

LGBTIQA+ CHANGING GENDER & HEALTH RIGHTS

This factsheet may help you if you are gender diverse and want to know how to legally change your gender in Western Australia or have questions about your health rights.

Are there laws about legally changing your gender in WA?

Yes. The *Gender Reassignment Act 2000* (WA) sets out how you can legally change your gender in WA. Legally changing your gender means:

- you will be officially recognised as your reassigned gender in all matters in Western Australia,
- you will be protected against discrimination on the basis of your gender history under state (WA) discrimination law, and
- you can ask the Registrar of Births, Deaths and Marriages for a Birth Certificate recognising your reassigned gender.

How do you legally change your gender in WA?

To legally change your gender in WA, you must apply to the Gender Reassignment Board (Board) for a gender recognition certificate. The cost is currently \$40 to apply.

Before you can apply to the Board, you will need to have undergone a 'reassignment procedure' and met other eligibility criteria.

The eligibility criteria differ depending on whether you are an adult or if you are under 18.

What is a 'reassignment procedure'?

What is legally considered a 'reassignment procedure' is complex. It is important to get legal advice about your situation.

The High Court of Australia has previously said that a person does not need to surgically change all of their gender characteristics to be recognised as having had a 'reassignment procedure'. However, they must have altered their gender characteristics sufficiently through either a medical or surgical procedure so that they can be socially identified as their preferred gender.



Eligibility if you are an adult

If you are 18 or older, you can apply directly to the Gender Reassignment Board for a gender recognition certificate.

To apply, you must have undergone a 'reassignment procedure' and:

- your 'reassignment procedure' was carried out in WA, or
- you were born in WA, or
- you live in WA and have lived in WA for at least 12 months.

To be successful with your application, the Board will need to be satisfied that:

- you believe your true gender is the gender to which you have been reassigned, and
- you have adopted the lifestyle and the gender characteristics of a person of the gender to which you have been reassigned, and
- you have received proper counselling about your gender identity.

Eligibility if you are under 18

If you are under 18 years old, you cannot apply directly to the Gender Reassignment Board for a gender recognition certificate.

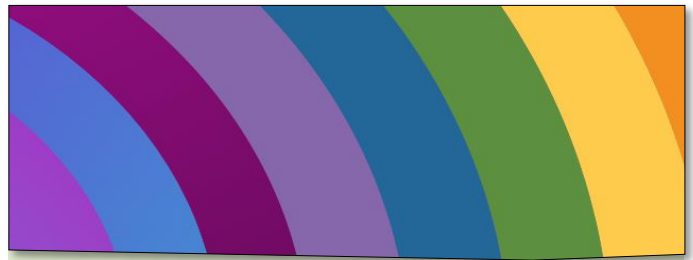
Your parents or guardians must make the application for you and there are strict rules about this. You might need to get legal advice if your parents or guardians are unwilling (or unable) to make the application for you.

To apply, you must have undergone a 'reassignment procedure' and:

- your 'reassignment procedure' was carried out in WA, or
- you were born in WA, or
- you live in WA and have lived in WA for at least 12 months.

The Board must also be satisfied that it is in your best interests that a gender recognition certificate is issued.

If you are under 18 years old, you cannot apply directly to the Gender Reassignment Board for a gender recognition certificate.



What information will you need to give to the Board?

To apply for a gender recognition certificate, you will need to provide the following documents to the Board:

- a completed application form,
- a letter from the medical practitioner who performed or supervised your 'reassignment procedure',
- a letter from any other medical practitioner who has been involved with your 'reassignment procedure',
- a letter from a psychiatrist, psychologist or other recognised counsellor confirming you have had counselling on your reassignment,
- your birth certificate or extract of entry of birth,
- any documents relating to any change of name you have had,
- photo identification,
- if you were not born in WA, documents confirming you have been a resident here for at least 12 months, and
- letters of support from friends, family or colleagues stating that you are now recognised as female or male in your daily life.

What if the Board rejects your application?

You may be able to appeal the decision. You should get legal advice as soon as possible because there are deadlines (time limits) for appealing the Board's decision.

Where can you get more information?

For more information about how to apply for a gender recognition certificate and what happens next, visit the Gender Reassignment Board website

www.grb.justice.wa.gov.au



FREQUENTLY ASKED QUESTIONS

What can I do if I want to change my gender but not undergo a reassignment procedure?

State law

Under WA law you must have undergone a 'reassignment procedure' before you can legally change your gender.

What is legally considered a 'reassignment procedure' is complex. You do not have to undertake comprehensive surgery to change all of the gender characteristics you were assigned at birth to have had a 'reassignment procedure' under the law.

Hormonal treatments that have changed your gender characteristics enough to make you socially identifiable as your preferred gender may be enough to be considered a 'reassignment procedure'.

International law

The WA legal requirement to undergo a reassignment procedure to legally change your gender might be a breach of international human rights law. If you want to legally change your gender without undergoing a reassignment procedure, you may be able to make a complaint to the United Nations Human Rights Committee.

For more information about international human rights laws, see our [LGBTIQA+ International Human Rights factsheet](#).

You do not have to undertake comprehensive surgery to change all of the gender characteristics you were assigned at birth to have had a 'reassignment procedure' under the law.

I don't have a gender recognition certificate. Can I still access protection under state (WA) discrimination law?

You can only access protection for discrimination about your gender history under state (WA) discrimination law if you have a gender recognition certificate.

However, you may be able to access protection under federal (Australian) law or international (human rights) law.

Discrimination is a complex area of law. Getting legal advice early is important because more than one law may apply to you and there are time limits for taking formal action.

For more information, see our [LGBTIQA+ Discrimination factsheet](#).

I am under 18 and want to transition without my parent's consent. What am I able to do?

It is important you get legal advice as soon as possible because you will need to go to the Family Court of WA to get court orders allowing you to receive any of the three medical stages of transition without your parent's consent.

The Family Court will consider many factors in deciding whether to grant you a court order, including:

- whether you are mature and intelligent enough to fully understand what the medical treatment involves, and the short and long term consequences of the treatment,
- whether the Gender Diversity Clinic supports your decision to transition, and
- whether it is in your best interests to transition.

The Gender Diversity (GD) Clinic

The GD Clinic is based at Perth Children's Hospital and helps young people experiencing gender diversity issues.

You will need a doctor, psychologist or other health professional to refer you to the GD Clinic. The GD Clinic will conduct assessments to decide if they support your desire to transition.

If the GD Clinic does not support your desire to transition, it will be difficult to get a Family Court order to transition in WA.

For more information on the GD Clinic, see www.pch.health.wa.gov.au



I am over 18 and my doctor won't give me any treatments for transition. Are they allowed to do that and what can I do?

It depends on why your doctor is refusing treatment.

If a doctor is denying you access to medical treatment because of their personal values, then they may be in breach of the Australian Medical Code of Conduct.

If a doctor 'conscientiously objects' to transition treatments, they should refer you to another doctor who they know will not have a personal issue with giving you the treatment.

If this has happened to you, some options are to:

- see another doctor,
- make a complaint to the Australian Health Practitioner Regulation Agency, or
- get legal advice about whether you have been discriminated against.

Discrimination is a complex area of law. Getting legal advice early is important because more than one law may apply to you and there are time limits for taking formal action.

Do I have to disclose my queer identity to healthcare workers?

You are not required to disclose your queer identity to healthcare workers. However, you should consider whether your sexuality, gender identity or intersex status is relevant to your health issue.

If I have a child as a trans man or woman, what rights do I have about what gender is stated on my child's birth certificate?

It depends on your personal circumstances.

If you have a gender recognition certificate, then you can have your reassigned gender stated on your child's birth certificate.

If you do not have a gender recognition certificate, you cannot use the gender you identify as. However, you have the option of having 'parent' stated on your child's birth certificate.

Can security remove me from a bathroom because I'm transgender?

It depends on where the bathroom is located.

Sometimes security will be legally allowed to remove you from a bathroom but in other situations, it will be a breach of discrimination law.

For example, if the bathroom is in a public place like a shop or restaurant, you must be permitted to use the facilities of your choice.

Refusing to make bathroom facilities available to you because you are transgender is against the law.

For more information on discrimination, see our [LGBTIQ+ Discrimination factsheet](#).

I am transgender. If I break the law and get sent to jail, will I go to a male or female prison?

If you have a gender recognition certificate, you should be placed in the prison of your reassigned gender.

Prison policy states prisoners must have the right to:

- express their gender identity, and
- have their preferred name and identified gender noted on the Total Offender Management Solution (TOMS) record.

Prison policy also requires trans, non-binary or intersex prisoners to be asked about whether they would like to be placed in a male or female prison.

However, there is no guarantee that you will be placed in the prison of your choice.

If I legally change my name, do I have to change my details with other organisations in a certain timeframe?

If you legally change your name, there is generally no set timeframe for you to update your details with other organisations.

However, some organisations (like Medicare) recommend you update your details as soon as possible. This will help you avoid issues accessing services or getting payments.



I am under 18 and do not feel safe in my family home because of my diverse sexuality or gender identity. Where can I get help?

Everyone deserves the right to feel safe at home. There are several organisations that may be able to help you.

A good starting point is to look at the “Where can I go?” resource developed by Transfolk of WA and PICYS. It has information on different accommodation services and their capacity to support trans and gender diverse young people. You can download this resource from www.transfolkofwa.org/brochures

Other organisations that might be able to help you are:

Crisis Care – (08) 9223 1111 (choose option 2 when prompted) or 1800 199 008

The Crisis Care Unit operates 24 hours a day, seven days a week. It is run by the Department for Child Protection and Family Support. It provides information, advice, support and intervention for people in crisis and who need urgent help.

Entrypoint Perth – 6496 0001 or 1800 124 684

Entrypoint Perth is a free assessment and referral service helping people aged 16 and over who are homeless or at risk of homelessness in WA to access accommodation and support options.

1800RESPECT - 1800 737 732

1800RESPECT is the national sexual assault, domestic and family violence counselling service that provides support for people experiencing (or at the risk of experiencing) violence and abuse.

Qlife - 1800 184 527 www.qlife.org.au

Qlife provides Australia-wide anonymous LGBTI peer support and referral for people wanting to talk about a range of issues including sexuality, identity, gender, bodies, feelings or relationships.

Where can I get more information, support or help?

Western Australia

Youth Pride Network – www.youthpridenetwork.net

Freedom Centre – (08) 9228 0354 www.freedom.org.au

Qlife – 1800 184 527 www.qlife.org.au

Legal Aid WA – 1300 650 579 www.legalaid.wa.gov.au

Community Legal WA – www.communitylegalwa.org.au

Law Access – www.lawaccess.org.au

Gender Reassignment Board – (08) 9219 3111 www.grb.justice.wa.gov.au

Gender Diversity Clinic – (08) 6456 0202 www.pch.health.wa.gov.au

Equal Opportunity Commission – (08) 9216 3900 www.eoc.wa.gov.au

Health and Disability Services Complaints Office – 1300 419 495 www.ahpra.gov.au

Australia

Australian Human Rights Commission – 1300 656 419 www.hreoc.gov.au

Australian Health Practitioner Regulation Agency – 1300 656 419 www.hreoc.gov.au

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