

STATES OF JERSEY



DRAFT MARRIAGE AND CIVIL PARTNERSHIP (AMENDMENTS) (JERSEY) LAW 202- (P.88/2022): COMMENTS

**Presented to the States on 24th August 2022
by the Children, Education and Home Affairs Scrutiny Panel**

STATES GREFFE

COMMENTS

Background

The Children, Education and Home Affairs Scrutiny Panel ('the Panel') was grateful to receive a briefing on the Draft Marriage and Civil Partnership (Amendments) (Jersey) Law 202- ('draft Law') on 15th August 2022. The Panel felt that it would be helpful to set out the understanding it has in a comments paper, to assist other Members of the States Assembly ahead of the debate of [P.88/2022](#).

As a result of the briefing, the Panel understands that the draft Law is required in order to amend both the Marriage and Civil Status (Amendment) (No. 5) (Jersey) Law 2022 ([P.6/2022](#)) and the Civil Partnership (Amendment) (Jersey) Law 2022 ([P.7/2022](#)) ('the Laws'), which were both approved by the States Assembly in March 2022 but are yet to receive Royal Assent.

Why is the amendment proposed by the draft Law needed?

The Panel was advised that following States Assembly approval, the Laws had been sent to the UK Ministry of Justice for review ahead of presentation to the Privy Council. At this point an issue was identified with the schedules used in each of the Laws that made them non-compliant with the European Convention on Human Rights, following the ruling in the case of *B and L v. United Kingdom*.

The purpose of the draft Laws is to primarily address this issue (as per the specific details set out in the Explanatory Note accompanying the proposition). The Panel understands that the Laws will not be presented to the Privy Council for Royal Assent without compliance with the provisions set out in the European Convention on Human Rights.

Queries from the Panel

In relation to the [Marriage and Civil Status \(Amendment\) \(No. 5\) \(Jersey\) Law 2022](#), the Panel had noted that the paragraph to be deleted in Schedule 1, "Relations Whom it is Prohibited to Marry" was titled as "(3) Qualified prohibition on marriage with a former step-parent" and the Panel queried whether the proposed deletion would cause concern from a safeguarding perspective.

The Panel was advised that paragraph (3) did not function to prohibit a stepparent marrying a child to which they have had a stepparent relationship. It was clarified that the tables in that paragraph were concerned with a person marrying their son or daughters' previous spouse/civil partner, or a person marrying the father or mother of their former spouse/civil partner, save for circumstances where certain individuals (such as a former spouse) had died.

It was also confirmed that a marriage between a former stepparent and stepchild would be considered a prohibited relationship (as per paragraph 2 of schedule 1 of the [Marriage and Civil Status \(Amendment\) \(No. 5\) \(Jersey\) Law 2022](#)), which details that where the younger person has been considered a 'child of the family' in relation to the other, there remains a prohibited degree of relationship for a marriage, i.e. if a stepparent – stepchild familial relationship was in place when the younger person was under the age of 18.

Conclusion

The Panel is supportive of the draft Law, and notes that its approval will allow the [Marriage and Civil Status \(Amendment\) \(No. 5\) \(Jersey\) Law 2022](#) and the [Civil Partnership \(Amendment\) \(Jersey\) Law 2022](#) to be put forward to the Privy Council for Royal Assent.