

Title: Information sent to all NSW Members of Parliament
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Miscellaneous Acts Amendment (Same Sex Relationships) Bill 2008

I write to you on behalf of the Standing Committee of the Synod of the Diocese in reference to the upcoming debate on the Miscellaneous Acts Amendment (Same Sex Relationships) Bill 2008. We respectfully ask you to seriously consider this complex Bill and urge you not to vote for the passage of the Bill in its current form.

We commend the Government for addressing some of the inconsistencies in current legislation, as well as some of the legal and administrative impediments that are imposed on same-sex couples, which in effect deny them access to various financial and work related benefits that others in the community enjoy.

However there are two aspects of the Bill that particularly concern us.

Exclusion of other relationships of care and inter-dependency

Our first concern is that many of the benefits proposed to be extended to same-sex couples are equally applicable to other types of caring inter-dependent relationship (eg elderly siblings or disabled family members). We can see no reason in principle why other categories of caring inter-dependent relationship should not also enjoy those benefits proposed to be extended to same-sex couples which are not dependent upon the relationship being a sexual relationship.

It seems to us that while reliance in the Bill on the definition of “defacto relationship” in the Property (Relationships) Act 1984 may be a convenient mechanism to deal with the disadvantage suffered by same-sex couples, it has the effect of unfairly excluding other types of relationship.

Denial of genetic parentage

Our second concern is that the granting of certain entitlements to same-sex partners compromises the ‘best interests of the child’ by denying the reality of a biological father and a biological mother. In particular, we are opposed to any amendment to the Births, Deaths and Marriages Registration Act 1995 which will allow a same-sex partner’s name to be included on a child’s birth certificate and we are opposed to the retrospective nature of this amendment.

We support measures that remove administrative obstacles to same-sex parents to enable them to provide the best possible care for their children. However, we believe that the extension of presumptive parental status should not result in a co-mother or co-father’s name being included on the birth certificate. This confuses the meaning of a ‘functional’ or ‘social’ parent with the reality of a biological parent.

The birth certificate is an official document of profound symbolic and personal significance to the individual whose birth it registers. Throughout the course of a person's life the need to know the identity of their biological parent often increases and so it is important that the integrity of the birth certificate is maintained on behalf of each child. While we support the establishment of donor registers, we believe that a birth certificate is a superior source of information about one's genetic origins as it is not dependent on the individual first knowing that they are the result of a fertilization procedure. It is the responsibility of the State to protect the interests of the child in this circumstance by ensuring that (to the extent that it is possible) the birth certificate identifies the biological parents.

We recognise the administrative expediency of this particular amendment, and its intention to achieve a result that is similar to adoption. However we suggest that other legal measures that assist same-sex partners in gaining recognition of their parental role, such as parenting orders, should be explored and improved, rather than changes made to the Birth Certificate.

We remain convinced that the optimal care of a child includes both the experience of being mothered and the experience of being fathered. But we also acknowledge the increasing complexity of family scenarios, the loving care provided within these families and the need for the law in some areas to adapt to these social changes in a fair and compassionate way. However the Bill as it stands, compromises the truth about a child's identity by denying the genetic origins of their birth.

We therefore urge you to consider the many ramifications of this complex Bill with great care.

Statement of principles

Time prevents us from detailing other concerns we have with the Bill. However we commend for your serious consideration the enclosed statement setting out the principles we have adopted in approaching reforms in this area.

Yours sincerely

ROBERT WICKS
Diocesan Secretary