

**Submission on the Sex Discrimination Amendment
(Sexual Orientation, Gender Identity and Intersex Status) Bill 2013.**

To: The Committee Secretary,

Senate Legal and Constitutional Affairs Committee,

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The Australian Family Association, as an interested organisation, makes the following Submission to the inquiry into the Sex Discrimination (Sexual Orientation, Gender Identity and Intersex Status) Bill 2013.

1. The proposed substitution of the words “sexual orientation, gender identity, intersex status and marital or relationship status” in the Title and Preamble introduces the idea of relationship status, which would include a registered same sex relationship, as the equivalent of marriage or to be treated the same way as marriage. This is contrary to the Marriage Act which acknowledges “marriage” is between a man and a woman.
2. The proposed substitution of the words ‘sexual orientation, gender identity, intersex status and marital or relationship status’ in place of “marital status” in the Objects clause by the proposed amendment of Section 3(b) also identifies “relationship status” with ‘marital status.’ The two should be treated as distinct and separate. The same comment applies to each Section of the Act that is proposed to be amended in this way.
3. Replacing “marital status” with “marital or relationship status” is introducing confusion and could be taken as paving the way for same sex marriage legislation. Only a few months ago two same sex marriage bills failed to pass a vote of the Australian parliament.
4. The proposed definition of “gender identity” (in proposed Section 4 (1)) is vague. It does not provide a clear indication of what it is. How is a person to know that another person has a “gender identity” that is different to a third person’s “gender identity” and therefore cannot be treated less favourably than the third person? If the third person also has a “gender identity” then how does one choose between them without breaching the proposed amended Act? “Gender identity” would be whatever a person chose as the ‘gender’ (ie sex) that he/she identified with, which could change from time to time. The “gender” of a person could be important in relation to a job, membership of a club or community and it is undesirable and unjust that the community has to be under threat of discriminating or of breaching the Act by virtue of not being able to ascertain, by things objectively observable, whether a person has a “gender identity”.
5. The repealing of the definition of “man”, “woman” and replacing of “de facto spouse” with “de facto partner” are not merely extending protection from discrimination to new grounds of sexual orientation, gender identity and intersex status as is claimed to be what the amendments are about. This is rewriting language and deleting words that have real and profound and biological (scientific) meaning and significance and replacing them with words that have either no definite meaning or whose meaning has been changed. It is very disturbing and amounts to removing signposts of communication of meaning in society without the consent of society.
6. The proposed repeal of the definition of “marital status” and replacement with a definition of “marital or relationship status” in Section 4(1) is another instance where language is being given a different meaning. It introduces the idea that relationship status and marital status are the same or at least similar things when they are not.

7. The proposed change in that definition from “de facto spouse” to “de facto partner of another person” (who could be of the opposite or the same sex) also introduces confusion between “marital” and “relationship” status. “Marital status” and “relationship status” should be separately defined.
8. The replacement of “different sex” for “opposite sex”, wherever proposed, is again changing the meaning of things by using language. “Opposite” means there are two – “different” means there are more than two. This is changing in law the biological reality of two sexes and substituting the idea that there are other types of sexual identity than male or female. But sexual orientation means a person is sexually attracted to persons of the same sex not that he/she is of a “different” sex. “Gender identity” is even more problematic as there is no clarity what it consists of. It is the choice of the individual, not necessarily clear to objective observation, and may change according to the individual’s choice of identity from time to time. This is not a different sex but of a choice of living as other than one’s biological sex determined at birth. The biological reality that there are two sexes, male and female, should not be confused. (We wish to acknowledge with sensitivity that intersex is a status that is not definitely male nor female and should be treated with respect and the dignity and privacy of the person preserved while observing that most intersex people choose to live as one or the other.)

The Australian Family Association recommends that the Bill be withdrawn.

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