

Queer Ontario's Addendum to ServiceOntario's Consultation Document on the Revised Criteria for a Change of Sex Designation on a Birth Registration

– August 22, 2012 –

1. With regard to the practice of designating a sex at birth

(1) We ask that the government realize that the current practice of designating individuals “Male” or “Female” at birth, based on the presence of a penis or a vulva, is a significant categorical problem because it does not account for the individuals who are born intersex. That is:

- (a) individuals born with genitalia that are not easily distinguishable as "penises" or "vulvas"; and
- (b) individuals born with genitalia categorizable as “penises” or “vulvas”, but whose internal or chromosomal composition is not clearly distinguishable as conventionally "male" or female”. This includes, for example, individuals born with genitals categorizable as a “penis” but who have ovaries instead of testes; as well as individuals born with XXY chromosomes instead of the more common "male" (XY) and "female" (XX) chromosomes.

(2) We ask that the government realize that the current practice of designating individuals “Male” or “Female” at birth, based on the presence of a penis or a vulva, is a significant categorical problem because it does a tremendous disservice to those who identify as a sex that is not the one that was presumptuously and genital-centrally assigned to them at birth. This includes:

- (a) individuals designated "Female" at birth, but who actually identify as Male.
- (b) individuals designated "Male" at birth, but who actually identify as Female.
- (c) individuals designated either "Male" or "Female" at birth, but who identify as neither sex; and
- (d) individuals designated either "Male" or "Female" at birth, but who identify as a combination of both sexes.

2. With regard to the gender expectations that follow a sex designation

(1) We ask that the government realize that, socially, and erroneously, an individual's "sex" (that is: their medical designation as "male" or "female" at birth, based on the morphology of their genitals) is often expected to determine their sex identity (presumably, their sense of being *either* “male” or “female”), their gender identity (presumably, their identification as *either* a boy/man or a girl/woman), their gender expression (presumably, their "masculine" *or* "feminine" presentation and interests), and their sexual orientation (presumably heterosexual, with attractions for individuals of the “opposite” sex). This leads to a troublesome line of thinking, common throughout the world, where:

- (a) people designated "female" at birth (that is: those born with genitals categorizable as "vulvas") are expected to: (i) identify as girls/women; (ii) behave "femininely" or have “feminine” interests; (iii) have sexual and romantic attractions to boys/men; and (iv) bear children;
- (b) people designated "male" at birth (that is: those born with genitals categorizable as "penises") are expected to: (i) identify as boys/men; (ii) behave "masculinely" or have “masculine” interests; and (iii) have sexual and romantic attractions to girls/women.

(2) This line of thinking is problematic because:

- (a) when it comes to sex identity: not everyone born with a “penis” (or “vulva”) will necessarily identify as "male" (or "female").
- (b) when it comes to gender identity: not everyone born with a “penis” (or “vulva”) will necessarily identify as a "man" (or "woman").
- (c) when it comes to gender expression: not everyone who identifies as a "man" (or a "woman") will present themselves in a "masculine” (or "feminine”) manner, or have so-called “masculine” (or “feminine”) interests.

(d) when it comes to sexual orientation: not everyone who identifies as a "man" (or a "woman") is necessarily going to be attracted to people of the "opposite" sex or gender; and

(e) not everyone born with a “vulva” is interested in bearing children.

(3) This line of thinking is said to be "cisnormative" (if not “cissexist”) and "heteronormative" (if not “homophobic”) because they establish a connection that is erroneously believed to be "natural" or "necessary" between:

(a) a person's sex and gender, to the point where the two terms are believed to mean the same thing; and

(b) the ways in which people are expected to live their lives socially, sexually, and romantically because of their genitals and, as a result, their expected gender identity and expression.

This is a notion that needs to be unraveled within society.

3. Queer Ontario’s thinking on the issue

(1) We question whether government needs to know a person’s “sex”, “sex identity”, and/or “gender identity”; and if so, for what reasons.

(2) If the government deems this information to be necessary, then it should be noted that:

(a) a person’s “sex”, presumably designated and recorded at birth based on the morphology of their genitals, is not an accurate indicator of a person’s current “sex” or “sex identity”; and

(b) a person’s “sex” does not provide an accurate indicator of a person’s “gender identity”; and

(c) not all people designated a particular sex at birth have the same corporal, hormonal, or chromosomal make-up as other individuals of that same sex, thus negating the sex designation's usefulness as a way of identifying a person's physical makeup and, hence, their medical needs. This is especially the case given each individual’s personal history with physical injury, viral infections, surgical procedures, hormone therapies, and medicine use – among other things.

4. Queer Ontario’s position on the issue

(1) We are of the opinion that...

(a) given the various ways in which people identify themselves in terms of sex and gender; and

(b) given the various physical compositions of the individuals who live in this province;

... it is best for Service Ontario to *not* record "sex" or any other sex or gender identity markers on any government registry or identifying document.

Not only will this lack of any sex or gender designation create a space where the possibility of multiple sex or gender make-ups are acknowledged and recognized, it will also eradicate one long-standing obstacle that has oppressed and disadvantaged transsexual, transgender, intersex, sex-neutral, gender-queer, two-spirited, bi-gendered, and gender-neutral individuals for decades – that of a change in ‘sex’ designation.

This is not to say that sex or gender based information is not important – it is, especially when considering the ways in which sexual and gender minorities are disadvantaged in society and are at higher risk of discrimination, harassment, and assault as a result. However, this information should be solicited and accounted for according to the individual's own means of identification when the situation arises.



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(2) That said: our position nullifies the government's question around the need for a different criteria when determining change in sex designation procedures for minors, which we believe should be the same as for adults.

(3) It also negates the question around the qualifications of corroborators, which we oppose because of the obstacles this may lead to for a person who:

(a) has recently realized their true sex and/or gender identity and has yet to tell anyone for fear of negative reactions; and/or

(b) are living in an unsupportive or hostile social environment, which would make it difficult for them to find an individual who would support their change in sex designation.

We urge government to serve its people responsibly.