



## Organisation Intersex International Australia Limited

Australian affiliate of the world's largest organization of intersex people.

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ACT Law Reform Advisory Council  
c/o ANU College of Law  
Australian National University  
ACT 0200

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Dear Sir/Madam

### **OII Australia's response to the publication of "Beyond the Binary" today.**

The Organisation Internationale des Intersexués (OII) is the world's largest intersex organization with members representing almost all known intersex variations. OII is represented in Australia by Organisation Intersex International Australia Limited, a not-for-profit company referred to as OII Australia. The mission of OII Australia is:

- To support intersex individuals by providing information and contact with other intersex people.
- Campaign in favour of human rights for intersex people.
- Encourage an exchange of ideas and different perspectives about intersex from various groups and geographical regions.
- Provide information concerning actual life experiences of people with intersex variations to medical personnel working with infants with atypical sex anatomy, to psychological experts, sexologists, sociologists and specialists in feminism.
- To assist families and friends of intersex individuals to understand intersex and to cope with the specific problems related to their role as a support person.

Most press attention on this publication has been on the removal of surgical requirements for people transitioning gender, which is something that we wholeheartedly welcome for our trans friends.

Sadly, we find it necessary to oppose the recommendations on sex and gender categories as they relate to intersex people. In particular, the following proposals:

In the Births, Deaths and Marriages Registration Act 1997 and Births, Deaths and Marriages Registration Regulation 1998:

9. to give legal recognition to sex and gender diverse people who are not defined by the female/male binary, wherever the BDMR Act and BDMR Regulation refer to two sexes, male and female, they should be amended to recognise three sex and gender identities: female, male and intersex.

[p33]...

11. the sex of a child when it is notified (s5 BDMR Act; s4(1) BDMR Regulation) should be any of female, male, intersex, to be advised, or indeterminate. [p35]

12. the option 'indeterminate' should be used only in circumstances anticipated by s9(2)(b) BDMR Act when it is not possible to determine the sex of a premature still-born child; it should not be used to when a child is or could be intersex, in which case one of the other four categories should be used. [p36]

15. to give legal recognition to intersex people, the available categories for the registration of a person's sex should be any of female, male, intersex and indeterminate. [p36]

...In the ACT public sector:

29. if, as recommended, the available categories for the registration of a person's sex under the BDMR Act are to be any of female, male, or intersex, then at least those three categories should be used in all ACT government activity. [p44]

30. when it is relevant for an ACT public authority to require a person to identify their sex – other than for notifying and registering a birth and for changing the birth record of their sex – the person should be asked their 'sex and gender identity', and should be given the option of identifying as any of: a) female b) male c) intersex d) none of the above. [p44]

The effect here is:

1. to give rise to a third sex,
2. to non-consensually allocate intersex children to that third sex from birth, and
3. to assign medical staff as gatekeepers for that third sex.

OII Australia rejects the notion of a third sex, and we vehemently oppose the creation of any category called 'intersex' to which we are automatically assigned. We have no idea how education and other services will deal with this, and we have no desire for intersex infants to be guinea pigs.

We believe there is an infinite combination of possibilities on the spectrum of sex and gender. We recommend the creation of as few categories and classifications as possible; ideally just one, not two, nor three.

Where this remain not possible, we propose that it is sufficient for infants, at birth, to be assigned as "not specified". This category should also be available on request to any adult who chooses it.

OII Australia is a community organisation that relies on voluntary time, with no public funding. While we endeavour to make submissions to governments on issues of concern to us, we were unable to do so in the case of the ACT enquiry.

Yours faithfully

Gina Wilson, President, OII Australia