

**THE BILL ON GENDER IDENTITY**

**PRIMARY PURVIEWS**

**Preamble**

**Article 1**

This Bill regulates the right to gender identity, prohibits gender identity based discrimination, regulates the rights of people with gender dysphoria, defines the means to attain and protect those rights, ensures the right to education and keeping records of people who had their sex change noted in the official documents, monitors implementation of the Bill and regulates other issues regarding the rights and obligations related to people with gender dysphoria.

**The Bill principles**

**Article 2**

This Bill is founded on the following principles:

1. Respect of the human rights and dignity of persons whose gender identity is not in accordance with the binary gender roles division and persons with gender dysphoria;
2. Prohibition of discrimination of persons whose gender identity is not in accordance with the binary gender roles division and persons with gender dysphoria;
3. Inclusion of persons whose gender identity is not in accordance with the binary gender roles division and persons with gender dysphoria in all areas of social life based on equality;
4. Inclusion of persons whose gender identity is not in accordance with the binary gender roles division and persons with gender dysphoria in all decision-making processes regarding their rights and obligations.
5. Legal relevance of the newly acquired gender for the people who are transitioning or have completed hormonal-surgical treatment, i.e. of the gender identity of people with gender dysphoria.
6. Continuity of the personal rights and obligations of the people whose gender identity is not in accordance with the binary role division and the people with gender dysphoria.

**Definitions**

**Article 3**

In this Bill:

1. The term „gender“ is used to express socially determined roles, emplacement and status of women and men in public and private life all of which emanate discrimination based on biologically determined sex due to social, cultural and historical differences;
2. The term „gender identity“ expresses inner and personal manner in which a person experiences their gender which may or may not coincide with the physical sex they were assigned at birth, including a personal experience of their own body as well as other means of gender expression, such as clothing, manner of speech, gesticulation and so forth;
3. The term „transsexualism“ or „gender dysphoria“ (further referred to as: gender dysphoria“) is used to express a feeling of profound inner disjunction a person has between biological sex and their gender identity verified by a qualified psychiatrist which can but does not have to require medical treatment (hormonal-surgical procedures);
4. The terms „a person“ and „everyone“ relate to anyone who lives on the territory of the republic of Serbia or on the territory under its jurisdiction regardless of their citizenship or lack of it;
5. „Records of people who had their sex change noted in the official documents“ is a collection of data about people, managed by the ministry of state affairs, which contains data of all persons whose sex change has been noted in the birth record books and other public documents;
6. The term „public governing body“ describes a state institution, governing body of an autonomous territory, a local government and any organization entitled to enact official authority;
7. The term „binary gender roles division“ is a division of people by reference to solely biological criteria into two sexes, male and female, and hence defined gender identities and roles of a man and a woman.

All definitions used in this Bill in male grammatical gender encompass the same definitions in female gender as well.

## **The right to free development of personality**

### **Article 4**

Everyone has the right to freely develop their personality and the right to freedom of expression and recognition of their gender identity regardless of its compliance with the binary gender roles division.

## **Prohibition of discrimination**

## **Article 5**

Everyone is obliged to respect gender identity of another person.

All forms of discrimination based on gender identity or gender dysphoria are thereby prohibited.

Public governing bodies are obliged to respect gender identity and dignity of persons with gender dysphoria when deciding on their rights and obligations.

## **THE RIGHTS OF PEOPLE WITH GENDER DYSPHORIA**

### **The right to health protection from national health insurance fund**

## **Article 6**

A person with gender dysphoria has the right to access health practices that remove disjunction between their biological sex and gender identity which are covered by compulsory national health insurance fund in accordance with the health insurance policy.

### **The right to information and consent**

## **Article 7**

A person with gender dysphoria has the freedom of decision-making regarding all matters related to their life and health.

A person with gender dysphoria must not be subjected to any medical treatment without their consent.

A designated medical practitioner is obliged to provide timely information to a person who wishes to surgically adjust their biological sex to their gender identity, so as to be able to make an informed decision whether or not to give consent to such a procedure.

Necessary information contains: a short description, aim and benefit of the procedure, its duration and possible consequences of undertaking or rejecting the procedure; the sort and probability of potential risks, painful and other side effects or permanent consequences as well as all other information which may bear an importance in deciding whether or not to consent to the procedure.

A designated medical practitioner is obliged to log the given information into a person's medical record.

### **Prohibition of sterilization**

## **Article 8**

A person with gender dysphoria who has decided to surgically adjust their biological sex to their gender identity must not be subjected to the removal of the reproductive organs without their consent.

A designated medical practitioner logs a notion of consent of a person with gender dysphoria to undergo or reject the reproductive organ removal procedure in their medical record.

## **The right to personal data information protection**

### **Article 9**

Personal information related to gender dysphoria and the readjustment procedure between biological sex and gender identity presents extremely sensitive personal data.

Data from premise 1 of this article may be used only in accordance with the directions of this Bill or based upon a written consent of the person affected.

## **The right to change official documents**

### **Article 10**

A person with gender dysphoria has the right to change the sex marker and their first name in all official documents.

## **Sex marker alteration**

### **Article 11**

A person with gender dysphoria has the right to request the sex marker in the birth record books to be altered.

The decision about the request from premise 1 of this Bill is delivered by the municipal government, the City administration or the City council of Belgrade.

The request to alter the sex marker in the birth record books is accompanied by an opinion of a medical panel comprised of at least three members and founded in accordance with the health protection and insurance policies that confirms the existence of gender dysphoria in the person requesting the sex marker alteration.

The opinion of the medical panel from premise 3 of this Bill is supplied on a form that contains the following information: the first name and the family name of a person requesting the sex marker alteration, the address, the personal identity number, the personal number of the insurer assigned in accordance with the of health insurance policy, the evidence that the person is determined to suffer from gender dysphoria followed by the diagnosis code in line with the International Classification of Diseases, as well as the signatures of all members of the panel.

Municipal government, the City administration, or the City council of Belgrade is obliged to deliver an answer to the request for sex marker alteration in the birth records book within five work days.

During decision-making process about the sex marker alteration in the birth records book it is forbidden to demand that the applicant undergo additional medical assessments.

Final and executive ruling by which the request for the sex marker alteration is granted is to be delivered by the Municipal government, the City administration, or the City council of Belgrade to the designated ministry in order to record the entry in the records book of people who had the sex marker altered in the birth record books.

When issuing a new birth certificate it is forbidden to note that the sex marker had been altered in the birth record books.

Decision-making on the request for the sex marker alteration is to be in line with the Law on birth record books, unless determined differently by this Bill.

#### **Article 11a**

Parents of a child born with non-specific genitals (intersex persons) have the right to use the term “other” when filling in sex requirement field for their child in a birth certificate. Abbreviation for the term “other” in the documents is “O”.

Three years after reaching the age of majority a child is entitled to change the term in the sex requirement field by choosing to insert either male or female, or opt to keep the term “other”. Every public institution is obliged to issue a new legal document containing the term “other” related to the person in question and based on their birth certificate containing the term “other”.

#### **Record keeping of the persons who had the sex marker altered in the official documents**

#### **Article 12**

Record keeping of the persons who had the sex marker altered in the official documents (further: Record) is entrusted to the Ministry of the state affairs.

The Records contain the following: the first name and the family name before the sex marker alteration, the first name and family name after the sex marker alteration, the sex marker before and after removing the disjunction between the biological sex and gender identity, previous personal identity number and the new personal identity number, the names of both parents, date and place of birth, address, numbers of all decisions based on which the entries have been made into the Records book along with the names of the public governing bodies that made them.

The data from the Records book may be disclosed to the prosecutors during a criminal investigation for the suspected criminal offences pursued by the state; the courts during court

procedures; official public bodies in charge of Voter lists in order to ascertain a voter's identity and prevent malpractice during the election process; the data may be disclosed to other persons and institutions only with a written consent of the affected person.

The data from the Records book, as well as the entire documentation upon which the entry is based, is kept permanently.

The manner of managing the Records book is more closely determined by the minister in charge of the state affairs.

## **The name change**

### **Article 13**

A person with gender dysphoria has the right to change their name in accordance with their gender identity.

A request is submitted to the designated administrative body in line with the policy that regulates the first names. Along with the request for the change of the first name, a medical panel opinion from Article 11, premise 4 of this Bill is also submitted.

The designated administrative body regulating the first names is obliged to deliver a decision within five work days in accordance with the first name policy regulations.

The designated administrative body deliberating on the name change is not allowed to demand that the person requesting the change take up a gender-neutral name.

The final and executive ruling that grants the name change is to be sent by the designated administrative body to the relevant ministry in order for the entry to be made in the Records book.

## **Personal identity number alteration**

### **Article 14**

A person with gender dysphoria has the right to change their personal identity number.

A request is submitted to the designated administrative body in line with the personal identity numbers policy, accompanied by the final and executive ruling of the relevant administrative body that proves the request for the sex marker alteration in the birth record books is granted, along with the new birth certificate and the final and executive ruling issued by the appropriate body which states that the name had been changed.

The decision-making body from premise 2 deliberating the request is obliged to issue a new personal identity number within three days upon receiving the request.

The designated administrative body in charge of issuing personal identity numbers is obliged to send the personal identity number of a person whose request has been granted to the

relevant ministry in order for the entry to be made in the Records book.

## **Sex change in other documents**

### **Article 15**

A person with gender dysphoria who has been enlisted in the Records book has the right to alter the sex marker, the name and personal identity number in all personal documents (ID, passport, driving license, employment booklet, health insurance booklet, occupational qualifications and other certificates obtained in education and so forth.).

Along with the request for the change of personal information from premise 1 of this Bill, an applicant submits a confirmation from the records book, issued by the designated ministry, stating that the person has been enlisted in the Records book, as well as the data from Article 12 premise 2 of this Bill.

The designated ministry is to issue the confirmation from premise 2 of this section within three days upon receiving the request.

New personal documents are to be issued within thirty days upon receiving the request for issuing a new personal document.

If a person requests issuing a new diploma or other occupational certificates, or requests issuing a new employment booklet, they are required to return the original personal documents whose changes are being requested to the institution in question.

## **Employment rights**

### **Article 16**

An employee with gender dysphoria who is in the process of removing the disjunction between their biological sex and gender identity must not be subjected to any negative consequences regarding their rights and obligations in the work place based upon their gender dysphoria.

Should the employee be dismissed from the employment or have their work rights denied or limited under circumstances which suggest that such an act was one of discrimination based upon gender dysphoria or gender identity that is not in compliance with the binary gender roles division, the burden of proving otherwise lies on the employer.

## **The right to pension insurance**

### **Article 17**

A person who had the sex marker altered in the personal documents realizes the right to pension according to their newly acquired sex in line with the pension and disability benefits policy.

## **The right to marital and family life**

### **Article 18**

A person who had the sex marker altered in their personal documents has the right to enter marriage.

A parent with gender dysphoria retains all their rights and obligations towards any child that they had before determining the existence of gender dysphoria.

Guardianship institutions and other public bodies are obliged to provide all the necessary support that may be needed to a family in which a parent is going through the process of removing the disjunction between their biological sex and gender identity, in order to maintain the family stability while keeping in mind the best interests of children.

Gender dysphoria in and of itself must not have a negative impact on a decision about whether a parent is fit to perform the parental duties or their entitlement to seek guardianship or keep custody over a child.

## **Property and other rights**

### **Article 19**

A person who had the sex marker altered in their personal documents maintains all housing rights, obligation rights, inheritance rights and all other property related rights; author's rights, intellectual property rights, as well as all other rights related to the personality as if the sex marker alteration in the personal documents had never been made.

## **Monitoring**

### **Article 20**

Monitoring the implementation of this Bill and regulations brought on to ensure its implementation is entrusted to the appropriate ministry.

## **PUNITIVE PROVISIONS**

### **Article 21**

A fine of 10,000 dinars will be applied to:

1) A designated medical practitioner who fails to record appropriate information into medical documentation, thus violating Article 7, premise 5 of this Bill;

- 2) Accountable person within the municipality government, the City administration or the City council of Belgrade, who fails to deliver the final and executive resolution granting a request for sex marker alteration, thus violating Article 11, premise 7 of this Bill;
- 3) Accountable person within an authorized body who fails to send the final end executive resolution granting the personal name change to the relevant ministry in order to record an entry into the Records book, thus violating Article 13, premise 5 of this Bill;
- 4) Accountable person within the administrative body authorized to provide personal identity numbers of the citizens who fails to send the new personal identity number of the person whose request has been granted to the relevant ministry in order to record the entry into the Records book, thus violating Article 14, premise 4 of this Bill;
- 5) Accountable person within the ministry for state affairs who fails to issue a confirmation from the Records book within three days upon receiving the request, thus violating Article 15, premise 3 of this Bill;

## **Article 22**

A fine ranging from 20,000 dinars to 150,000 dinars will be applied to any person or an accountable person within an institution, governing body of the territorial autonomy or a municipality if:

- 1) The medical records do not contain a written consent of a person with gender dysphoria to a suggested medical procedure, thus violating Article 8 of this Bill;
- 2) A resolution on a proper request for the sex marker alteration in the birth record books is not delivered within five work days upon receiving the request, thus violating Article 11, premise 5 of this Bill;
- 3) An applicant is demanded to undergo additional medical assessments, thus violating Article 11, premise 6 of this Bill;
- 4) Sex marker alteration in the birth record books is noted in the new birth certificate, thus violating Article 11, premise 8 of this Bill;
- 5) The data from the Records book are used contrary to the section 12, premise 3 of this Bill;
- 6) The decision on name change is not delivered within five work days upon receiving a proper request, thus violating Article 13, premise 5 of this Bill;
- 7) A new personal identity number is not issued within three days upon receiving a proper request, thus violating Article 14, premise 3 of this Bill;
- 8) New personal documents are not issued within 30 days upon receiving a proper request, thus violating Article 15, premise 4 of this Bill.

## **Article 23**

A fine ranging from 20,000 dinars to 150,000 dinars will be applied to a juridical person if it fails to issue new documents within 30 days upon receiving a proper request, thus violating Article 14, premise 4 of this Bill.

## **TRANSIENT AND CONCLUSIVE PROVISIONS**

### **Article 24**

The minister is obliged to enact the bylaw from Article 12, premise 5 of this Bill within 90 days upon the Law's enactment.

### **Section 25**

This Bill will take effect on the eighth day beginning with the day on which it is published in the „Sluzbeni glasnik Republike Srbije“.