



STATEMENT OF CONSISTENCY

Bill 40: An Act to Amend the Vital Statistics Act

Sponsoring Minister: Lesa Semmler

Explanatory Note

Subsection 6(1) of the *United Nations Declaration on the Rights of Indigenous Peoples Implementation Act*, SNWT 2023, c 36 (“*UNDRIP Implementation Act*”) requires the Government of the Northwest Territories (“GNWT”), in collaboration and cooperation with Indigenous peoples, to take all reasonable measures to ensure the laws of the Northwest Territories (“NWT”) are consistent with the Declaration set out in the Schedule of the *UNDRIP Implementation Act*.

Subsection 8(1) of the *UNDRIP Implementation Act* requires the Attorney General to prepare a Statement of Consistency on behalf of the sponsoring Minister of a bill, indicating whether or not the bill is consistent with the Declaration and the rights recognized and affirmed under section 35 of the *Constitution Act, 1982*. The sponsoring Minister must table the Statement of Consistency before the second reading of the bill in the Legislative Assembly.

A Statement of Consistency is not required if an exception under subsection 8(3) of the *UNDRIP Implementation Act* applies.

A Statement of Consistency provides legal information to the Legislative Assembly about the bill’s potential impacts on rights of Indigenous peoples set out in the Declaration and the potential impacts on rights recognized and affirmed under section 35 of the *Constitution Act, 1982*. It is not intended to be a comprehensive overview of all conceivable inconsistencies with Indigenous and Aboriginal rights. A bill may see several amendments between second reading and its ultimate passage through the Legislative Assembly. Additional considerations relevant to the consistency of a bill with the Declaration and the rights recognized and affirmed under section 35 of the *Constitution Act, 1982* may arise through that process. A Statement of Consistency will not reflect an analysis of those changes.

Background

The proposed amendments to the *Vital Statistics Act* will:

- allow anyone 16 years old or older, not just adults, to make their own application to change their gender on their birth registration and certificate;



- align with human rights case law in other provinces that make the display of the sex field optional on birth certificates;
- change the criteria for an authorized person to apply for a birth certificate – to be able to apply, an authorized person must know the person named on the certificate for at least a year;
- register up to four people as the parents of a child on the birth certificate;
- add nurse practitioners and registered nurses to the people that have a duty to complete the formal Medical Certificate of Death portion of the death registration statement;
- introduce a change of gender certificate for residents born outside of the Northwest Territories;
- provide for a process to register and prevent fraud regarding birth events that occur in the Northwest Territories outside of a hospital and without medical attendance (known as home births);
- clearly specify that the police may receive information from a certificate for law enforcement purposes; and
- reflect changes to terminology for “custody” of children from the *Divorce Act*.

The proposed consequential amendments to the *Change of Name Act* will allow:

- people aged 16 years old and older to make their own application for a legal change of name; and
- transgender and nonbinary people to request that their legal change of name not be published in the *Northwest Territories Gazette*.

Application

The Bill applies equally to all residents of the NWT. This Bill should be considered legislation of general application as it does not apply specifically to any Indigenous government or organization in the NWT, nor any lands, waters or resources identified and set out in a land, resources or self-government agreement based in the NWT.

Impacts on Rights under the Declaration and Section 35 Aboriginal and Treaty Rights

This Bill does not impact rights under the Declaration, such as the right to self-determination and self-government, rights respecting lands, territories or resources, or environmental, economic, health, cultural, religious, language or other rights, nor does it impact Aboriginal and treaty rights recognized and affirmed under section 35 of the *Constitution Act, 1982*.



UNDRIP Statement of Consistency

The Attorney General has examined the Bill for any inconsistencies pursuant to the obligation under subsection 8(1) of the *UNDRIP Implementation Act*. This review involved consideration of the context in which the Bill was created, as well as the text of the Bill.

In reviewing the Bill, the Attorney General is of the opinion that the Bill is consistent with the Declaration and section 35 of the *Constitution Act, 1982*.