act as an education, support, training and referral resource centre to other organisations and service providers. The Gender Centre is committed to educating the public and service providers about the needs of people with gender issues. We specifically aim to provide a high quality service, which acknowledges human rights and ensures respect and confidentiality.