



HOUSE OF ASSEMBLY
SESSION OF 2018
(FIRST SESSION OF THE FORTY-NINTH PARLIAMENT)

VOTES AND PROCEEDINGS

No. 31

TUESDAY, 20 NOVEMBER 2018

- 1 The House met at Ten o'clock a.m.
- 2 **ACKNOWLEDGEMENT OF TRADITIONAL PEOPLE.** - The Speaker made a statement acknowledging the traditional people of the land.
- 3 **PRAYERS AND REFLECTION.** – The Speaker read Prayers.
- 4 **DISTINGUISHED VISITOR.** – The Speaker said “I would like to draw to the attention of Honourable Members to the presence in the Speaker’s Reserve of David Pisoni MP, Minister for Industry and Skills in the Parliament of South Australia.”
- 5 **QUESTIONS SEEKING INFORMATION.** – In accordance with Standing Order No. 43, Questions without notice were asked.
- 6 **PETITION.** – Ms *O'Connor* presented an E-Petition from approximately 131 citizens of Tasmania, requesting that the House resolve to call upon the Federal Minister for Transport to use Commonwealth powers to immediately ban the use of bunker fuels by cruise ships while they are docked in the Port of Hobart.

Which Petition was read and received.

- 7 **PAPERS.** – The Premier laid upon the Table of the House the following Papers:-
 - (1) Wellington Park Management Trust: Annual Report 2017-2018.
 - (2) Tasmanian Heritage Council: Annual Report 2017-2018.
- 8 **PAPERS.** – The Deputy Premier laid upon the Table of the House the following Paper:-

Heavy Vehicle (Mass, Dimension and Loading) National Amendment Regulation 2018.
- 9 **PAPERS.** – The Minister for Health laid upon the Table of the House the following Papers:-
 - (1) Police Powers (Assumed Identities) Act 2006: Assumed Identities Annual Report 2017-18.
 - (2) Mental Health Act 2013: Report to the Minister for Health on the Activities of Official Visitors Annual Report 2017-2018.
- 10 **PAPERS.** – The Treasurer laid upon the Table of the House the following Papers:-
 - (1) Tasmanian Audit Office - Annual Report 2017-18.
 - (2) Treasurer's Annual Financial Report 2017-18.
 - (3) Macquarie Point Development Corporation – Annual Report 2017-18.

11 PAPERS. – The Minister for Primary Industries & Water laid upon the Table of the House the following Paper:-

Response to Petition HA1/2018.

12 PAPERS. – The Minister for Human Services laid upon the Table of the House the following Papers:-

- (1) Commissioner for Children and Young People Tasmania: Annual Report 2017-18.
- (2) Housing Land Supply Act 2018:
 - (a) Housing Land Supply Order (Rokeby) 2018 Ministerial Report;
 - (b) Housing Land Supply Order (Devonport) 2018 Ministerial Report; and
 - (c) Housing Land Supply Order (West Moonah) 2018 Ministerial Report.

13 PAPERS. – The Minister for Building & Construction laid upon the Table of the House the following Papers:-

- (1) Property Agents Board: Annual Report 2017-2018.
- (2) WorkCover Tasmania: Annual Report 2017-18.

14 INTEGRITY, JOINT STANDING COMMITTEE ON: REPORT. – Mr *Hidding* brought up the following Report of the Joint Standing Committee on Integrity:-

A Code of Conduct for Members of the Parliament of Tasmania – Report No. 3 (Paper No. 17).

Ordered, That the said Report be received and printed. (Mr *Hidding*)

15 PAPERS. – The Clerk of the House laid upon the Table of the House the following Papers:-

- (1) Tasmanian Audit Office:
 - (a) Report of the Auditor-General No. 1 of 2018-19 – Use of Tasmanian Government Cards by Central Agency Executives and Executive Assistants; and
 - (b) Report of the Auditor-General No. 2 of 2018-19 – Administration of two grant programs by the Department of State Growth.
- (2) Legislative Council – Annual Report 2017-2018.
- (3) Office of the Governor of Tasmania – Annual Report 2017-2018.
- (4) House of Assembly: Annual Report 2017-2018.
- (5) Legislature General: Annual Report 2017-2018.
- (6) Parliamentary (Disclosure of Interests) Act 1998:
 - (a) Variation Return for the Honourable Member for Clark, Ms *Archer*; and
 - (b) Annual Return 2018-19 for the Honourable Member for Bass, Ms *Courtney*.

16 MESSAGE FROM HER EXCELLENCY THE GOVERNOR. – The Speaker read the following Message from Her Excellency the Governor:-

MESSAGE.

C. A. WARNER, *Governor*.

A Bill for an Act to amend the Electricity Supply Industry Act 1995 and the Electricity Supply Industry Amendment (Pricing) Act 2017 (Bill No. 13 (*Act No. 24 of 2018*))

A Bill for an Act to amend the Legal Profession Act 2007 (Bill No. 36 (*Act No. 25 of 2018*))

A Bill for an Act to amend the Water and Sewerage Corporation Act 2012 to enable the Crown to hold shares in, and have certain rights in relation to, the Corporation, and to amend the Water and Sewerage Industry Act 2008 in relation to pricing, and for related purposes (Bill No. 53 (*Act No. 23 of 2018*))

having been presented to the Governor for the Royal Assent, she has, in the name and on behalf of Her Majesty the Queen, assented to the said Bills.

Government House, Hobart, 16 November 2018.

17 BILL NO. 36. - A Message from the Legislative Council -

MADAM SPEAKER,

The Legislative Council has agreed, without Amendment, to a Bill, intituled - "A Bill for an Act to amend the Legal Profession Act 2007".

Legislative Council, 1 November 2018.

J. S. WILKINSON, *President*.

18 BILL NO. 13. - A Message from the Legislative Council -

MADAM SPEAKER,

The Legislative Council has agreed, without Amendment, to a Bill, intituled - "A Bill for an Act to amend the Electricity Supply Industry Act 1995 and the Electricity Supply Industry Amendment (Pricing) Act 2017".

Legislative Council, 1 November 2018.

J. S. WILKINSON, *President*.

19 BILL NO. 53. - A Message from the Legislative Council -

MADAM SPEAKER,

The Legislative Council has agreed, without Amendment, to a Bill, intituled - "A Bill for an Act to amend the Water and Sewerage Corporation Act 2012 to enable the Crown to hold shares in, and have certain rights in relation to, the Corporation, and to amend the Water and Sewerage Industry Act 2008 in relation to pricing, and for related purposes".

Legislative Council, 1 November 2018.

J. S. WILKINSON, *President*.

20 BILL NO. 32. - A Message from the Legislative Council. -

MADAM SPEAKER

The Legislative Council having this day agreed, with Amendments, to a Bill, intituled –

“A Bill for an Act to amend the Residential Tenancy Act 1997 and the Family Violence Act 2004”,

now returns the same to the House of Assembly, and requests its concurrence therein.

Legislative Council, 31 October 2018.

J. S. WILKINSON, President

Ordered, That the said Message be taken into consideration tomorrow. (The Minister for Health)

21 BILL NO. 56. – The Minister for Justice presented -

“A Bill for an Act to amend the Burial and Cremation Act 2002.”

And Ms *Archer* having presented the said Bill, the same was read the First time and made an Order of the Day for tomorrow.

22 BILL NO. 57. – The Minister for Energy presented -

“A Bill for an Act to amend the Energy Co-ordination and Planning Act 1995.”

And Mr *Barnett* having presented the said Bill, the same was read the First time and made an Order of the Day for tomorrow.

23 MATTER OF PUBLIC IMPORTANCE: CONFLICTS OF INTEREST - Mr *O’Byrne*, in accordance with Standing Orders, moved - That the House take note of the following matter:

Conflicts of Interest.

And the Question being proposed;

A Debate arose thereupon.

And the Question being put;

It was resolved in the Affirmative.

24 BILL NO. 47. - The Order of the Day being read for resuming the adjourned Debate on the Question proposed on Thursday, 18 October 2018 – That the Justice and Related Legislation (Marriage Amendments) Bill 2018 be now read the Second time;

And the Question being again proposed;

The House resumed the said adjourned Debate.

25 SUSPENSION OF SITTING. - At One o'clock the Speaker left the Chair.
At half-past Two o'clock the Speaker resumed the Chair.

26 BILL NO. 47. - And the Question being again proposed;

The House resumed the Debate.

And the Question being put;

Ordered, that the Bill be read the Second time.

And the Bill was, accordingly, read the Second time.

27 BILL NO. 47. – INSTRUCTION TO COMMITTEE – A Motion being made and the Question being proposed – That pursuant to Standing Order 279, the Committee of the whole House be instructed to consider provision for the necessary amendments to the Justice and Related Legislation (Marriage Amendments) Bill 2018 in respect of matters relating to gender (Ms *Haddad*).

A Debate arose thereupon.

And the Question being put;

The House divided.

AYES 11

Mr Bacon
Dr Broad
Ms Butler
Ms Dow
Mr O'Byrne
Ms O'Byrne
Ms O'Connor
Ms Standen
Ms White
Dr Woodruff
Ms Haddad (Teller)

NOES 11

Ms Archer
Mr Barnett
Ms Courtney
Mr Ferguson
Mr Gutwein
Mr Hodgman
Mr Jaensch
Mrs Petrusma
Mr Rockliff
Mr Shelton
Mr Hidding (Teller)

PAIRS

Ms Houston

Mr Brooks

SPEAKER GIVES CASTING VOTE. – The Speaker said: “The numbers being equal, I vote with the Ayes.”

It was resolved in the Affirmative.

28 BILL NO. 43. - The Order of the Day being read for resuming the adjourned Debate on the Question proposed on Wednesday, 17 October 2018 – That the Mental Health Amendment Bill 2018 be now read the Second time;

And the Question being again proposed;

The House resumed the said adjourned Debate.

29 SUSPENSION OF SITTING. – At twelve minutes past Three O’Clock the Speaker announced that she would resume the Chair at the ringing of the Bells.

At forty-four minutes past Four o’clock the Speaker resumed the Chair.

30 BILL NO. 43. - And the Question being again proposed;

Ordered, That the debate be adjourned until a later hour. (The Attorney-General)

31 SITTING TIMES. - *Ordered*, Pursuant to Sessional Order 18A that for this day's sitting the House not stand adjourned at Six o'clock and that the House continue to sit past Six o'clock. (The Minister for Health)

32 BILL NO. 47. - The Order of the Day being read for the Committal to a Committee of the whole House of the Justice and Related Legislation (Marriage Amendments) Bill 2018;

And the Speaker having left the Chair, the House resolved itself into the said Committee.

(In the Committee)

Clauses 1 to 8 agreed to.

New Clauses A, B and C brought up by Ms *Haddad* and read the First time as follows:

Clause A: Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

(a) Insert:

gender expression means any personal physical expression, appearance (whether by way of medical intervention or not), speech, mannerisms, behavioural patterns, names and personal references that manifest or express gender or gender identity

(b) Amend the definition of gender identity by;

- (i) inserting the words “including gender expression” after “an individual”; and
- (ii) omitting the words “includes transsexualism and transgenderism” and substituting “may include being transgender or transsexual”.

(c) Omit the definition of intersex

(d) Insert:

sex characteristics means a person’s physical, hormonal or genetic features relating to sex, including genitalia and other sexual and reproductive anatomy, chromosomes, genes, hormones, and secondary sex characteristics;

(e) In the definition of transgender after (b) add:

or

(c) identifies themselves as a member of another gender, and lives or seeks to live as a member of that gender;

(f) Repeal the definitions of;

transgenderism; and

transsexualism.

Clause B: Section 16 amended (Discrimination on ground of attribute)

Section 16 of the Principal Act (Anti-Discrimination Act 1998) is amended as follows:

by inserting in subsection (eb) “variations of sex characteristics” after “intersex”

Clause C: Section 19 amended (Inciting hatred)

Section 19 of the Principal Act is amended as follows:

Leaving out the full stop at the end of subsection (d) and substituting
; or

(e) the gender identity or intersex variations of sex characteristics of the person or any member of the group.

Question put – That the new Clauses A, B and C be read the Second time and made part of the Bill to follow Clause 8;

The Committee divided.

AYES 12

Dr Broad
Ms Butler
Ms Dow
Ms Haddad
Ms Hickey
Mr O'Byrne
Ms O'Byrne
Ms O'Connor
Ms Standen
Ms White
Dr Woodruff
Mr Bacon (Teller)

NOES 10

Ms Archer
Mr Barnett
Ms Courtney
Mr Ferguson
Mr Gutwein
Mr Hodgman
Mr Jaensch
Mrs Petrusma
Mr Rockliff
Mr Hidding (Teller)

PAIRS

Ms Houston

Mr Brooks

It was resolved in the Affirmative.

Clause 9 read.

Question put – That the Clause as read stand part of the Bill;

The Committee divided.

AYES 10

Ms Archer
Mr Barnett
Ms Courtney
Mr Ferguson
Mr Gutwein
Mr Hodgman
Mr Jaensch
Mrs Petrusma
Mr Rockliff
Mr Hidding (Teller)

NOES 12

Dr Broad
Ms Butler
Ms Dow
Ms Haddad
Ms Hickey
Mr O'Byrne
Ms O'Byrne
Ms O'Connor
Ms Standen
Ms White
Dr Woodruff
Mr Bacon (Teller)

PAIRS

Mr Brooks

Ms Houston

It passed in the Negative.

Clause 10 read and agreed to.

New Clause D brought up by Ms *O'Connor* and read the First time as follows:

Clause D: Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

(a) Insert:

gender means:

(a) the apparent sex of an infant specified by the parent; or

(b) the gender identity of the person as specified on a ***gender affirmation declaration***;

(b) Insert:

gender affirmation declaration means a statutory declaration in which the declarant affirms the declarant's gender identity.

(c) Definition of recognition certificate

Repeal the definition, substitute

recognition certificate means a certificate that –

(a) is issued under a law of another state or territory that recognises that a person may have changed sex or gender; and

(b) is issued in respect of a person who has changed sex or gender; and

(c) states the sex or gender of that person as so changed;

(d) Definition of sexual reassignment surgery, is repealed

(e) Insert:

sex characteristics means a person's physical, hormonal or genetic features relating to sex, including genitalia and other sexual and reproductive anatomy, chromosomes, genes, hormones, and secondary sexual characteristics.

Mr *Hidding* took the Chair.

Question put – That the new Clause D be read the Second time and made part of the Bill to follow Clause 10;

The Committee divided.

AYES 12

NOES 10

Mr *Bacon*
Dr *Broad*
Ms *Dow*
Ms *Haddad*
Ms *Hickey*
Mr *O'Byrne*
Ms *O'Byrne*
Ms *O'Connor*
Ms *Standen*
Ms *White*
Dr *Woodruff*
Ms *Butler* (Teller)

Ms *Archer*
Mr *Barnett*
Ms *Courtney*
Mr *Ferguson*
Mr *Gutwein*
Mr *Hodgman*
Mr *Jaensch*
Mrs *Petrusma*
Mr *Rockliff*
Mr *Shelton* (Teller)

PAIRS

Ms *Houston*

Mr *Brooks*

It was resolved in the Affirmative.

Clause 11 read and agreed to.

New Clauses E and F brought up by Ms *Haddad* and read a First time as follows:

Clause E: Section 11 amended (Notification of birth)

Subsection 11(3) new subclause inserted

After subsection (3)(a) of the Principal Act the following paragraph is inserted:

(aa) in the case of a live birth where variations of sex characteristics do not allow an easy assignment of gender, within 120 days of birth; or

Clause F: Section 15 amended (Obligation to have birth registered)

Subsection 15(1) amended

Section 15 of the Principal Act is amended as follows:

By omitting subsection (1) and substituting

- (1) A person responsible for having the birth of a child registered must ensure that a birth registration statement is lodged with the Registrar:
 - (a) within 60 days after the date of the birth; or
 - (b) in the case of a live birth where variations of sex characteristics do not allow for an easy assignment of gender, within 120 days of birth.

Penalty: Fine not exceeding 10 penalty units.

Question put – That the new Clauses E and F be read the Second time and be made a part of the Bill to follow Clause 11;

The Committee divided.

AYES 12

NOES 10

Mr Bacon

Ms Archer

Dr Broad

Mr Barnett

Ms Dow

Ms Courtney

Ms Haddad

Mr Ferguson

Ms Hickey

Mr Gutwein

Mr O'Byrne

Mr Hodgman

Ms O'Byrne

Mr Jaensch

Ms O'Connor

Mrs Petrusma

Ms Standen

Mr Rockliff

Ms White

Mr Shelton (Teller)

Dr Woodruff

Ms Butler (Teller)

PAIRS

Ms Houston

Mr Brooks

It was resolved in the Affirmative.

New Clause G was brought up by *Ms O'Connor* and read the First time as follows:

Clause G: Section 16 amended (Registration)

Subsection 16(3) inserted

After Subsection 16(2) of the Principal Act the following subsection is inserted:

(3) The Registrar may only collect information about sex or gender under section 50 of this Act, except as otherwise allowed under Part 4A.

Question put – That the new Clause G be read the Second time and made part of the Bill to follow Clause 11.

The Committee divided.

AYES 12

NOES 10

Mr Bacon
Dr Broad
Ms Dow
Ms Haddad
Ms Hickey
Mr O'Byrne
Ms O'Byrne
Ms O'Connor
Ms Standen
Ms White
Dr Woodruff
Ms Butler (Teller)

Ms Archer
Mr Barnett
Ms Courtney
Mr Ferguson
Mr Gutwein
Mr Hodgman
Mr Jaensch
Mrs Petrusma
Mr Rockliff
Mr Shelton (Teller)

PAIRS

Ms Houston

Mr Brooks

It was resolved in the Affirmative.

Clause 12 read.

Question put – That the clause as read stand part of the Bill;

The Committee divided.

AYES 10

NOES 12

Ms Archer
Mr Barnett
Ms Courtney
Mr Ferguson
Mr Gutwein
Mr Hodgman
Mr Jaensch
Mrs Petrusma
Mr Rockliff
Mr Shelton (Teller)

Mr Bacon
Dr Broad
Ms Dow
Ms Haddad
Ms Hickey
Mr O'Byrne
Ms O'Byrne
Ms O'Connor
Ms Standen
Ms White
Dr Woodruff
Ms Butler (Teller)

PAIRS

Mr Brooks

Ms Houston

It passed in the Negative.

New Clause H was brought up by *Ms Haddad* and read the First time as follows:

Clause H: Part 4 amended (change of name)

Part 4 of the Principal Act is amended as follows:

- (a) Section 23 of the Principal Act is amended by omitting “An adult person” and substituting “A person of 16 years or over”.
- (b) Section 24(1) of the Principal Act is amended by adding the words “under the age of 16 years” after “The parents of a child”.
- (c) Section 24(2) of the Principal Act is amended by adding the words “under subsection (1)” after “one parent”.
- (d) Section 24(3) of the Principal Act is amended by:
 - (i) adding “under subsection (1)” after “a proposed change of name for the child”;
 - (ii) omitting “if satisfied that the change is in the child’s best interest” and substituting “is satisfied that the change is consistent with the child’s will and preferences”.
- (e) Section 26 of the Principal Act is amended by adding after subsection (3):
 - (4) If a change of name is registered under this Part in any respect of any person, a birth certificate issued by the Registrar for the person is to show the person’s name as registered without any notation or indication that the person was previously registered as having another name unless a request is made under subsection (5).
 - (5) If requested by the person whose details are registered, the Registrar may issue an extract from the Register which shows the person’s name as registered with a notation that the person was previously registered as having another name.

Question put – That the new Clause H be read the Second time and made part of the Bill to follow Clause 12;

The Committee divided.

AYES 12

NOES 10

Mr Bacon
 Dr Broad
 Ms Dow
 Ms Haddad
 Ms Hickey
 Mr O’Byrne
 Ms O’Byrne
 Ms O’Connor
 Ms Standen
 Ms White
 Dr Woodruff
 Ms Butler (Teller)

Ms Archer
 Mr Barnett
 Ms Courtney
 Mr Ferguson
 Mr Gutwein
 Mr Hodgman
 Mr Jaensch
 Mrs Petrusma
 Mr Rockliff
 Mr Shelton (Teller)

PAIRS

Ms Houston

Mr Brooks

It was resolved in the Affirmative.

The Chair of Committees resumed the Chair.

New Clause I was brought up by Ms *O'Connor* and read the First time as follows:

Clause I: Part 4A replaced (Registration of change of gender)

Part 4A of the Principal Act is repealed and replaced with the following new Part 4A.

PART 4A – Inclusion of gender information, change or deletion of gender

28A. Inclusion of gender information

- (1) A person aged 16 years or more, on providing their gender affirmation declaration to the Registrar, may apply to the Registrar for inclusion of gender information under Section 50 of this Act.
- (2) The parents of a child aged under 16 years whose birth is registered in the State may apply to the Registrar, in a form approved by the Registrar, for inclusion of gender information under Section 50 of this Act.
- (3) An application for inclusion of gender information for a child under the age of 16 years may be made by one parent or guardian if –
 - (a) the applicant is the sole parent named in the registration of the child's birth under this Act or any other law; or
 - (b) the applicant is the sole guardian of the child; or
 - (c) there is no other surviving parent of the child; or
 - (d) a magistrate approves the proposed collection and retention of gender under subsection (4).
- (4) A magistrate may, on application by a parent of a child under 16 years, approve inclusion of gender information for the child if satisfied that the change is in accordance with the requirements under section 28B(a).

28B. Child's consent to the gender included

For the purposes of 28A, gender information of a person under the age of 16 years must not be included unless –

- (a) the gender to be included is consistent with the will and preferences of the person; or
- (b) the person is unable to understand the meaning and implications of the gender to be included.

28C. Application to register change or removal of sex or gender from the Register

- (1) A person aged 16 years or more whose birth is entered in the Register who has made a gender affirmation declaration and provided it to the Registrar may apply to the Registrar for a change of that person's registered sex or gender to record current gender, or removal of sex or gender information from the Register.

- (2) The parents of a person under 16 years whose birth is registered in the State may apply to the Registrar, in a form approved by the Registrar, for registration of a change of the person's sex or gender to record current gender or removal of sex or gender information from the Register.
- (3) An application for registration of a change or deletion of the sex or gender information of a person under 16 years may be made by one parent if –
 - (a) the applicant is the sole parent named in the registration of the person's birth under this Act or any other law; or
 - (b) the applicant is the sole guardian of the person; or
 - (c) there is no other surviving parent of the person; or
 - (d) a magistrate approves the proposed change of gender under subsection (4).
- (4) A magistrate may, on application by a parent of a person under 16 years, approve a proposed:
 - (a) change of registered sex to current gender; or
 - (b) change of registered gender; or
 - (c) removal of sex or gender information;

for the person if satisfied that the change is in accordance with the person's will and preferences.
- (5) For the purposes of subsection (4), the will and preferences of the person are to be ascertained by the Magistrate from the person's gender affirmation declaration or by the Magistrate asking the person.

28D. Application to be accompanied by documents

An application under section 28A or section 28C is to be accompanied by –

- (a) for a person aged 16 years or over, a gender affirmation declaration; or
- (b) from a parent or guardian for a person aged under 16 years:
 - (i) an application in a form approved by the Registrar; and
 - (ii) where the person is able to make a gender affirmation declaration, that gender affirmation declaration;
- (c) any other document or information that the Registrar reasonably requires, but the Registrar must not require any

form of medical certificates or other medical documentation relating to sex or gender.

28E. Registration of inclusion or change of gender information

- (1) On receipt of an application under section 28A or section 28C, the Registrar must –
 - (a) ensure gender information is collected under section 50; or
 - (b) register the change of registered sex or gender to the current gender by making an entry of the change in the Register; or
 - (c) refuse to register the change.
- (2) Should the Registrar refuse the application under paragraph (1)(c), the reason for refusal must be documented, and the decision may subsequently be –
 - (a) reconsidered by the Registrar; or
 - (b) reviewed by a magistrate under section 53;on receipt of a request for review from the applicant.
- (3) In determining whether or not to note the particulars of a change of gender, the Registrar may require the person or persons who signed the application to provide further particulars as the Registrar reasonably requires, other than those excluded under section 28D(c).

28F. Issue of birth certificate after change of gender

- (1) If the sex or gender information registered is changed under this Part in respect of any person, a birth certificate issued by the Registrar for the person is –
 - (a) not to show any sex or gender information; or
 - (b) at the request of the applicant, to show the person's gender as registered without any notation or indication that the person was previously registered as of another sex or gender unless a request is made under subsection (2).
- (2) If requested by the person whose details are registered, the Registrar may issue an extract from the Register which shows the person's gender as registered with a notation that the person was previously registered as of another sex or gender.

28G. Issue of birth certificate to those other than the person concerned or a person with parental authority

The child of a person for whom the sex or gender information registered has been changed under this Part, or a prescribed person, may apply to the Registrar, in a form approved by the Registrar clearly stating the reasons for

this request, for a birth certificate of the person that shows the person's sex or gender before the change of gender, and if –

- (a) the Registrar is satisfied that there is a valid reason for releasing private information; and
- (b) the Registrar is satisfied that the person is unable to consent to the disclosure due to death or incapacity; and
- (c) there are unlikely to be negative consequences to the person concerned; then –

the Registrar may issue the birth certificate to the child or prescribed person showing the person's sex or gender as previously registered with a notation that the person has been subsequently registered as of another gender.

28H. Effect of recording of change of gender

- (1) Where a person's change of gender is recorded under this Part, the person is, for the purposes of, but subject to, any law in force in this State, a person of the gender as so changed.
- (2) Any reference to a person's sex in any law in force in this State is deemed to be a reference to the person's gender as recorded under this Part.
- (3) A person's change of gender does not affect any relationship of that person arising by consanguinity or by operation of law.

28I. Recognition of certificates issued outside Tasmania

A person in respect of whom there is a recognition certificate is taken to be, for the purposes of, but subject to, any law in force in this State, a person of the sex or gender stated in the recognition certificate.

28J. Saving for rights of persons who have changed or deleted their sex or gender information

- (1) A person who is entitled as a beneficiary –
 - (a) under a will; or
 - (b) under a trust; or
 - (c) otherwise by operation of law –

does not, except as may be otherwise provided under the will, the trust or by the law conferring the entitlement, forfeit any right or entitlement by reason only of the fact that he or she is a person whose change of sex or gender information to record current gender is registered or recognised under this Part.

- (2) Subsection (1) does not operate so as to confer any right or entitlement that would not exist apart from that subsection.

28K. Historical records to be kept

- (1) Historical records of information changed or removed under this Part are to be maintained in a manner determined by the Registrar.
- (2) Subsection (1) notwithstanding, the Registrar is to ensure that, as far as is practicable, historical records referred to in subsection (1) are recorded and managed in a way that makes it clear that they are not to be taken to be relevant to an individual's identity.

Question put – That the new Clause I be read the Second time and made part of the Bill to follow Clause 12;

The Committee divided.

AYES 12

Mr Bacon
Dr Broad
Ms Dow
Ms Haddad
Ms Hickey
Mr O'Byrne
Ms O'Byrne
Ms O'Connor
Ms Standen
Ms White
Dr Woodruff
Ms Butler (Teller)

NOES 10

Ms Archer
Mr Barnett
Ms Courtney
Mr Ferguson
Mr Gutwein
Mr Hodgman
Mr Jaensch
Mrs Petrusma
Mr Rockliff
Mr Hidding (Teller)

PAIRS

Ms Houston

Mr Brooks

It was resolved in the Affirmative.

Clause 13 read.

Question put – That the Clause as read stand part of the Bill;

The Committee divided.

AYES 10

NOES 12

Ms Archer

Mr Bacon

Mr Barnett

Dr Broad

Ms Courtney

Ms Dow

Mr Ferguson

Ms Haddad

Mr Gutwein

Ms Hickey

Mr Hodgman

Mr O'Byrne

Mr Jaensch

Ms O'Connor

Mrs Petrusma

Ms Standen

Mr Rockliff

Ms White

Mr Hidding (Teller)

Dr Woodruff

Ms Butler (Teller)

PAIRS

Mr Brooks

Ms Houston

It passed in the Negative.

New Clause J brought up by *Ms Haddad* and read the First time as follows:

Clause J: Section 40 amended (the Register)

Section 40 of the Principal Act is amended as follows:

After subsection 40(1) insert:

- (1A) If required under Part 4A, sex or gender information may be included or changed or deleted on the Register, and may be included under section 50.

Question put – That new Clause J be read the Second time and made part of the Bill to follow Clause 13.

The Committee divided.

AYES 12

NOES 10

Mr *Bacon*
Dr *Broad*
Ms *Dow*
Ms *Haddad*
Ms *Hickey*
Mr *O'Byrne*
Ms *O'Byrne*
Ms *O'Connor*
Ms *Standen*
Ms *White*
Dr *Woodruff*
Ms *Butler* (Teller)

Ms *Archer*
Mr *Barnett*
Ms *Courtney*
Mr *Ferguson*
Mr *Gutwein*
Mr *Hodgman*
Mr *Jaensch*
Mrs *Petrusma*
Mr *Rockliff*
Mr *Hidding* (Teller)

PAIRS

Ms *Houston*

Mr *Brooks*

It was resolved in the Affirmative.

New Clause K was brought up by Ms *Haddad* and read the First time as follows:

Clause K: Section 46 amended (Issue of certificate)

Section 46 of the Principal Act is amended as follows:

After Section 46(1), insert

(1A) Information about sex or gender may only be included on any certificate if requested by:

- (a) a person 16 years or over, to whom the certificate relates, or
- (b) if the person is under 16 years, by a person referred to in section 28A(2) or section 28A(3) of this Act.

(1B) The gender included is to be:

- (a) the gender as determined under section 28A or section 28C of this Act; or
- (b) if requested, the sex or gender previously listed on the Register or collected under section 50.

Question put – That the new Clause K be read the Second time and made part of the Bill to follow Clause 13;

The Committee divided.

AYES 12

NOES 10

Mr Bacon

Ms Archer

Dr Broad

Mr Barnett

Ms Dow

Ms Courtney

Ms Haddad

Mr Ferguson

Ms Hickey

Mr Gutwein

Mr O'Byrne

Mr Hodgman

Ms O'Byrne

Mr Jaensch

Ms O'Connor

Mrs Petrusma

Ms Standen

Mr Rockliff

Ms White

Mr Hidding (Teller)

Dr Woodruff

Ms Butler (Teller)

PAIRS

Ms Houston

Mr Brooks

It was resolved in the Affirmative.

New Clause L was brought up by *Ms O'Connor* and read the First time as follows:

Clause L: Section 51 amended (Additional services)

Section 51 of the Principal Act is amended by inserting after subsection 51(1):

(1A) Despite anything contrary in the Act, the Registrar may provide information about the gender of a person as registered or collected under section 50:

- (a) in respect of a living person, to a person eligible to make an application under section 44, or
- (b) in respect of a deceased person born at least 100 years earlier.

Question put – That the new Clause L be read a Second time and made part of the Bill to follow Clause 13;

The Committee divided.

AYES 12

NOES 10

Mr Bacon

Ms Archer

Dr Broad

Mr Barnett

Ms Dow

Ms Courtney

Ms Haddad

Mr Ferguson

Ms Hickey

Mr Gutwein

Mr O'Byrne

Mr Hodgman

Ms O'Byrne

Mr Jaensch

Ms O'Connor

Mrs Petrusma

Ms Standen

Mr Rockliff

Ms White

Mr Hidding (Teller)

Dr Woodruff

Ms Butler (Teller)

PAIRS

Ms Houston

Mr Brooks

It was resolved in the Affirmative.

Clauses 14 to 24 read and agreed to.

Title agreed to.

Bill to be reported with Amendment.

The House being resumed, Mr *Shelton* reported that the Committee had gone through the Bill, and made Amendments thereto.

Ordered, That so much of the Standing Orders be suspended as prevents the Bill being now read the Third time. (The Attorney-General)

Ordered, That the Bill, as amended in Committee, be now taken into consideration.
And the Amendments were, accordingly, read and agreed to.

A Motion being made and the Question being proposed – that the Bill be read the Third time.

AYES 11

Mr *Bacon*
 Dr *Broad*
 Ms *Butler*
 Ms *Dow*
 Mr *O'Byrne*
 Ms *O'Byrne*
 Ms *O'Connor*
 Ms *Standen*
 Ms *White*
 Dr *Woodruff*
 Ms *Haddad* (Teller)

NOES 11

Ms *Archer*
 Mr *Barnett*
 Ms *Courtney*
 Mr *Ferguson*
 Mr *Gutwein*
 Mr *Hidding*
 Mr *Hodgman*
 Mr *Jaensch*
 Mrs *Petrusma*
 Mr *Rockliff*
 Mr *Shelton* (Teller)

PAIRS

Ms *Houston*

Mr *Brooks*

SPEAKER GIVES CASTING VOTE. – The Speaker said: “The numbers being equal, I vote with the Ayes.

Honourable Members, today I voted to allow the debate through the committee system on this important Bill in an attempt to seek consensus between the Members of this Parliament. I researched this subject thoroughly over several years; I have had conversations with those both for and against these amendments and I have listened to everyone who has spoken here today.

My votes today have all been on the above considerations and whilst I believe this Bill will not in any way affect the lives of more than 98 per cent of Tasmanians, it will significantly improve the lives of our transgender communities and their families who have suffered significant discrimination. Therefore, I have voted for this Bill to be considered further by the Legislative Council. This is democracy at work. I cast my vote in accordance with standing order 167 with the Ayes.”

Ordered, That the Bill be now read the Third time.

And the Bill was, accordingly, read the Third time.

33 BILL NO. 47. - A Message to the Legislative Council. -

MR PRESIDENT

The House of Assembly hath passed a Bill, intituled “A Bill for an Act to amend the Adoption Act 1988, the Anti-Discrimination Act 1998, the Births, Deaths and Marriages Registration Act 1999, the Civil Liability Act 2002, the Conveyancing and Law of Property Act 1884, the Criminal Code Act 1924 and the Status of Children Act 1974.”

to which the House desires the concurrence of the Legislative Council.

House of Assembly, 20 November 2018.

SUE HICKEY, *Speaker*.

The House adjourned at one minute past Nine o'clock.

SHANE DONNELLY, *Clerk of the House*.

MEMBERS. - All present during the day except Mr *Brooks* and Ms *Houston*.