

Statement on the draft law of the Federal Ministry of Justice and Consumer Protection and the Federal Ministry of the Interior, for Building and Home Affairs on the new regulation of the change of the sex/gender entry

Generally speaking, it is an unreasonable demand to ask the interest groups for a statement within 48 hours, some of which, like us, have to carry out this work as volunteers, without being paid and next to our daily job obligations!

We reserve the right to supplement, edit and amend this text, which was produced under extreme time pressure.

It is to be **welcomed** in the bill that

- with the adoption of the disclosure prohibition from the former TSG now an equal protection is made possible for intersex people;
- the terminology of "variants of sexual development" has been changed to "congenital variations of physical sex characteristics", which is the preferred terminology by intersex associations, and not used in a medical context. It is used alongside the term "intersex" in the draft law. This introduces a depathologizing concept that was developed in the international human rights-based intersex movement. This term includes, free of a medical-diagnostic definition, also intersex bodies, which do not fall under the "disorder"-terminology of medicine. From our point of view, this opens the access to changes of the sex/gender entry for people who are born with variations of sex characteristics for which no diagnosis exists.

points of criticism

Change instead of choosing the sex/gender entry

Once again, the bill focuses on "changing the sex/gender entry" rather than generally opening up a self-determined "choice of sex/gender entry" (including leaving the sex/gender entry open) for all people, whether they are intersex, trans* or otherwise identified. Due to this construction, unnecessary procedural hurdles are created, which cause corresponding costs.

Unequal treatment of intersex and trans* people

For trans* and intersex people, different hurdles for a change of the sex/gender entry, including with regards to the associated first name change are created in each case. What justifies this unequal treatment? There is nothing in the explanatory memorandum, but it becomes indirectly clear that, on the one hand, trans* persons are forced to undergo counselling and are denied the right to decide for themselves on their sex/gender entry. There it is stated that Trans* "should be protected against false or hasty steps and the valid determination of the permanent and serious wish of the persons concerned in their concrete form after a change of their sex/gender entry should be guaranteed" ("Begründung", B. Besonderer Teil, p. 23 f.) It also states that the counselling solution according to § 19 BGB should serve the "protection against possible abuse".

Intersex persons, on the other hand, a change of the first name is only possible if there is a simultaneous change of civil status, a clear disadvantage compared to the regulation for trans*people. (§ 18 Abs. 2 BGB).

This unequal treatment of Inter* and Trans* is not comprehensible.

"Self-determination and respect for and protection of human dignity" (2. Sustainability aspects p. 18)

There can hardly be evidence of self-determination in the case of the continuous demand for the presentation of a medical certificate or alternatively an affidavit, let alone the obligation for trans* persons to be advised by probably the same authorities as it was the case with the TSG.

Although advice is not mandatory for Inter*, we ask ourselves which counsellors should advise intersex persons and, in the case of minors, their legal guardians? Since the contents of the counselling are already fixed and defined according to the justification for §3 (contents of the counselling) instead of being open-ended, we ask ourselves whether doctors from the "DSD area" are meant here, since medical counselling is explicitly required? Where do those inter* and their relatives find advice who do not want medical advice because it can be retraumatising? Is psychosocial counselling necessary? We ask for clarification as to which counsellors are qualified and under which conditions!

How are the counselling structures of inter* and trans* included, which have developed over decades of voluntary community-based and partly qualified peer counselling?

Legal relationship of the registered person to their or to adopted children (§20 BGB Abs 2)

Once again, § 20 BGB Abs 2 stipulates by law that the "legal relationship" to the child does not change for both inter* and trans* after a change in the sex/gender entry, whereby, for example, a male (or other non-male) person who has born a child after a change in the sex/gender entry continues to be officially registered as the "mother of the child". It is true that the explanatory memorandum to the Act indicates that this maladministration should be remedied in the planned reform of the law on parentage. But the unclear wording suggests that the political will for this does not exist uniformly in the government. Thus the question arises as to why Paragraph 2 § 20 of the German Civil Code was inserted at all and the fear is that the previous intolerable situation will be cemented.

No assumption of costs for consultations according to § 1 GIBG by consultants* who do not work in an advisory centre approved according to § 5 GIBG

Since the explanatory memorandum to the Act (p. 30) does not provide for any assumption of costs for consultants under §2 GIBG Para. 3, the peer consultants who are already active in the field and who do not meet the qualification hurdles under §2 GIBG through appropriate vocational training will probably be used less frequently than before for the consulting claim formulated in §1 GIBG (also for intersex people) and will therefore be placed in a worse position than before. This is a massive attack on the advisory structures that have been built up over many years of laborious work and on the competence of peer counsellors.

Qualification hurdles for counsellors for trans* people who want to have their gender entry changed (compulsory counselling & entitlement to counselling)

It is to be expected that a large proportion of the peer counselling centres' existing counsellors will not be able to be called upon to provide counselling in accordance with § 4 GIBG due to the qualification requirements formulated in § 2 GIBG Para. 2, according to which the existence of a "medical, psychological or psychotherapeutic professional qualification" is required. This threatens the counselling structures of peer counsellors which have been built up over many years of painstaking work and disregards their competence.

Clarification required

Submission of a "medical certificate of medical treatment received" for the change in the sex/gender status of intersex persons

The conditions for a change of the sex/gender entry specified for Inter* in the draft of § 18 of the German Civil Code (BGB) in paragraph 4 must be clarified in the explanatory memorandum with regard to the "medical certificate of a medical treatment carried out" cited there, that a) the medical treatment according to § 27 SGB V paragraph 1 also includes diagnostic examinations, b) the medical treatment according to § 27 SGB V paragraph 1 sentence 1 also includes psychotherapeutic treatment and c) this treatment and thus the certificate can also be from a long time ago.

Legal uncertainty with an affidavit

With regard to the alternative affidavit to the best of one's knowledge and belief, it must be stated in the statement of reasons that persons concerned may not be held liable for their possibly erroneous knowledge.

§Section 47 PStG - Correction of the gender entry

With the introduction of the new draft law according to §47 PStG - Correction after completion of notarisation, is there still the possibility of correcting a false sex/gender entry (after submission of medical documents)?

We keep demanding:

- **Abolish any sex/gender entry at birth or the sex/gender registration completely!**
- **Only self-determined sex registration!**
- **Compensation for past human rights violations!**
- **Prohibition of unconsented or not completely informed sex-modifying cosmetic medical interventions, especially on children!**
- **Our sex/gender belongs to us - for the acceptance and equality of all sexes/genders!**