

Draft Law

tabled by the Members of the German Bundestag Volker Beck, ... and the Alliance 90/The Greens parliamentary group

Draft Law on the Changing of Forenames and the Determination of Gender Identity

A. Problem

The Act on the Changing of Forenames and the Determination of Gender Identity in Special Cases, or Transsexuals Act (*Gesetz über die Änderung der Vornamen und die Feststellung der Geschlechtszugehörigkeit in besonderen Fällen – Transsexuellengesetz (TSG)*) is almost 30 years old and no longer accords with current scientific knowledge. It creates unjustified obstacles to the changing of forenames and the determination of gender identity which violate the dignity and self-determination of transsexual persons. The Federal Constitutional Court has already ruled on five separate occasions that individual provisions of the Act are unconstitutional (Decision of 16 March 1982 - 1 BvR 983/81, Decision of 26 January 1993 - 1 BvL 38, 40, 43/92, Decision of 6 December 2005 - 1 BvL 3/03, Decision of 18 July 2006 - 1 BvL 1 and 12/04, and Decision of 27 May 2008 - 1 BvL 10/05). Other provisions of the Act are also subject to criticism under constitutional law.

B. Solution

The TSG is replaced with the Act on the Changing of Forenames and the Determination of Gender Identity (*Gesetz über die Änderung der Vornamen und die Feststellung der Geschlechtszugehörigkeit – ÄVFGG*) The procedure is simplified and will be carried out by the registry offices. In this way, account is taken of the basic rights of transsexual persons and current scientific knowledge.

C. Alternatives

None.

D. Costs

This proposal will result in additional costs to the public budgets, specifically for the authorities henceforth responsible. However, these costs are likely to be negligible as the number of cases is comparatively small. They will be offset by the considerable savings made by easing the burden on the courts and, in particular, by the savings made in the field of legal aid, which until now has

been claimed in a relatively large number of cases in order to cover the substantial costs of preparing the requisite expert reports.

Draft Law on the Changing of Forenames and the Determination of Gender Identity

The Bundestag has adopted the following Act:

Article 1

Act on the Changing of Forenames and the Determination of Gender Identity

Part 1

Changing of Forenames

Section 1 – Application for a Change of Forename

(1) The forenames of a person shall, upon their application, be changed by the authorities responsible for civil status matters under *Land* law if

1. the said person declares that the forenames hitherto borne do not conform with their perception of their gender,
2. the said person
 - a) is German as defined by the Basic Law,
 - b) is a stateless person or a displaced foreign national with their habitual abode in Germany,
 - c) is a person entitled to asylum or a foreign refugee with their habitual abode in Germany, or
 - d) a foreign national from a country which has no provisions comparable to this Act in its national law, who
 - aa) has a right of unlimited residence, or
 - bb) has a residence permit which may be extended, and who is permanently and legally resident in Germany.

(2) For a person without legal capacity, the application shall be submitted by the legal representative. The legal representative shall require the permission of the Guardianship Court for this purpose.

(3) The application may be rejected only if it is manifestly abusive.

Section 2 – Prohibition of Disclosure

(1) Upon the entry into force of the decision by which the applicant's forenames are changed, the forenames borne at the time of the decision may not be researched or disclosed without the applicant's consent unless particular reasons of public interest so require or a legitimate interest is credibly asserted.

(2) The applicant may require that the new forenames be used in official documents and registers. Other gender-specific details, in particular the form of address, gender-specific job or professional titles, and references to kinship shall be adapted to the gender which corresponds to the changed forename if this does not affect the informational value and accuracy of the document content.

(3) For contracts under civil law, paragraph 2 shall apply *mutatis mutandis*.

(4) Official documents and certificates from previous employment relationships issued prior to the entry into force of the decision adopted pursuant to Section 1 shall be re-issued with the new forenames.

(5) An administrative offence shall be deemed to have been committed by anyone who persistently and purposely disregards the prohibitions and obligations set forth in paragraphs 1 to 4. The administrative offence may be punished with a fine of up to five hundred euros.

Part 2

Determination of Gender Identity

Section 3 – Application for the Determination of Gender Identity

(1) A person's gender as stated in their registration of birth shall, upon their application, be amended by the authorities responsible for civil status matters under *Land* law, if

1. the said person declares that the gender stated in the registration of birth does not conform with their perception of their gender,

2. the provisions of Section 1, paragraph 1, no. 2 are fulfilled.

(2) For a person without legal capacity, the application shall be submitted by the legal representative. The legal representative shall require the permission of the Guardianship Court for this purpose.

(3) The application may be rejected only if it is manifestly abusive.

(4) An existing marriage or registered partnership shall remain unaffected by the amendment of the civil status. Upon the application of both spouses/registered partners, an existing marriage may be converted into a registered partnership or vice versa.

Section 4 – Effects of the Decision

(1) Upon the entry into force of the decision that the applicant shall be considered as belonging to the other gender, their gender-dependent rights and obligations shall conform to the new gender unless the law states otherwise.

(2) Section 2 shall apply *mutatis mutandis*. The prohibition of disclosure shall extend to the details concerning gender identity contained in the documents to be amended and to combinations of letters or numerals that are derived from gender; such details and combinations of letters or numerals shall also be amended.

Section 5 – Parent-Child Relationships

The decision that the applicant shall be considered as belonging to the other gender shall not affect the legal relationship between the applicant and their parents or the relationship between the applicant and their children. The same shall apply in relation to the descendants of these children.

Section 6 – Pensions and Comparable Recurrent Benefits

(1) Upon its entry into force, the decision that the applicant shall be considered as belonging to the other gender shall not affect existing entitlement to pensions and comparable recurrent benefits. Benefits which derive directly from the same legal relationship, to the extent that gender is relevant, shall continue to be assessed on the basis on which the said benefits were provided at the time the decision entered into force.

(2) The decision that the applicant shall be considered as belonging to the other gender shall not give rise to claims to benefits from the insurance or pensions of a former spouse.

Article 2

Amendment of Federal Legislation

(1) German Civil Code

1. Section 1591 of the German Civil Code in the version published on 2 January 2002 (Federal Law Gazette (*Bundesgesetzblatt*) I p. 42, 2909; 2003 I p. 738), last amended by ..., shall read as follows:

The parent (mother or father) of the child is the person who gave birth to it, or

a) who is married to the said parent at the time of the birth,

b) who has recognised the parentage,

c) whose parentage has been established by the courts under Section 1600d or Section 640h, paragraph 2 of the Code of Civil Procedure.

2. Section 1592 shall be deleted.

(2) Civil Status Act (*Personenstandsgesetz*)

1. The following Section 2, "Changing of Forenames and the Determination of Gender Identity upon Application" shall be inserted in Chapter 8 of the Civil Status Act (*Personenstandsgesetz*) of 19 February 2007 (Federal Law Gazette (*Bundesgesetzblatt*) I p. 122), last amended by ... :

"Section 47a – Changing of Forenames and the Determination of Gender Identity upon Application

Should the registry office receive applications pursuant to Sections 1 and 3 of the Act on the Changing of Forenames and the Determination of Gender Identity, the details contained in the register of births shall be amended."

2. The present Section 2 shall become Section 3.

3. In Section 63, paragraph 2, the words "Transsexuals Act of 10 September 1980 (Federal Law Gazette (*Bundesgesetzblatt*) I p. 1654)" shall be deleted and the words "Section 5, paragraph 1 and Section 10, paragraph 2 in conjunction with Section 5, paragraph 1 of the Transsexuals Act" shall be replaced with the words "Section 2, paragraph 1 and Section 4, paragraph 2 in conjunction with Section 2, paragraph 1 of the Act on the Changing of Forenames and the Determination of Gender Identity".

(3) Federal Central Criminal Register Act (*Bundeszentralregistergesetz*)

In Section 20a, paragraph 1, second sentence of the Federal Central Criminal Register Act (*Bundeszentralregistergesetz*) in the version published on 21 September 1984 (Federal Law Gazette (*Bundesgesetzblatt*) I p. 1229, 1985 I p. 195), last amended by ... , the words "Section 5, paragraph 1 of the Transsexuals Act" shall be replaced with the words "Section 2, paragraph 1 of the Act on the Changing of Forenames and the Determination of Gender Identity".

(4) Cost Regulations (*Kostenordnung*)

Section 128a, paragraph 1 of the Cost Regulations (*Kostenordnung*) in the Federal Law Gazette (*Bundesgesetzblatt*) Part III, Classification No. 361-1, published clean version, last amended by ..., shall be deleted.

(5) Act relating to Senior Judicial Officers (*Rechtspflegergesetz*)

Section 15, no. 9 of the Act relating to Senior Judicial Officers (*Rechtspflegergesetz*) of 5 November 1969 (Federal Law Gazette (*Bundesgesetzblatt*) I p. 2065), last amended by ..., shall read as follows:

“9. Permission pursuant to Section 1, paragraph 2, second sentence of the Act on the Changing of Forenames and the Determination of Gender Identity”.

(6) In Annex 1 to Section 9, paragraph 1 of the Act on the Remuneration of Expert Witnesses, Court Interpreters and Translators and on the Compensation of Honorary Judges, Witnesses and Others (*Gesetz über die Vergütung von Sachverständigen, Dolmetscherinnen, Dolmetschern, Übersetzerinnen und Übersetzern sowie die Entschädigung von ehrenamtlichen Richterinnen, ehrenamtlichen Richtern, Zeuginnen, Zeugen und Dritten (Justizvergütungs- und -entschädigungsgesetz - JVEG)*) of 5 May 2004 (Federal Law Gazette (*Bundesgesetzblatt*) I p. 718, 776), last amended by ..., the acronym “TSG” shall be replaced with the acronym “ÄVFGG”.

(7) Passport Act (*Passgesetz*)

The Passport Act (*Passgesetz*) of 19 April 1986 (Federal Law Gazette (*Bundesgesetzblatt*) I p. 537), last amended by ..., shall be amended as follows:

1. In Section 4, paragraph 1, the words “based on a court decision pursuant to Section 1 of the Transsexuals Act” shall be replaced with the words “pursuant to Section 1 of the Act on the Changing of Forenames and the Determination of Gender Identity”.

2. In Section 6, paragraph 2a, the words “the decision of the court on the changing of forenames pursuant to Section 1 of the Transsexuals Act” shall be replaced with the words “the decision of the authorities responsible for civil status matters under *Land* law pursuant to Section 1 of the Act on the Changing of Forenames and the Determination of Gender Identity”.

Article 3

Entry into force, repeal

(1) The present Act shall enter into force on the day after its promulgation.

(2) The Act on the Changing of Forenames and the Determination of Gender Identity in Special Cases (Transsexuals Act – TSG) of 10 September 1980 (Federal Law Gazette (*Bundesgesetzblatt*) I p. 1654), last amended by ..., shall be repealed on the same day.

Berlin, 23 June 2010

Renate Künast, Jürgen Trittin and parliamentary group

Explanatory Memorandum

A. General remarks

The Transsexuals Act (*Transsexuellengesetz* – TSG) has not been reformed since its entry into force on 1 January 1981. Many of its provisions no longer accord with current scientific knowledge, however.

The aim of this reform is to make transsexuals' basic rights a reality to the full extent through acceptance of the true diversity of identities, instead of forcing transsexual people into prescribed moulds, thus making their lives more difficult.

Various submissions to the Petitions Committee of the German Bundestag in recent years also show that there is a substantial need for rapid reform of the Transsexuals Act.

The Federal Constitutional Court has addressed aspects of the Transsexuals Act in six separate decisions and has declared the following provisions to be unconstitutional:

- Section 8, paragraph 1, no. 1 of the Transsexuals Act violates Article 3, paragraph 1 of the Basic Law, in that a transsexual person who is under 25 years of age, despite having undergone gender reassignment surgery and fulfilling the other legal requirements, is denied the right to have their new gender recognised under civil status law (Decision of 16.03.1982 - 1 BvR 983/81),
- Denying transsexuals who are under 25 years of age the right to change their name pursuant to Article 1 of the Transsexuals Act – a right which is granted to older transsexuals – is incompatible with Article 3, paragraph 1 of the Basic Law (BVerfG, Decision of 26.01.1993 - 1 BvL 38, 40, 43/92),
- The principles enshrined in Article 2, paragraph 1 of the Basic Law in conjunction with Article 1, paragraph 1 of the Basic Law require Article 1 and Article 10, paragraph 1 of the Transsexuals Act to be interpreted as meaning that a person has the right to be addressed in person and in writing in accordance with their new gender as soon as they have changed their name (BVerfG – Second Chamber of the Second Senate, Decision of 15.08.1996 – 2 BvR 1833/95).
- Section 7, paragraph 1, no. 3 of the Transsexuals Act violates a homosexual transsexual's right to a name, which is protected by Article 2, paragraph 1 of the Basic Law in conjunction with Article 1, paragraph 1 of the Basic Law, as well as their right to protection of privacy, as long as a legally protected partnership is denied to them unless they forfeit the forename which they have chosen to reflect their perceived gender. The norm is therefore inapplicable pending the adoption of a new statutory provision (BVerfG, Decision of 06.12.2005 - 1 BvL 3/03),
- Section 1, paragraph 1, no. 1 of the Transsexuals Act violates the principle of equal treatment (Article 3, paragraph 1 of the Basic Law) and the basic right to protection of personality (Article 2, paragraph 1 in conjunction with Article 1, paragraph 1 of the Basic Law), to the extent that it denies foreign transsexuals who are legally and not only temporarily resident in Germany the right to apply to change their forenames and for the determination of gender identity pursuant to Section 8, paragraph 1, no. 1 of the Transsexuals Act if they come from a country which has no provisions comparable to the Act in its national law (BVerfG, Decision of 18.07.2006 - 1 BvL 1 and 12/04), and
- Section 8, paragraph 1, no. 2 of the Transsexuals Act is incompatible with Article 2, paragraph 1 in conjunction with Article 1, paragraph 1 of the Basic Law and Article 6, paragraph 1 of the Basic Law, because it requires a married post-operative transsexual

seeking recognition of their new gender under civil status law to have their marriage dissolved first (BVerfG, Decision of 27.05.2008 - 1 BvL 10/05).

In these six decisions, the Federal Constitutional Court has made statements and formulated principles which necessitate a revision of the Act and also provide criteria for that process.

In the view of the Federal Constitutional Court, since the Transsexuals Act entered into force, the fundamental assumptions about transsexuality that form the basis of the Act have been shown to be scientifically untenable on key points. The Court identified two main problem areas:

Firstly, the Court points out that among male-to-female transsexuals in particular, there is a significant proportion of homosexual persons. This factor had no bearing on the framing of the Transsexuals Act. At that time, no information was available in the field of the sexual sciences about this particular issue. Therefore in the explanatory memorandum relating to its Decision of 11 October 1978 (BVerfG, Decision of 11 October 1978 – 1 BvR 16/72; BVerfGE 49, 286, 287, 300), the Federal Constitutional Court, with reference to the state of scientific knowledge at that time, proceeded on the assumption that male transsexuals did not seek homosexual relationships and would by preference seek a heterosexual partner. Since then, it has not only been recognised that homosexuality exists among transsexuals as well; there has in fact proved to be a high proportion of homosexuals, who may or may not have undergone gender reassignment surgery, among male-to-female transsexuals in particular. Therefore it can no longer be assumed that a transsexual's attraction to their own sex calls their transsexuality into question.

Secondly, experts in this field no longer consider that transsexuality automatically indicates that gender reassignment measures are required. Experts agree that instead, it must be determined in each individual case whether gender reassignment is indicated. Indeed, the proportion of persons who are permanently transsexual without undergoing gender reassignment – between 20 and 30 percent of recognised transsexuals – shows that the assumption that a transsexual person wishes by all means to change their sexual characteristics is not borne out by reality. The hypothesis that there is a transitional stage during which the transsexual lives with the “minor solution” (name change only) and progresses towards the “major solution” (name change and gender reassignment) is no longer tenable. The Court therefore considers that based on the scientific literature, there is no viable justification for different treatment of transsexual persons who have undergone gender reassignment, and those who have not, under the law relating to the civil status of persons.

Finally, gender reassignment involves major surgical intervention in bodily integrity. In some cases, it may pose a threat to health and even to life, and thus creates unreasonable obstacles to the free development of individual gender identity that is protected under human rights law.

The Federal Constitutional Court has therefore established the following criteria for the reform of the Transsexuals Act. According to the Court:

Article 1, paragraph 1 of the Basic Law protects the dignity of a person as they understand it themselves in all their individuality. Seen in relation to Article 2, paragraph 1 of the Basic Law, this fundamental constitutional principle also guarantees the right of the individual to the free development of their abilities and strengths. The question of which gender a person feels that they belong to concerns the sexual sphere, which the Basic Law treats as part of the privacy that enjoys constitutional protection under Article 2, paragraph 1 in conjunction with Article 1, paragraph 1 of the Basic Law. Every person can therefore demand respect for this sphere from the institutions of the state. This includes the obligation to respect a person's individual decision regarding their gender identity.

Article 2, paragraph 1 in conjunction with Article 1, paragraph 1 of the Basic Law protects a person's forename, firstly as part of the formation and development of individual identity and secondly as the expression of their chosen or lived gender identity.

The forenames which are chosen and borne and which reflect individual gender identity are part of the most intimate sphere of personality. As a matter of principle, the state may not interfere in this realm. For that reason, the individual's right to their forename – which is the outcome and reflection of the bearer's own search for individual gender identity – may not be encroached upon, other than in relation to particularly weighty matters of public concern. The desire to express one's own gender identity through a name, which is protected by the right of personality, therefore also includes the right to be addressed by that name in recognition of the perceived gender identity. It also means that the individual should not be forced to disclose their gender history in every-day dealings with third parties or public authorities.

Respect for human dignity and the constitutional right to the free development of personality demand, therefore, that a person's civil status be governed by the gender with which they psychologically and physically identify.

Lastly, the social and legal status of transsexual persons is the subject of critical review at European level. In the Recommendation adopted by the Committee of Ministers of the Council of Europe on 31 March 2010, the Committee states that prior requirements for legal recognition of a gender reassignment should be regularly reviewed in order to remove abusive requirements, and advocates making possible the change of name in a "quick, transparent and accessible way" (Recommendation CM/Rec(2010)5). Furthermore, the Parliamentary Assembly of the Council of Europe, on 29 April 2010, called on member states to ensure transsexual persons' right to documents that reflect an individual's preferred gender identity, without any prior obligation to undergo medical procedures such as sex reassignment surgery and hormonal therapy (Resolution 1728 (2010)).

B. Justifications

Article 1

Title of the Act

The term "transsexual" is rejected by many of the persons concerned as it has too many medical connotations and is misleading in that it emphasises sexual as opposed to gender identity. Other terms such as "transgender" and "trans identity" also do not encompass the full thematic spectrum addressed by the Act. For that reason, the previous title of the Act, excluding the words "in Special Cases" and the suffix "Transsexuals Act – TSG", should be retained.

Part 1

Changing of Forenames

Section 1, paragraph 1

The changing of forenames is intended to take account of transsexuals' specific situation and enable them to live their perceived gender role without being forced to disclose their gender history in every-day dealings with third parties or public authorities. It thus promotes the applicants' social integration.

The procedure for the changing of names is therefore greatly simplified and will henceforth depend solely on the applicant's own perception of their gender. The previous requirement for the transsexual to have been living with the perception that they belong to the opposite gender for a minimum of three years and for this perception to be irreversible is abolished. Transsexuality cannot be diagnosed; ultimately, only the applicant themselves can provide information about their gender identity. Furthermore, efforts by the state to verify the outcome of this process of self-awareness encroaches on the individual's sexual sphere, which enjoys constitutional protection as part of the right to privacy under Article 2, paragraph 1 in conjunction with Article 1, paragraph 1 of the Basic Law.

The requirement for the courts to be involved is also abolished. The application must be submitted to the authorities responsible for civil status matters under *Land* law and the name change is carried out as part of an administrative procedure. This simplifies and expedites the process, as is the case for corrections without the involvement of the courts pursuant to Section 47 of the Civil Status Act (*Personenstandsgesetz – PStG*) of 19 February 2007 (Federal Law Gazette (*Bundesgesetzblatt*) I p. 122). Given that in the case of transsexuality, the applicant's details that are contained in the register of births do not accurately reflect their true identity, the new procedure allows the register entry to be corrected without undue complexity.

The access criteria relating to residence status contained in no. 2 correspond to the existing provisions of the Transsexuals Act contained in Article 3a of the version of the Act of 20 July 2007 (Federal Law Gazette (BGBl.) I, p. 1566).

Section 1, paragraph 2

This paragraph states that for a person without legal capacity or with only limited legal capacity, the procedure shall be undertaken by the legal representative. As is the case under the previous version of the Transsexuals Act, the legal representative concerned requires the permission of the courts for this purpose.

Section 1, paragraph 3

The application to change the forename may only be rejected if it is manifestly abusive. This is particularly the case if the underlying intention is to conceal an identity. Otherwise, the application will always be approved and the requirement for evidence of gender identity, which was dubious from both a medical and a constitutional point of view, is abolished.

Section 2

This provision is intended to protect the person concerned from unjustified disclosure of the forename borne prior to the name-change decision. By means of Section 4, paragraph 2 of the draft, this also applies to the change of gender identity.

The prohibition of disclosure is elaborated in more detail in paragraphs 2 to 4. First, the provisions make it clear that – as with any other change of name – the changed forenames are henceforth to be used in official documents and registers. The interests meriting protection of persons whose forename only is changed require that the form of address, gender-specific job or professional titles, and references to kinship must be used so as to correspond with the name now borne. Paragraph 3 states that the prohibition of disclosure also applies to contracts under civil law. Paragraph 4 extends these provisions to official documents and certificates from previous employment relationships issued or presented prior to the entry into force of the decision on the change of name. Such documents may include, for example, school reports, letters of reference and certificates relating to employment, internships, training etc. which are required by the person concerned in normal working life.

Paragraph 5 defines non-compliance with the prohibitions and obligations set forth in paragraphs 1 to 4 as an administrative offence which may be punished with a fine of up to five hundred euros.

Part 2

Determination of Gender Identity

Section 3, paragraph 1

The requirements which must be fulfilled for an amendment of civil status correspond to those set out in Section 1. The applicant whose personal details – in this case, gender – are incorrectly stated in the relevant entry in the register of births has a legal entitlement to their correction.

As early as 2005, the Federal Constitutional Court noted:

“Secondly, experts in this field no longer consider that transsexuality, even in cases where the diagnosis made is very reliable, automatically indicates that gender reassignment measures are required. Experts agree that instead, it must be determined in each individual case through regular diagnostic assessment whether gender reassignment is indicated. Indeed, the proportion of persons who are permanently transsexual without undergoing gender reassignment – between 20 and 30 percent of recognised transsexuals (cf. DGfS, loc. cit., p. 264) – shows that the assumption that a transsexual person wishes by all means to change their sexual characteristics is not borne out by reality. The hypothesis that there is a transitional stage during which the transsexual lives with the “minor solution” and progresses towards the “major solution” is no longer tenable. The Court therefore considers that based on the scientific literature, there is no viable justification for different treatment of transsexual persons who have undergone gender reassignment, and those who have not, under the law relating to the civil status of persons (cf. DGfS, loc. cit., p. 261 ff.)”

The requirement that the applicant must be permanently incapable of reproduction is therefore abolished. By allowing the possibility of step-child adoption by registered partners (Section 9 of the Act on Registered Partnerships (*Lebenspartnerschaftsgesetz* – LPartG in the version of the Act to Amend the Law on Registered Partnerships), the legislator has now accepted that two men or two women may be the joint legal parents of children. There is therefore no longer any reason to deny this opportunity to transsexuals.

Furthermore, the amendment of civil status is no longer dependent on clear alignment, through surgery, with the appearance of the other gender. This category is outdated and is impossible to define in an individualistic society with pluralist lifestyles. Furthermore, gender reassignment measures entail major surgical intervention in bodily integrity. In some cases, they may pose a threat to health and even to life, and thus create unreasonable obstacles to the free development of individual gender identity.

The only criteria for the amendment of civil status are the applicant’s own subjective perception of their gender as not conforming to the details on record, and the access criteria relating to residence status contained in no. 2. The aim is therefore to remove the legal obstacles standing in the way of transsexual persons’ wish to live a life which conforms with their identity, in a society which is not free from transphobic clichés.

Section 3, paragraph 2

As with Section 1, paragraph 2, this paragraph states that for a person without legal capacity or with only limited legal capacity, the procedure is undertaken by the legal representative. As is the case under the previous version of the Transsexuals Act, the legal representative concerned requires the permission of the courts for this purpose.

Section 3, paragraph 3

As with the changing of the forename, the application to amend the civil status may only be rejected if it is manifestly abusive. This is particularly the case if the underlying intention is to conceal an identity. Otherwise, the application will always be approved and the requirement for evidence of gender identity, which was dubious from both a medical and a constitutional point of view, is abolished.

Section 3, paragraph 4

Pursuant to this paragraph, partnership arrangements established under family law can continue to exist. This means that the rights and responsibilities of spouses/registered partners continue to exist. This corresponds to the current legal position. However, upon application, an existing marriage may be converted into a registered partnership or vice versa. This is intended to give different-sex partners access to the institution of marriage without forcing them to live separately for one year and then revoke the registered partnership, which would constitute undue hardship. With conversion of a marriage into a life partnership, the intention is to guarantee the non-detectability of the transsexual identity of one of the partners in a same-sex relationship.

Section 4, paragraph 1

This paragraph accords with the current legal position. From the day on which the person concerned is to be considered as belonging to the other gender, the rights and obligations arising from gender identity generally conform to the new gender. Derogations based on other legal provisions may apply (see, for example, Sections 5 and 6).

Section 4, paragraph 2

It is made clear that the prohibition of disclosure pursuant to Section 2 also extends to the determination of gender identity. It also applies to details concerning gender identity and to combinations of letters or numerals that are derived from gender; such details and combinations of letters or numerals must also be amended.

Section 5

This paragraph accords with the current legal position and is intended to protect the legitimate interests of the applicant's children. In particular, the applicant's status as father or mother in any event remains unaffected, e.g. with regard to issues such as rights to maintenance and inheritance, paternity, or the contesting of legitimacy.

Section 6

Section 6 contains derogations from the general principle enshrined in Section 4, paragraph 1. It would not be expedient to provide a conclusive listing of all pensions and comparable recurrent benefits which should be unaffected, in view of the large number of entitlements in question.

Article 2

(1) German Civil Code

The amendment of Section 1591 is a consequence of the abolition of the requirement that the applicant must be permanently incapable of reproduction before a change of civil status is permissible. Attention is drawn to the provisions of Section 3, paragraph 1.

(2) Civil Status Act (*Personenstandsgesetz*)

A new Part 2 and Section 47a will incorporate the new procedure into Chapter 8 "Corrections and the Judicial Procedure". This will allow the registry offices to amend the registrations of birth – details of name and gender – in accordance with the applications submitted.

(3) Federal Central Criminal Register Act (*Bundeszentralregistergesetz*)

The proposed amendment contains an editorial change.

(4) Cost Regulations (*Kostenordnung*)

Section 128a, paragraph 1 of the Cost Regulations is deleted as the court procedure established under the TSG will be replaced with an administrative procedure carried out by the registry offices.

(5) Act relating to Senior Judicial Officers (*Rechtspflegergesetz*)

The proposed amendment brings Section 15, no. 9 of this Act into line with the new title of the Act.

(6)

The proposed amendment brings the annex of this Act into line with the new title of the Act.

(7) Passport Act (*Passgesetz*)

In Section 4, paragraph 1, an editorial amendment is made.

In Section 6, paragraph 2a, account is taken of the transfer of responsibility to the registry offices.

Article 3

Entry into force, repeal

This Article regulates the Act's entry into force and the repeal of the TSG, stipulating that this shall occur on the day after the new Act's promulgation.