



Births, Deaths, Marriages, and Relationships Registration (Preventing Name Change by Child Sex Offenders) Amendment Bill

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Report of the Social Services Committee

Contents

Recommendation	2
Introduction	2
Inconsistency with the New Zealand Bill of Rights Act	2
Child Protection (Child Sex Offender Register) Bill	3
Conclusion	3
Appendix	4

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Recommendation

The Social Services Committee has examined the Births, Deaths, Marriages, and Relationships Registration (Preventing Name Change by Child Sex Offenders) Amendment Bill, and the Report of the Attorney-General under the New Zealand Bill of Rights Act 1990 on the bill, and recommends that the bill not be passed.

Introduction

The Births, Deaths, Marriages, and Relationships Registration (Preventing Name Change by Child Sex Offenders) Amendment Bill is a member's bill in the name of Dr Jian Yang.

The bill would amend the Births, Deaths, Marriages, and Relationships Registration Act 1995 by changing the definition of “eligible person” in that Act. The effect of the changed definition would be that people who have been convicted of certain offences, and whose convictions have not been quashed, would not be eligible to apply to register a name change.

Inconsistency with the New Zealand Bill of Rights Act

We have considered the Attorney-General's report on the bill's consistency with the New Zealand Bill of Rights Act 1990. The Attorney-General concluded that the bill is inconsistent with the right to freedom of expression under section 14 of the New Zealand Bill of Rights Act. This is because it seeks to impose a permanent ban on certain offenders from registering a name change, with no exceptions.

Under section 5 of the New Zealand Bill of Rights Act, a limit can still be considered consistent with that Act if it is a reasonable one that is demonstrably justified in a free and democratic society. However, the Attorney-General found that the bill's proposed limit on freedom of expression could not be justified because

- there is no rational connection between the limit and its objective
- the limit is greater than is reasonably necessary
- the limit is not proportionate to the importance of the objective.

We support the right to freedom of expression as affirmed in section 14 of the New Zealand Bill of Rights Act. We value, also, the desire of this bill to minimise possible harm from child sex offenders. However, we believe an alternative solution that is currently before the House would be a better way to achieve the bill's aim.

Child Protection (Child Sex Offender Register) Bill

The Child Protection (Child Sex Offender Register) Bill seeks to establish a register to help certain Government agencies monitor child sex offenders in the community. The register would hold details of offenders who

- are convicted of one of the child sex offences listed in the bill's Schedule
- were aged 18 or over when they offended, and
- are sentenced to imprisonment, or to a non-custodial sentence and are directed by the judge to be registered.

We recently reported to the House on that bill. We recommended inserting provisions to require people on the register to seek and receive the approval of the Commissioner of Police before applying to change their name. We believe that this proposed change could address the concerns that led to the amendment bill now before us.

The member in charge of this amendment bill has noted that the Child Protection (Child Sex Offender Register) Bill would apply to the type of offender that his bill seeks to cover. He has welcomed our recommended amendments on that bill. In light of those amendments, he is of the opinion that his bill should not proceed.

Conclusion

We agree that child sex offenders should not be able to change their name for improper reasons. We believe that an adequate solution is to require registered offenders to get the prior approval of the Commissioner of Police before applying for a name change, as proposed in our amended version of the Child Protection (Child Sex Offender Register) Bill.

We recommend that the Births, Deaths, Marriages, and Relationships Registration (Preventing Name Change by Child Sex Offenders) Amendment Bill not be passed.

Appendix

Committee procedure

The Births, Deaths, Marriages, and Relationships Registration (Preventing Name Change by Child Sex Offenders) Amendment Bill was referred to the Social Services Committee on 2 December 2015. The closing date for submissions was 3 February 2016. We received 22 written submissions from interested groups and individuals. We heard evidence from the member in charge of the bill, Dr Jian Yang MP, on 13 April 2016.

Advisers from the Department of Internal Affairs assisted us in our consideration of the bill.

The Report of the Attorney-General under the New Zealand Bill of Rights Act 1990 on the Births, Deaths, Marriages, and Relationships Registration (Preventing Name Change by Child Sex Offenders) Amendment Bill was referred to the committee on 2 December 2015. On 2 March 2016, we heard evidence from the Ministry of Justice on behalf of the Office of the Attorney-General.

Committee members

Alfred Ngaro (Chairperson)
Darroch Ball
Matt Doocey
Hon Paul Goldsmith
Jan Logie
Jono Naylor
Dr Parmjeet Parmar
Maureen Pugh
Carmel Sepuloni
Phil Twyford

David Clendon replaced Jan Logie for this item of business.