

Submission to the Law Amendments Committee respecting: Bill No. 82; An Act to Amend Chapter 66 of the Revised Statutes, 1989, the Change of Name Act, and Chapter 494 of the Revised Statutes, 1989, the Vital Statistics Act

To the Law Amendments Committee:

I am writing in support of the proposed changes to the *Change of Name Act* and *The Vital Statistics Act* embodied by Bill No. 82.

The changes proposed by this legislation ease the change of gender marker and change of name requirements for binary-identified transgender NovaScotians and two-spirit indigenous Nova Scotians.

Respectfully, this does not include the entirety of the province's transgender, gender non-conforming and gender fluid populations. First, it is opaque to citizens reviewing the legislation how many and which gender categories are to be made available with these amendments. Does it simply enable a person to change from one binary designation, say, male to another, say, female? Or do the amendments acknowledge that gender identity and gender expression falls across a spectrum for which binary designations of "male" and "female" are insufficient descriptors? In other words, can one change their gender marker to a non-binary category?

This is a detail apparently left to regulation. The danger of this is that those charged with the responsibility for developing a new protocol are likely, themselves, to be both cisgender and binary in their gender identification. They may not even be aware that others experience their gender in different ways. In this respect, preservation of binary-only gender categories goes beyond a descriptor of the individual, and becomes a way of enforcing conformity in identification, in effect forcing an individual with a non-binary gender to accept an official gender designation that is incongruent with their identity and lived experience. I would respectfully suggest the purpose of the Vital Statistics Act is to provide accurate records of the demographic profiles of Nova Scotians; It is not to enforce normative standards. Until such time as the gender marker is deleted, any binary limitation of gender categories will deleteriously affect, and officially misrepresent, a portion of the population that is not cisgender.

Time does not permit a thorough explanation of concepts that may be unfamiliar to legislators, like non-binary gender identity. Suffice it to say, most cultures outside the west recognize the spectral nature of gender. The larger question is, why do we even have gender markers? They are hardly definitive of identity, especially in an era with biometrics available as well as a range of emerging technologies for confirming identity. Nova Scotia can hardly influence interprovincial vital statistics protocols with numbers, however we are in a position, as a province, to bring forward emerging perspectives that move these protocols to more inclusive positions. We certainly advocate that the Province, through interprovincial agreement and conference, promote the replacement of gender markers. Until such time as the markers disappear, their continued use will continue to misrepresent and exclude NovaScotians whose genders are not officially recognized.

An additional problem, fundamental to the gender marker, is the assumption set upon which it is predicated. It assumes, for example, that everyone has a gender, and that it stays the same unless they do something deliberate to change it. Where those assumptions come from is anyone's guess, because the simple, plain fact of the matter is those assumptions do not reflect the lived experience of gender.

The notion of official gender recognition is problematic. Gender is self-determined. Sex, determined by visual genital configuration, is declared at birth. To confuse this designation with gender unjustly portrays all, cisgender or trans. Under the proposed legislation, an individual seeking to alter the gender marker on their official provincial documents must provide a letter of corroboration from a licensed practitioner, and with the amendments proposed, including social workers.

This pathologizes those whose gender marker was originally designated in accurately. It says, in effect, we need an 'expert' to confirm this individual's designation of their own gender is accurate. Think about this for a moment. Do you require a medical corroboration of the demographic characteristics you use to describe yourself? Why would you impose that on others, if not to penalize them for having a different experience of gender than you, or the majority of people you are believed to represent. Self-determination through legal declaration should be sufficient for an individual to establish and declare their gender. The proposed legislation could be easily altered to enable this.

In linking gender change under Vital Statistics to the Change of Name Act, and lowering the age of independent name change to fifteen is a progressive step for which the government, in introducing this amendment, can be legitimately proud. Other provinces make it difficult for transgender youth to change gender markers. We applaud this initiative of the proposed Bill.

Many who reside in Nova Scotia were not born here. Studies like the Ivany Report state clearly the province's need to attract others who were born elsewhere. In making similar vital statistics and name change amendments, other provinces, like Manitoba, have successfully included those born outside provincial boundaries in new change of name and change of gender protocols. We recommend expansion of the amendments contained in the proposed Bill to give the same effect to Nova Scotian legislation – including as Nova Scotians not just those born in the province but those who have chosen to live here, pay taxes here, raise their families here, and contribute to the economy and society in the province through their presence and participation. It's time we stopped penalizing people for not being born here, don't you think?

In closing, I congratulate the government on introducing these important and needed amendments. We respectfully request that the Committee, and through it, all Legislators consider expanding the parameters of the amendments to fully accommodate all Nova Scotians, not simply those with a fixed and binary-aligned gender identity.

I regret I am unable to appear personally before the Committee however I am grateful for the opportunity to make written comment on these necessary, needed and positive amendments. I also appreciate being able to identify ways the amendments could be more effective, if their scope and parameters were slightly expanded and altered.

Respectfully submitted,
Laura Shepherd

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