



# NSW and the Equality Bill

## What You Need to Know

An analysis of Alex Greenwich's Equality  
Legislation Amendment (LGBTIQA+) Bill 2023

# Executive Summary

The Equality Legislation Amendment (LGBTIQA+) Bill 2023 (the Bill) was introduced in Parliament by the MP for Sydney, Alex Greenwich, on 24 August. The Cognate Bill seeks to amend 22 existing Acts.

The Bill, if passed, will have serious consequences for women, gay and lesbian citizens, and children. It will have consequences for the accurate collection of data, making it impossible to track sex-based discrimination and inequality.

- The Bill erodes the **rights of women and girls to single-sex spaces, services and sports** by introducing sex self-ID – any male can be legally recognised as a female simply by getting a friend to sign a statutory declaration. This removes basic safeguarding and puts women and girls at risk from predatory men.
- It will allow **minors to transition** without the consent or knowledge of their parents/carers.
- The Bill **redefines sex and sexual orientation** in law and legalises the fiction that there are more than two sexes.
- It encourages the **sexual exploitation** of women and girls by promoting prostitution.
- It encourages the **reproductive exploitation** of women by removing barriers to commercial surrogacy.
- The Bill will restrict **freedom of expression** and association.
- It infringes on the **rights of government employees** in the courts, prison and police systems.
- The Bill has an impact on **government workplaces**.

The only elements of this Bill that can reasonably be supported are those that will end employment discrimination against gay, lesbian and bisexual people. We believe the current review of the Anti-Discrimination Act is the appropriate forum for these changes to be considered.

As a group of concerned feminists and LGB advocates, we urge MPs to vote against this Bill as the proposed changes pose an unacceptable risk to women and children. There has been no public consultation about these changes, and there is no mandate for them to be introduced.

# Erosion of Women's and Girls' Rights: The Impact of Sex Self-ID

**(Schedule 2: Amendment of Births Deaths and Marriages Registration Act 1995 No 62.)**

The proposed amendments simplify the process for individuals aged 16 and older to change their legal sex (not gender). They can submit an application to the registrar at Births, Deaths, and Marriages, accompanied by a statutory declaration from someone who has known them for at least 12 months, attesting to their intention to live in their newly affirmed sex.

It is physically impossible to change sex. But this amendment will let any male, regardless of appearance or medical changes, easily change legal sex, granting access to female spaces and services.

This removes safeguards for NSW women and girls:

- It will mean the end of single-sex spaces and services, including healthcare, domestic violence shelters, change rooms, awards, and scholarships.
- Vulnerable women prisoners will be forced to share space with violent males identifying as women.
- CALD and faith community women may avoid public places due to the presence of males.
- Elderly, disabled, and vulnerable women won't be able to request female healthcare workers or carers.
- Women will lose spots and earnings in sports to males.
- Female-only services may lose Government funding if they don't include men in their services.

The Bill allows 16- and 17-year-olds, who are not considered mature enough to drink, drive, vote, get married, or even get a tattoo, to legally change their sex with a form. This can lead to irreversible procedures with lifelong effects.

The Bill could make it illegal for NSW women to gather without men claiming to be female. We've seen this in other states:

- The Lesbian Action Group has been banned from hosting female-only events in Melbourne.
- A lesbian group in Tasmania was barred from excluding 'people with penises' by the Anti-Discrimination Commissioner.

This breaches Article 20 of the Universal Declaration of Human Rights: "Everyone has the right to freedom of peaceful assembly and association."

# Minors' can Transition without Parental Consent and Knowledge

**(Schedule 2: Amendment of Births Deaths and Marriages Registration Act 1995 No 62; Schedule 3: Amendment of Children and Young Persons (Care and Protection) Act 1998 No 157.)**

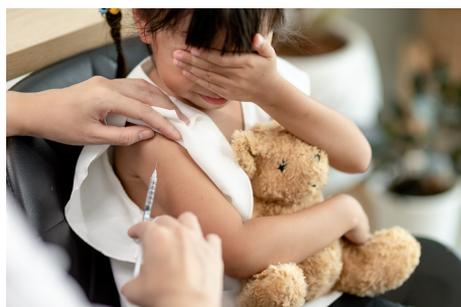
Under this Bill, children under 16 can apply to the NCAT (NSW Civil and Administrative Tribunal) to change their legal sex. The sole requirement is providing a statement from a person who has provided counselling to the child. It's unclear how a child can assess the counsellor's qualifications, and there's no mandate for the counsellor to be a registered child psychologist.

NCAT cannot notify parents/carers if the child believes this could 'adversely affect' them.

The proposed legislation also allows one parent to apply to NCAT to change the child's legal sex, even if the other parent or carer disagrees. The applicant's parent just needs to state that the child received counselling on the matter.

Given the emerging evidence about the dangers of puberty blockers and cross-sex hormones, there are serious concerns about legislation that removes safeguarding and allows children to make such serious decisions without proper medical or psychological supervision.

The Bill will also give children the right to decide on their own medical treatment. This will make it easier for minors to consent to be given puberty blockers or cross-sex hormones when their parents or carers are opposed to them receiving these treatments.



# Redefining Sex and Sexual Orientation

**(Schedule 1: Amendment to Anti-Discrimination Act 1977 No 48; Schedule 2: Amendment of Births Deaths and Marriages Registration Act 1995 No 62.)**

Sex, by definition, is binary – either male or female, including variations of sexual development (intersex) within these categories. However, the Equality Bill proposes significant changes:

- 1. Multiple Sex Descriptors:** The Bill amends various acts to legally recognise multiple sexes. It allows for any sex descriptor to be registered under the Births, Deaths and Marriages Registration Act. This has far-reaching implications for sex-segregated services and data collection.
- 2. Expanded Sex Descriptors:** Under the ADA, the Bill permits sex descriptors to include "male," "female," or "any other descriptor of sex" (except offensive terms). This allows people to legally register made-up sex descriptions and recognises "non-binary" as a legally recognised sex.
- 3. Change in Terminology:** The Bill alters terminology in various acts, changing references from 'opposite sex' to 'another sex.' For instance, "living as the opposite sex" becomes "living as another sex," implying the existence of more than two distinct sexes, which is factually incorrect.
- 4. Redefined Discrimination:** Part 4C of the ADA, previously about "Discrimination on the basis of homosexuality," is renamed "Discrimination on the basis of sexuality." It replaces the definition of "homosexual" with a broader one encompassing homosexual, bisexual, and asexual orientations. Notably, heterosexuality remains undefined in law and lacks protection from discrimination.

These proposed changes in the Bill have significant implications for legal definitions of sex, the provision of services, and anti-discrimination measures.

# The Bill encourages the Exploitation of Women

**(Schedule 18 Amendment of Summary Offences Act 1988 No 25; Schedule 1 Amendment of Anti-Discrimination Act 1977 No 48; Schedule 6 Amendment of Crimes Act 1900 No 40; Schedule 19 Amendment of Surrogacy Act 2010 No 102)**

The Bill amends current laws to make it easier for women to be coerced into sex work and to remove barriers to commercial surrogacy.

It amends the Summary Offences Act to remove all offences relating to prostitution. This includes the crime of living on the earnings of prostitution, causing or inducing prostitution, or coercing a sex worker to give up their earnings – in other words, pimping.

It is currently against the law for sex workers to solicit or work near or within view of homes, schools, churches or hospitals. These amendments would make it legal for sex workers to solicit for work near schools or in residential neighbourhoods and for sex work to be conducted near these places.

These changes would place NSW in breach of Article 6 of CEDAW:  
“Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.”

The Bill also proposes changes that will criminalise vilification against sex workers. The maximum penalty is three years imprisonment. Under these proposed changes, sex worker is the only occupation to be protected.

Sex work is a dangerous occupation for women, with long-term impacts on their mental and physical health. Many women are trafficked into the industry and suffer horrendous abuse and loss of freedom. This Bill seeks to normalise and indeed encourage sex work as a viable career choice for women while at the same time treating sex work as something to be protected under anti-discrimination law.

The Surrogacy Act 2010 prohibits commercial surrogacy in NSW. The Equality Bill will make it legal to engage in commercial surrogacy by removing a ban on commercial surrogacy arrangements outside of NSW and allowing courts to issue parentage orders to intending parents of children born from these arrangements.

Commercial surrogacy is an affront to the rights of children and encourages the exploitation of women’s bodies – most commonly low-income and disadvantaged women. The United Nations has warned that children risk becoming ‘commodities’ due to the growth in this unethical practice.

# Restrictions on Freedom of Expression

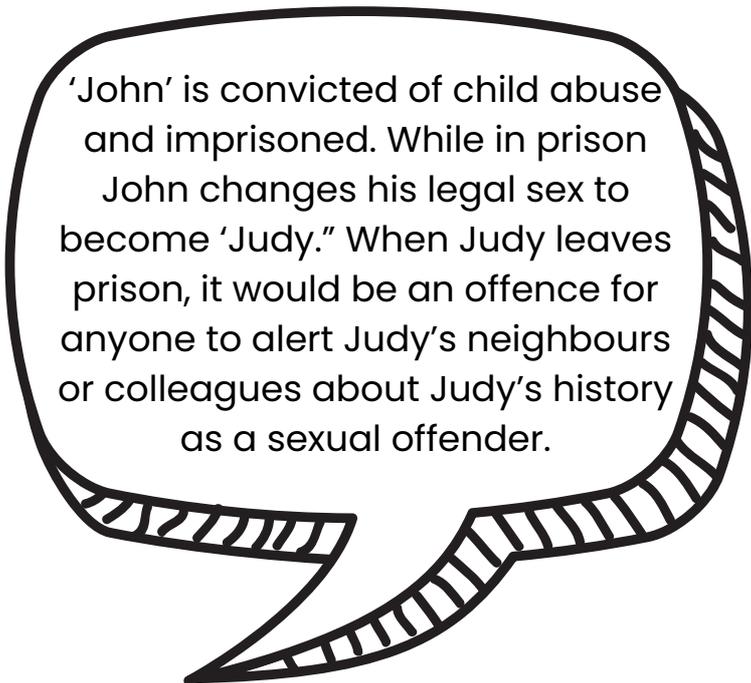
## (Schedule 8 Amendment of Crimes (Domestic and Personal Violence) Act 2007 No 80)

The Bill would criminalise 'outing' someone's sexual orientation or gender identity. This would apply to social media – making it a criminal offence to correctly refer to a male person as a 'man' or a female person as a 'woman'. It could criminalise a person whose partner has told them they are transgender and who wants to discuss this development with a trusted friend, relative or counsellor.

Apprehended Violence Orders would be made against anyone making public statements that 'outed' someone's gender history, leaving open the potential for anyone who refuses to call a male person a woman to have AVOs brought against them.

We are already seeing **women being targeted** for stating biological facts. For example:

- Feminist philosopher **Holly Lawford Smith** at Melbourne University has been harassed and defamed for her gender-critical beliefs to the point where she needs security while on campus.
- Jillian Spencer, a senior psychiatry specialist at Queensland Children's Hospital, was **stood down for raising concerns about puberty blockers**.



'John' is convicted of child abuse and imprisoned. While in prison John changes his legal sex to become 'Judy.' When Judy leaves prison, it would be an offence for anyone to alert Judy's neighbours or colleagues about Judy's history as a sexual offender.

# Infringing the rights of Government Workers

**(Schedule 5 Amendment of Court Security Act 2005 No 1; Schedule 7 Amendment of Crimes (Administration of Sentences) Act 1999 No 93; Schedule 9 Amendment of Crimes (Forensic Procedures) Act 2000 No 59)**

The Bill will amend a number of Acts to allow transgender and intersex people to select the sex of a person carrying out a body search while in the court or prison system or while in the custody of police.

The law currently states that all searches on prisoners must be conducted by a person of the same sex. This Bill will amend that provision to allow a person who says they are transgender to select the sex of the officer who strip-searches them. Female officers may be placed in uncomfortable or difficult workplace situations if males elect a strip search by a female officer.

The transgender person doesn't need to have altered their sex descriptor, or fulfil any other requirements. They can simply assert that they 'seek to live' as a member of the opposite sex and will then have the right to be treated as such.

## The Bill has an impact on Government Workplaces

**(Schedule 12 Amendment of Government Sector Employment Act 2013 No 40; Schedule 13 Amendment of Government Sector Employment (General) Rules 2014)**

The Bill proposes diversity targets and quotas for all NSW public sector agencies. There are already some targets in place in the NSW public service relating to women in leadership roles, Aboriginal and Torres Strait Islander employment, and employment of people with disability. There is no need for targets relating to the sexual orientation of employees and there is certainly no need for affirmative action policies for males who say they are females.

The Bill encourages government departments to provide leave for "gender-affirming care" – in other words, taxpayers would be paying for leave for men to receive breast implants. This leave is not available for any other form of cosmetic surgery.



# **FIND OUT MORE AND TAKE ACTION**



Write to your MP to let them know you oppose the Equality Bill. Tell them why it's a bad law.



Share your concerns on social media and use the hashtag **#thisisnotequality**

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**[www.af4wr.org](http://www.af4wr.org)**

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