



NEW ZEALAND
LAW SOCIETY

NZLS EST 1869

BIRTHS, DEATHS, MARRIAGES, AND RELATIONSHIPS REGISTRATION (PREVENTING NAME CHANGE BY CHILD SEX OFFENDERS) AMENDMENT BILL

29/01/2016

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

1. The New Zealand Law Society welcomes the opportunity to comment on the Births, Deaths, Marriages, and Relationships Registration (Preventing Name Change by Child Sex Offenders) Amendment Bill (the Bill).
2. The Law Society recommends the Bill not proceed, primarily for the reasons set out in the Attorney-General's comments in his report under the New Zealand Bill of Rights Act 1990 (NZBORA) dated 20 November 2015 ("Attorney-General's Report").
3. While protecting vulnerable members of society from child sex offenders is an important social objective, the Bill does not appear to advance this objective in a meaningful way. As any person may change their name simply by adopting a new name, all the Bill can achieve is that persons convicted of a relevant offence cannot register that name. The prohibition on registration will not prevent child sex offenders from lawfully using other names in situations where use of a person's registered name is not required, nor from committing identity theft or fraudulently using another name.
4. The Bill is also inconsistent with the right to freedom of expression affirmed by section 14 NZBORA in a manner which is not justifiable in a free and democratic society. As the Attorney-General has identified, this is because:
 - a. As noted above, the Bill functions to protect members of society from child sex offenders only to a negligible extent;
 - b. The definition of a "relevant offence" means other offenders (not just child sex offenders) are captured by the Bill's provisions;
 - c. The mechanism by which the Bill purports to achieve its objective is disproportionate, as:
 - i. It imposes a permanent ban on all offenders convicted of a relevant offence regardless of their risk of re-offending or harm to children. This is particularly important in respect of offenders guilty of a relevant offence which does not involve child sex offending.
 - ii. There may be good reasons for a child sex offender to change their name, including as part of their rehabilitation and reintegration or in order to protect victims.
 - d. There are alternative means to achieve the objective of protecting vulnerable members of society from child sex offenders, namely:
 - i. Identification of all applicants before a name change can be registered (not just child sex offenders);
 - ii. Improved information sharing across borders and across agencies to assist police with the prevention, investigation, and detection of offences;

- iii. Sentencing options including extended supervision orders;
- iv. Collaborative multi-agency support for child sex-offenders with agencies enabled to share information in order to help child sex-offenders comply with their sentences, manage their risk and facilitate reintegration; and
- v. Vetting of staff working with children.

5. For these reasons, the Law Society recommends the Bill not proceed.

6. Without limiting the Law Society's view that there are other measures available to achieve the Bill's primary objective and with reference to the proposal to establish a register of child sex offenders under the Child Protection (Child Sex Offender Register) Bill, the Law Society has made a submission on that Bill which is **attached** for the Committee's information. The Law Society has reservations about the effectiveness of the proposed Child Sex Offender Register, has recommended an alternative model and has recommended amendments if that Bill is to proceed.

7. The Law Society does not wish to be heard.

A handwritten signature in black ink, appearing to read 'K. Beck', written in a cursive style.

Kathryn Beck
President-elect
29 January 2016