



INQUIRY INTO THE SEX DISCRIMINATION AMENDMENT (SEXUAL ORIENTATION, GENDER IDENTITY AND INTERSEX STATUS) BILL 2013

26 April 2013

Senate Legal and Constitutional Affairs Committee
Julie Dennett
Committee Secretary
PO Box 6100
Parliament House
Canberra ACT 2600
Via email: LegCon.Sen@aph.gov.au

Dear Ms Dennett

Re: INQUIRY INTO THE SEX DISCRIMINATION AMENDMENT (SEXUAL ORIENTATION, GENDER IDENTITY AND INTERSEX STATUS) BILL 2013.

We thank you for the opportunity to make this submission to the inquiry re The Sex Discrimination Amendment (Sexual Orientation, Gender Identity And Intersex Status) Bill 2013. ("the bill").

TransGender Victoria, while not commenting directly on intersex, supports the submission of Organisation Intersex Internationale Australia. We wish to focus on areas of the draft relevant to our experience and our constituents.

Definition of Gender Identity

We strongly welcome the use of this definition and thank the committee for recommending it.

Repealing of man and woman

We acknowledge and support the explanatory notes in relation to this section.

Use of term "different" Sex

We welcome the use of the word different as distinct from "opposite" in this definition.

Addition of s 5B

We welcome the addition of this clause and amendments associated with its addition.

59 Subsection 42(1) Competitive Sporting Activity

We express our concern that this section is far too broad its application and needs to mention the need to look at every individual situation on their merits. We believe the proposed amended definition is stereotypical in relation to gender identity in that it:

- unnecessarily includes most trans men who are generally shorter and less muscular and unlikely to have any advantage;
- would unfairly hurt shorter and more petite trans women;
- unnecessarily implies taller and more muscular trans women have an advantage when after 1 ½ to 2 years on hormones their strength and stamina is no more than a cisgender woman;
- unnecessarily stereotypes sex and gender identity overall.

We therefore put forward a suggested amendment so the focus of this clause is on a case-by-case basis. Section 59 of the bill and therefore s42 (1) of the Sex Discrimination Act would therefore read as follows:

Nothing in Division 1 or 2 renders it unlawful to discriminate against an individual on the ground of sex, gender identity or intersex status by excluding an individual from participation in any competitive sporting activity in which the strength, stamina or physique of competitors is relevant.

Please contact me with any query.

Yours sincerely
SALLY GOLDNER

Spokesperson
On behalf of the committee

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