



An Bille um Inscne a Aithint, 2013
Gender Recognition Bill 2013

Mar a tionscnaíodh

As initiated



**AN BILLE UM INSCNE A AITHINT, 2013
GENDER RECOGNITION BILL 2013**

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AN BILLE UM INSCNE A AITHINT, 2013
GENDER RECOGNITION BILL 2013

Bill

entitled

An Act to provide for recognition of a person's preferred gender identity; and to provide for related matters. 5

Be it enacted by the Oireachtas as follows:

Short title and commencement

1. This Act may be cited as the Gender Recognition Act 2013.

Interpretation

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2. In this Act—

“gender identity” refers to each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms. 15

Gender Recognition

3. All persons shall have the right to:

- (a) the recognition of their gender identity;
- (b) the free development of their person according to their gender identity; 20
- (c) have their recorded sex amended, along with changes in name or names and image, in accordance with their own self-perceived gender identity.

Effects of Act

4. All persons requesting that their recorded sex be amended and their name or names and images changed invoking the current law must: 25

- (a) prove that they have reached the minimum age of 18 years old, except when in accordance with *section 13*;
- (b) submit to the Office of the Registrar General a request to amend the sex recorded

on their birth certificate in the records;

- (c) provide the new name or names with which they wish to be registered as, if applicable.

Non-Requirements Clause

- 5. Persons shall not be required to provide evidence that any surgical procedure for total or partial genital reassignment, hormonal therapies, or any other psychological or medical treatment has taken place in order to have their recorded sex amended. 5

Persons under 18 years of age

- 6. (1) Persons who are younger than 18 years old, who wish to have their gender amended under *section 4* shall be required to make requests under *section 4* through their legal representatives or *Guardian ad Litem* to the District Court, with explicit agreement by the minor. 10
- (2) The District Court when considering an application by a person under 18 under *section 4* of this Act shall be required to take into account the evolving capacities, best interests and welfare of the person as outlined in the UN Convention on the Rights of the Child and the rights of the child as set out in Article 42A.1 of Bunreacht na hÉireann. 15
- (3) When the consent of a minor's legal representatives is denied or impossible to be obtained, the District Court shall have the capacity to determine the request in the absence of consent of the minor's parent or parents or guardian or guardians taking into account the evolving capacities, best interests and welfare of the person as outlined in the UN Convention on the Rights of the Child and the rights of the child as set out in Article 42A.1 of Bunreacht na hÉireann. 20

Birth Certificates

- 7. Once a request has been made under *section 4*, the Office of the Registrar General shall, without any additional legal or administrative procedure, issue a new birth certificate incorporating the requested change reflecting the amended sex and the new name or names as recorded, if applicable. 25

Prohibitions

- 8. It shall be prohibited to refer to the current law in the amended birth certificate or any new identity documents issued on foot thereof. 30

Legal obligations

- 9. A change in the recorded sex of a person shall not change the legal entitlements, rights, and legal obligations that were afforded to persons before the recording of the amendments, nor those derived from relationships established under family law, including adoption and marital rights. 35

Further modification

10. Once an amendment is made under *section 4* it may only be modified once again with the consent of the District Court.

Access to original birth certificate

11. (1) Only those persons authorised by the document holder, or provided with written consent, or consent of the District Court, may access an original birth certificate once it has been amended under *section 4* of this Act. 5
- (2) Persons shall be precluded from publishing details of an amendment of recorded sex and name or names save where the explicit consent of the document holder has been given. 10

Provision of information to the National Vetting Bureau

12. The Office of the Registrar General shall provide information about the change of the birth certificate to the National Vetting Bureau and other bodies as determined by the Minister for Social Protection.

Medical age of consent

13. (1) Where a person under 18 is seeking access to total and partial surgical interventions and/or comprehensive hormonal treatments to adjust their bodies, including their genitalia, to their self-perceived gender identity, the normal age of medical consent of 16 shall apply having regard to the rights of children under Article 42A.1 in Bunreacht na hÉireann. 15 20
- (2) Where a person seeking under 16 is seeking access to total and partial surgical interventions and/or comprehensive hormonal treatments to adjust their bodies, including their genitalia, to their self-perceived gender identity and their applications for such request for such interventions or treatment has been refused, they may make an application to the District Court for consent to requested treatment. 25

Applications to the District Court by persons under 16

14. Where a person under 16 makes an application to the District Court under *section 13(2)* the Court shall be required to:
- (a) take into account the evolving capacities, best interests and welfare of the person as outlined in the UN Convention on the Rights of the Child and the rights of the child as set out in Article 42A.1 of Bunreacht na hÉireann; 30
- (b) deliver a decision on the application within 60 days from the date on which the application was made.

Prohibition on limiting the right to gender identity

15. (1) Subject to the provisions of this Act, all laws and regulations adopted shall respect the person's right to their gender identity as well as ensuring that there is no limitation, restriction, exclusion or annulment of the exercise of the right to gender identity. 35

- (2) Where necessary and practicable, the State shall facilitate re-entry visas for non-EU nationals who travel abroad for medical treatments or surgical interventions etc.

Offence of disclosing protection information

16. (1) It shall be an offence for a person who has acquired protected information in an official capacity to disclose the information to any other person. 5
- (2) Protected information” means information which relates to a person who has had their recorded sex changed, or made an application to have it changed to the Office of the Registrar General or to the District Court under *section 6* and concerns either that application or the information changed or concerns the person’s previous recorded sex. 10
- (3) A person acquires protected information in an official capacity if the person acquires it—
- (a) in connection with the person’s functions as a member of the civil service, a member of An Garda Síochána or the holder of any other public office or in connection with the functions of a local authority, or statutory body, or of a voluntary organisation, 15
 - (b) as an employer, or prospective employer, of the person to whom the information relates or as a person employed by such an employer or prospective employer, or
 - (c) in the course of, or otherwise in connection with, the conduct of business or the supply of professional services. 20
- (4) It shall not be an offence under this section to disclose protected information relating to a person if—
- (a) the information does not enable that person to be identified,
 - (b) that person has agreed to the disclosure of the information,
 - (c) the information is protected information by virtue of *subsection (2)* and the person by whom the disclosure is made does not know or believe that a full gender recognition certificate has been issued, 25
 - (d) the disclosure is in accordance with an order of a court,
 - (e) the disclosure is for the purpose of instituting, or otherwise for the purposes of, proceedings before a court, 30
 - (f) the disclosure is for the purpose of preventing or investigating crime, or to the National Vetting Bureau,
 - (g) the disclosure is made to the Registrar General,
 - (h) the disclosure is made for the purposes of the operation of payments administered by the Department of Social Protection, 35
 - (i) the disclosure is in accordance with provision made by an order under *subsection (5)*, or
 - (j) the disclosure is in accordance with any provision of, or made by virtue of, an enactment other than this section.

- (5) The Minister for Justice and Equality may by order make provision prescribing circumstances in which the disclosure of protected information would not constitute an offence under this section.
- (6) An order under *subsection (5)* may make provisions permitting—
- (a) disclosure to specified person or persons of a specified description, 5
 - (b) disclosure for specified purposes,
 - (c) disclosure of specified descriptions of information, or
 - (d) disclosure by specified person or persons of a specified description.
- (7) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding €6,000. 10

An Bille um Inscne a Aithint, 2013

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do dhéanamh socrú maidir le haitheantas dlí a thabhairt do rogha féiniúlachta inscne daoine a iarrann an céanna agus chun a chinntiú go mbeidh meas ar chearta agus ar dhínt na ndaoine sin.

*An Teachta Aengus Ó Snodaigh a thug isteach,
22 Bealtaine, 2013*

Gender Recognition Bill 2013

BILL

(as initiated)

entitled

An Act to provide for the legal recognition of the preferred gender identity of persons so seeking and to ensure respect for the rights and dignity of such persons.

*Introduced by Deputy Aengus Ó Snodaigh,
22nd May, 2013*

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