

STATES OF JERSEY



DRAFT CIVIL STATUS (ABOLITION OF LEGITIMACY ETC.) (JERSEY) LAW 202- (P.44/2025): COMMENTS

**Presented to the States on 2nd July 2025
by the Children, Education and Home Affairs Scrutiny Panel**

STATES GREFFE

COMMENTS

The Children, Education and Home Affairs Scrutiny Panel (the ‘Panel’) received a briefing from the Minister for Children and Families and Government Officers about the Draft Civil Status (Abolition of Legitimacy Etc.) (Jersey) Law 202- (the ‘draft Law’) on 13th June 2025.

Background

At present, in Jersey, legitimacy is a status provided to children who have mixed sex parents who are married to each other. The Panel’s understanding is that the draft Law forms part of the package of work progressed by the Government which has the purpose of expanding routes to parenthood for both same-sex parents and couples who conceive a child through fertility treatment or with a surrogate parent and ensuring fair treatment to all children and parents, as far as possible.

The proposition has been lodged by the Minister for Justice and Home Affairs due to areas of Ministerial responsibility, however, the Panel highlights that this work has been closely linked with the previous work on the Draft Children and Civil Status (Amendments) (Jersey) Law 202- ([P.104/2023](#)) (the ‘2024 Law’), on which the Panel published a report ([S.R.2/2024](#)) and also the Draft Children and Civil Status (Consequential Amendments) (Jersey) Amendment Regulations 202- ([P.89/2024](#)), lodged by the Minister for Children and Families, which the Panel scrutinised and published [comments](#) on in early 2025.

What will change?

If approved, the draft Law will introduce new primary legislation that will largely abolish the concept of legitimacy in Jersey. The Panel was advised that the draft Law had been modelled on Scottish law, namely the Family Law (Scotland) Act 2006. The draft Law will repeal the following legislation:

- Legitimacy (Jersey) Law 1963
- Legitimacy (Jersey) Law 1973
- Legitimacy and Illegitimacy (Re-Registration of Births) (Jersey) Regulations 1974
- Legitimacy Rules 1974

The draft Law will also change the following legislation in order to remove terminology related to legitimacy and make amendments related to provisions for birth registration and re-registration:

- Wills and Successions (Jersey) Law 1993 amended
- Adoption (Jersey) Law 1961
- Aircraft Registration (Births, Deaths and Missing Persons) (Jersey) Regulations 2015
- Bank (Recovery and Resolution) (Jersey) Law 2017
- Bankruptcy (Desastre) (Jersey) Law 1990
- Children (Jersey) Law 2002
- Companies (Jersey) Law 1991
- Criminal Law (Child Abduction) (Jersey) Law 2005

- Fatal Accidents (Jersey) Law 1962
- Financial Services (Investment Business (Qualifying Segregated Managed Accounts – Exemption)) (Jersey) Order 2014
- Health Insurance (Jersey) Law 1967
- Health Insurance (Medical Benefit) (General Provisions) (Jersey) Order 1967
- Income Tax (Jersey) Law 1961
- Incorporated Limited Partnerships (Jersey) Regulations 2011
- Limited Liability Companies (Winding Up and Dissolution) (Jersey) Regulations 2022
- Loi (1960) modifiant le droit coutumier
- Marriage and Civil Status (Jersey) Law 2001
- Marriage and Civil Status (Jersey) Order 2018
- Matrimonial Causes (Jersey) Law 1949
- Nursing Homes (Jersey) Law 1994
- Social Security (Claims and Payments) (Jersey) Order 1974
- Stamp Duties and Fees (Jersey) Law 1998
- Teachers’ Superannuation (Existing Members) (Jersey) Order 1986

The draft Law will not change the current versions of all the legislation listed above. Where applicable, the draft Law makes further amendments to legislation where it will be updated by the 2024 Law or Consequential Amendments, even though those versions have not come into force yet. The Panel is advised that the commencement of the legislation will cascade through a sequence of the 2024 Law, the Consequential amendments and, if approved, the draft Law.

At the time of drafting these comments the Panel has been advised that the Minister for Children and Families will lodge ‘Draft Children and Civil Status (Jersey) Consequential Amendments No. 2 Regulations 202-’ (the ‘Further Consequential Amendment Regulations’) shortly, which will address a number of further matters that were identified relating to the 2024 Law, when developing the draft Law.

What will not change?

The Panel was advised that there will be a number of savings provisions which mean that legitimacy will remain a relevant concept in certain areas of law. These will include:

- Certain enactments or judgements made before commencement of the draft Law;
- Succession rights of a person who died before commencement of the Law;
- Trusts established before the commencement of the draft Law;
- Manorial rights; and
- Hereditary titles.

The Panel was advised that the above areas were included to help avoid confusion for families and to avoid retrospective actions or claims. In areas such as the manorial rights and hereditary law, the Panel was advised that the research that would be required in order to update these areas of law would be disproportionate to its impact.

Rights and Principles

Currently in Jersey, when a child's birth is registered, they are recorded as "legitimate" or "illegitimate" based on the legal relationship of their parents. In terms of impact locally, data published by the Superintendent Registrar tells us that there is a relatively equal split between children who have been registered as legitimate or illegitimate in Jersey in the past 3 years, as 53% of births in Jersey in 2024 were to married parents¹ with equivalents of 52% in 2023² and 51% in 2022³.

During its review of the 2024 Law the Panel had highlighted its concern about the rights and principles related to legitimacy. The Panel had found that previous Government policy objectives (i.e. that marriage and civil partnerships should be treated equally and that same-sex couples should be treated in the same way as mixed sex couples as far as it is reasonable possible) had not been addressed. However, the Panel was advised that the concept of legitimacy had limited relevance or practical application in law. For example, the distinction between legitimate and illegitimate children in matters of succession was removed in Jersey law in 2010 by an amendment to the Wills and Successions (Jersey) Law 1993 (see Part 3A of that Law).

At the time of the Panel's review of S.R.2/2024, the Panel was advised that amendments to address legitimacy would form part of the consequential amendments as part of the wider package of changes. However, the Panel formally recommended that the Government should undertake and publish a review considering the relevance of retaining laws relating to legitimacy in Jersey. This included consideration of compatibility with the United Nations Convention on the Rights of the Child, the European Convention on Human Rights and how the law reflects public expectation.

During the briefing to the Panel on 13th June 2025, it was advised that the review had been undertaken, and that research had indicated that:

- public sentiment considered the concept of legitimacy to be discriminatory
- equal treatment should apply to marriage and civil partnerships
- same-sex and mixed-sex couples should be treated in the same way as far as possible.

The Panel agrees that the draft Law is a rights enhancing move for children, as it removes a discriminatory term which has little practical relevance in the modern world.

Queries

During the briefing to the Panel, the main queries raised were around proposed changes to domicile of dependence. The Panel learned that the draft Law would abolish any rule of customary law relating to legitimacy (as per Article 1, paragraph (1) "*No person whose status is governed by the law of Jersey is illegitimate, and any rule of customary law to the contrary is abolished.*") and that this would impact the status of domicile, which is traditionally set by the customary law position. The Panel has received confirmation that the codification of domicile is not included in the draft Law but will be made by the Further Consequential Amendment Regulations. The Panel will present comments on these separately in due course.

¹ [2024 Superintendent Registrar Annual Statement](#), pp.3

² [2023 Superintendent Registrar Annual Statement](#), pp.3

³ [2022 Superintendent Registrar Annual Statement](#), pp.3

Timescale for commencement

When the Panel previously scrutinised the 2024 Law and the Consequential Amendments it was planned that the enactment would take place following an Appointed Day Act passed by the States Assembly. However, it was highlighted that the draft Law includes an amendment to the 2024 Law that will see a change that it can come into force on a day to be specified by Ministerial Order (from the Minister for Children and Families). The Panel asked about the benefits of having the law come into force by Order rather than by Act and was advised that this was due to uncertainty about Privy Council timing and the desire from Government to be able to implement the law as soon as possible.

The Panel was advised that the Government was anticipating that the draft Law, together with the package of other legislation, would be ready to come into effect during the autumn of 2025.

The Panel has received assurance that the communications plan and operational and practical changes required are all underway and will not impact the timescale for the commencement of the Law.

Conclusion

The Panel is supportive of the draft Law. During its review of the 2024 Law the Panel was unconvinced of the relevance of retaining the laws relating to legitimacy in Jersey. The Panel is therefore pleased to see that the Government has addressed its recommendation from S.R.2/2024 and has made the further step of lodging legislation to abolish legitimacy, as part of the wider package of laws which will enhance and balance the rights of all children and parents in Jersey.