

Good afternoon, my name is Kate Shewan, I am the Executive Director of the Youth Project, a not for profit organization dedicated to improving the lives of Lesbian, Gay, Bisexual and Transgender youth in Nova Scotia. I am also a transgender woman and an active member of the trans community in Nova Scotia.

I was formerly the Chair of the Nova Scotia Rainbow Action Project (NSRAP) and in this capacity, wrote to Minister Furey requesting changes to the Vital Statistics Act.

I had the privilege of discussing the need for change with representatives of the Department of Vital Statistics.

Thank you for the opportunity to speak on Bill 82 today.

Firstly I would like to commend the intent of the bill, which is to make it easier for people to change the gender markers on their birth certificate and other identity documents and specifically to remove requirements of surgery.

Currently in Nova Scotia, people whose gender identity is different from their sex assigned at birth are forced to carry identity documents that do not match their identified and lived gender. This creates great stress and the potential for embarrassment, harassment and possibly violence whenever a transgender person must present identification to a stranger. Despite growing public awareness and understanding, transphobia remains a serious problem for our community and the prospect of being "outed" by an "M" or "F" on a piece of identification puts transgender people at risk.

The Nova Scotia Human Rights Act prohibits discrimination based on gender identity. It is our belief that prohibiting the adjustment of an individual's documents to align with their identified gender is discriminatory. This is a position that is supported by rulings on similar legislation by the Human Rights Tribunal of Ontario and the Court of Queen's Bench of Alberta. These rulings have led other provinces to make changes in this area.

So I certainly support the intent of the legislation.

With regards to the specifics of the legislation, I have a number of comments:

Firstly: I am concerned with the proposed Section 25 (1) C of the Vital Statistics Act which requires that the registrar is provided with a written statement from a person who is a member of a prescribed profession that, in the person's opinion,

the sex shown on the applicant's birth registration does not correspond with the applicant's gender identity.

The people being included as prescribed professions are medical professionals and social workers. They are being asked to form an opinion on an applicant's gender identity. With all due respect, the person who knows their gender identity best is the applicant.

The World Professional Association for Transgender Health (WPATH) states: "Being Transsexual, Transgender, or Gender Nonconforming Is a Matter of Diversity, Not Pathology."

WPATH released a statement in May 2010 urging the de-psychopathologization of gender nonconformity worldwide. This statement noted that "the expression of gender characteristics, including identities, that are not stereotypically associated with one's assigned sex at birth is a common and culturally diverse human phenomenon [that] should not be judged as inherently pathological or negative." In 2013 the diagnostic manual used by US and Canadian psychologists removed Gender Identity disorder. Having a gender identity that is different than your sex assigned at birth is no longer considered a disorder.

Requiring a person to obtain a letter of confirmation from a medical professional or social worker continues to pathologize gender non-conforming people's identities and is contradictory with medical best practices.

It would be equivalent to asking a gay or lesbian person to obtain medical confirmation of their sexual orientation before permitting them to enter into a same sex marriage, when the fact they want to enter into a same sex marriage clearly shows that they are gay or lesbian. Similarly the fact that a person is applying for a change in sex designation clearly shows that they do not identify with their sex assigned at birth.

I would like to see the change in sex designation require only a statutory declaration by the individual, stating that the requested change better reflects the applicant's gender identity than the sex shown on the birth certificate.

You may be confused when I talk about gender identity not being a medical issue since I'm sure you are aware that many trans people seek medical intervention as part of their transition. The difference is that the medical intervention is a way of treating gender dysphoria (the distress caused by the discrepancy between gender identity and their sex assigned at birth with related physical

characteristics). It is assessing and treating the dysphoria, not the persons identity.

Secondly. The legislation provides no ability for a person born outside of Nova Scotia to change their documents. Similar legislation recently passed in Manitoba included the ability to issue a "Gender change certificate" for those born outside of that province. This could then be used to correct other documents such as a drivers licence which are issued based on residency. This would greatly help those Nova Scotian residents born in provinces or countries that do not allow changes of gender on birth certificates. I would ask that we include provisions similar to what was done in Manitoba.

Thirdly I wanted to mention that many gender non-conforming people would prefer to have gender markers removed from identification documents altogether. This would benefit many people, including those who identify outside the Male/Female binary. From discussions with the Vital Statistics Department, I understand that there are interprovincial and international agreements dictating the information required on some documents, so I understand why this option was not followed for this legislation. However it would be great to see a statement of intent to remove sex designations from i.d. documents, to show the political will to do so and ensure it is on the agenda when interprovincial agreements are discussed.

Finally, I would like to commend the sections of the legislation related to youth. Specifically the sections treating those 16 and older in the same way as adults, and allowing those 15 and younger to make changes with parental consent, along with the related changes around name changes. These are very important steps that will assist many younger trans people. Through the Youth Project I personally know a number of young trans people who are extremely excited that their needs were considered.

Thank you for your efforts to improve the lives of transgender and gender non-conforming people in Nova Scotia and thank you again for the opportunity to speak on these issues today.

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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