

REFORMS TO CHANGE OF GIVEN NAMES AND REGISTERED SEX LAWS – FOR DOCTORS AND PSYCHOLOGISTS



FACTSHEET

Background

Reforms to allow young people in the ACT to change their given names and/or registered sex in certain situations came into effect on 20 August 2021. This factsheet has been developed to assist doctors and psychologists to understand the changes. The information in this factsheet is not legal advice.

What are the reforms to the law?

The *Births, Deaths and Marriages Registration Act 1997* (the Act) now allows young people under the age of 18 years to independently apply to the Births, Deaths and Marriages (BDM) Registry at Access Canberra to change their given names and/or registered sex on their birth certificate, or to obtain a recognised details certificate.¹

The reforms provide additional pathways for transgender, intersex or gender diverse young people to be able to make these applications. Previously, young people under the age of 18 years could only have these details changed if both parents agreed and made the application on behalf of the young person.

Parents can still make these applications on behalf of their child under the age of 18 years where both parents agree or in certain circumstances where there is only one parent for a child. For example, there is only one parent registered on a child's birth certificate or only one surviving parent.

A person with parental responsibility for a child can also still make these applications on behalf of a child. For example, where the parents are deceased, cannot be found, or for some other reason cannot exercise their parental responsibilities to the child.

How can young people independently change their names and sex?

There are different requirements depending on the age of the young person:

- Young people aged 16 years or older may apply directly to the BDM Registry to change their sex and/or their given name to better reflect their gender identity.
- Young people aged 12 to 15 years may apply:
 - directly to the BDM Registry where they have the consent of boths parents, or each person with long term parental responsibility for the child;² or the consent of one parent or person with long term care responsibility where it is not reasonable or practicable to obtain the consent of the other; or
 - to the ACT Civil and Administrative Tribunal (ACAT) to seek permission to apply to the BDM Registry where they do not have this parental consent (for example, if one or both parents disagree). If ACAT gives permission, the young person may apply to the BDM Registry to make this change.
- Children under the age of 12 years must have the consent of at least one parent or a person with parental responsibility for them to apply to the ACAT and there must be exceptional circumstances. If ACAT gives permission, the child can apply to the BDM Registry to make this change.

¹ A recognised details certificate is issued to people whose birth is not registered in, but who are currently residing in, the ACT.

² For more detail about people who can consent, see section 8 of the *Births, Deaths and Marriages Registration Regulation 1998*.

What do the reforms mean for doctors and psychologists?

Declaration required for change of registered sex

People who make an application to the BDM Registry to change their registered sex in the ACT are required to provide a declaration from a doctor or psychologist in support of the change. This requirement also applies to young people under the age of 18 years who make an application independently.

The Act provides that the application must be accompanied by a statement made by a doctor, or a psychologist, declaring the person has received appropriate clinical treatment for alteration of the person's sex, or is an intersex person.

“Appropriate clinical treatment” should be interpreted broadly and beneficially and does not necessarily require that a person has medical treatment, such as hormone therapy. It can also include other types of treatment, such as gender affirmation therapy which may focus on counselling and support.

Access Canberra has recently updated the declaration form to be used by doctors and psychologists. The declaration form can be accessed [here](#).

Evidence in ACAT proceedings

Although not required, evidence of clinical treatment may also be useful where a young person needs to seek permission from the ACAT to apply to change their name and/or sex (for example, because they are aged under 16 years and do not have support of both parents).

Such evidence may be provided by the young person to the ACAT to support a submission that they understand the meaning of changing their name and/or sex.

ACAT will not reject an application if a young person does not provide a declaration form completed by a doctor or psychologist. However, it may be useful for the young person to obtain the declaration so that it can be used to support both the ACAT and BDM Registry applications.

What else do doctors and psychologists need to know?

Doctors and psychologists may be one of the first points of contact that young people reach out to to discuss their wish to change their given names and/ or registered sex.

The Justice and Community Safety Directorate and Access Canberra have developed factsheets for doctors and psychologists to provide young people, where appropriate, about the application process to change their given names and registered sex, and contact information for any additional legal, advocacy or social support.

The factsheets are available on the Justice and Community Safety [website](#) and the Access Canberra [website](#).

More information

Births, Deaths and Marriages, Access Canberra

The Births, Deaths and Marriages team at Access Canberra can answer any questions about its application process.

Phone: 13 22 81

Email: bdm@act.gov.au

Website: act.gov.au/accessCBR

ACT Civil and Administrative Tribunal

The team at ACAT can answer any questions about the ACAT application process.

Phone: (02) 6207 1740

Email: tribunal@act.gov.au

Website: www.acat.act.gov.au