



National Office

ABN 40 075 120 517

4 October 2016

Attn: Research Director
Health, Communities, Disability Services and
Domestic and Family Violence Prevention Committee
Parliament House
George Street
Brisbane Qld 4000

Re: Adoption and Other Legislation Amendment Bill 2016

The Australian Christian Lobby (ACL) welcomes the opportunity to comment on the *Adoption and Other Legislation Amendment Bill 2016*.

The quality of care we provide to the most vulnerable members of the community speaks volumes about where our priorities lie as a society. The committee's close consideration of this adoption bill is an opportunity to ensure we protect and provide for vulnerable children in Queensland. Adoption, despite some failures and wrong turns in the past, has provided and continues to provide tremendous benefit to children in need.

Adoption is only one method of providing care to a child who, for whatever reason, is in need of parents, but it is an important one and deserves focused attention. In many cases where parents are unable or unwilling to parent their children appropriately for a limited period time, parenting orders under the *Commonwealth Family Law Act 1976* (Cth), may be an appropriate method of providing for a child's needs.

In contrast to these orders, adoption changes the legal relationship between a child and his or her parents. This should not be done lightly, but can have positive benefits where there is a need for a greater sense of permanence, attachment, stability and belonging for both the child and the adoptive parents.

Where the circumstances mean that the child might benefit most from the security offered by adoption, it is essential that a legislative structure that facilitates an open and regulated process is available to ensure the best interests of the child are met.

Eligibility criteria: Same-sex parents and single persons

Section 76 of the *Adoption Act 2009* sets out criteria which must be met for a person to be included in the register. This section includes among other things the requirement that the person has a spouse and that the person's spouse is not the same gender.

This submission will discuss a limited number of the questions raised by the bill, in particular it will focus on the eligibility criteria changes which are contained in this bill. This bill would allow the eligibility criteria to extend to same-sex couples and single people.

ACL submits that the existing requirement that the person has a spouse and the person's spouse is not the same gender is appropriate to ensure the **best interests of the child are paramount**, and these requirements should not be changed.

Best interests of the child

The welfare of a child is a more important consideration than the desires of adults, no matter how heartfelt, to become parents. This important point must be remembered when considering what family structures are in the best interests of the child and should form the policy approach driving the legislation. The principle that the best interests of the child should be the paramount consideration is the guiding principle of all Australian legislation dealing with children.¹

Evidence-based policy approach to family structure eligibility

The committee is invited to consider the reasons behind the Australian Christian Lobby's opposition to giving single persons and same-sex couples the same eligibility for adoption as couples. This position flows from evidence that the well-being of children is best served when they experience the love of both a mother and father in a safe, secure and stable relationship.

Public policy should always aim to achieve the best outcome as its starting point, rather than seek to broaden the law without reference to the core policy outcome being sought; as the legal maxim goes 'hard cases make bad law'. The best interests of the child should drive the policy approach which in turn should rest on an evidence-based approach to adoption policy. If the vision is to ensure the best outcomes for children and the evidence points to the ideal family structure being a mother and father in a secure and stable relationship, then the eligibility or ineligibility of single persons and same-sex couples should be determined by that evidence. Considerations about modern community expectations and legislation in other Australian states are relevant, but of a lower importance. These must be considered as secondary to the paramount consideration of the best interest of the child.

Alternate family structures, including single parent households do not preclude good outcomes for many such children. The often positive outcomes do not change the fact that whilst a single parent can be a good parent, no matter how great a single parent mother may be, she is not a father, and no matter how great a single parent father is, he is not a mother.

¹ Section 229. *Adoption Act 2009* (QLD).

Men and women provide unique, complementary roles, both of which are important in the development of children.

Whilst many children live in family structures that do not contain both a mother and father, this is often by tragic circumstance or desertion, not usually the result of government policy. To establish such a situation within the legislative framework that from the outset does not include both a mother and father in today's context where there are many willing couples and few children in need of adoption is unjust to that child and contrary to the 'best interests of the child'.

A change to public policy that would give the same eligibility to single persons and same-sex parents as to couples should only occur if such a change can be grounded on solid evidence that outcomes for children will be no different or better than if they were placed with couples. Without such evidence, such a change would be a direct contravention of policy maker's responsibility to always act in the best interest of the child.

Evidential basis that children should be raised by both a mother and father

Single Person Eligibility

It is relevant to the single person eligibility question before the Commission that most of the available research suggests that children in sole-mother families are at higher risk of maltreatment than those in married families.²

There are a number of limitations to the Australian child protection data, however, research suggests that sole-mother families and sole-father families are overrepresented in Australia's child protection systems.³

Research suggests multiple risk factors are associated with child maltreatment, such as poverty, domestic violence and substance abuse.⁴ However, economic status and family structure are both relevant to outcomes for the child; this is true whether emphasis is placed on the emotional, physiological or intellectual well-being of young children.⁵

When discussing research on family structures and child protection data it is important to note that methodological limitations exist. A paper by the *Australian Institute of Family Studies*⁶ has listed a number of limitations for child protection data that should be noted, namely:

- Some family types are more likely than others to come to the attention of child protection authorities

² Cathryn Hunter and Rhys Price-Robertson. "Family structure and child maltreatment: Do some family types place children at greater risk?". CFCA Paper No. 10. *Australian Institute of Family Studies*, November 2012. p. 1. <https://aifs.gov.au/cfca/sites/default/files/cfca/pubs/papers/a143277/cfca10.pdf>

³ Ibid.

⁴ Ibid. p. 2.

⁵ Kerr, Don, "Family Transformations and The Well-being of Children: Recent Evidence from Canadian Longitudinal Data." *Journal of Comparative Family Studies*. Vol 35. (1). 2004. p. 73.

⁶ Family structure and child maltreatment: Do some family types place children at greater risk?. pp. 3-4, 7.

- Child protection data is influenced by a number of policy and social factors
- There are inconsistencies in the ways that data is collected.

The same paper also highlights methodological limitations of the research on family structure and child maltreatment which potentially affect such research. Consider the following:

- Some studies do not control for mediating factors
- Risk factors are different to causal factors
- There are different definitions of family structure and child maltreatment
- There is a dearth of longitudinal research
- Much of the research treats family structures as static.

Despite these methodological limitations, research studies into family structure can provide us with insights that should inform the Commission's recommendation with regards to sole person eligibility for adoption. Family structure studies of note:

- Sidebotham, P., Heron, J., & The ALSPAC Study Team University of Bristol. (2006). Child maltreatment in the "children of the nineties": A cohort study of risk factors. *Child Abuse & Neglect*, 30, 497–522.
 - **Found that children from sole-mother families had a higher risk of registration on the child protection register than those living in two parent families.**
- Dufour, S., Laverne, C., Larrivee, M-C., & Trocme, N. (2007). Who are these parents involved in child neglect? A differential analysis by parent gender and family structure. *Children and Youth Services Review*, 30, 141–156.
 - **Found that 'single-parent' families were overrepresented in the child protection system.**
- Regnerus, Mark (Jul 2012). "How different are the adult children of parents who have same-sex relationships? Findings from the New Family Structures Study". *Social Science Research*. 41 (4): 752–770. doi:10.1016/j.ssresearch.2012.03.009. PMID 23017845
 - **Found that children appear most apt to succeed well as adults – on multiple counts and across a wide variety of domains – when they spend their entire childhood with their married mother and father, and especially when the parents remain married to the present day.**
- Kerr, Don. (2004). "Family Transformations and The Well-being of Children: Recent Evidence from Canadian Longitudinal Data." *Journal of Comparative Family Studies*. 35, no. 1: 73-90. <http://www.jstor.org/stable/41603917>
 - **Found that, without exception across child outcomes, children living in lone parent families are reported to experience the highest levels of childhood difficulties.**

- Turner, H. A., Finkelhor, D., & Ormrod, R. (2007). Family structure variations in patterns and predictors of child victimization. *American Journal of Orthopsychiatry*, 77(2), 282–295.
 - **In contrast to the other studies, found no significant differences in rates of child victimisation between ‘single-parent’ and ‘two-parent’ families.**

A research paper from the *Australian Institute of Family Studies* found that whilst many children in single-parent families do just as well as the average child in a two-parent family, the general conclusion from a large body of data is that children from single-parent families overall fare less well than children from intact two-parent families.⁷

Same-sex couple eligibility

Is it unfair to exclude a same-sex couple from adopting?

If we prioritise the needs of a child as our supreme consideration then it follows that eligibility for adoption should only be extended to other family structure types if it can be shown that children will be better off or at the least no worse off than with the complimentary mother and father parental structure. Considerations about the desires of same-sex couples must always come as a secondary consideration. The interests of the child are of the greatest importance, they are not to be weighed in balance with the desires of adults. This goes to the heart of what it means when the Adoption Act provides that we should regard *the wellbeing and best interests of the child as paramount*.

What does research show about child outcomes in same sex parenting?

“No difference” thesis

It is often claimed that there is “no difference” in outcomes for children raised by same-sex parents and children raised by heterosexual couples. This is often referred to as the “no difference” thesis.

In 2005 the American Psychological Association (APA) went so far as to make the claim that:

*Not a single study has found children of lesbian or gay parents to be disadvantaged in any significant respect relative to children of heterosexual parents. Indeed, the evidence to date suggests that home environments provided by lesbian and gay parents are as likely as those provided by heterosexual parents to support and enable children’s psychosocial growth.*⁸

This APA literature review has been frequently referred to by those advocating same-sex parenting, however, a more recent review of the studies referred to by the APA reveals that the APA conclusions were not empirically warranted.

⁷ Sarah Wise, 2003, “Family structure, child outcomes and environmental mediators: An overview of the Development in Diverse Families study”, *Australian Institute of Family Studies*, viewed 22 September 2016, <<http://apo.org.au/node/6476>> p. 5.

⁸ American Psychological Association resource *Lesbian and Gay Parenting*. 2005. p. 15. <http://www.apa.org/pi/lgbt/resources/parenting-full.pdf>.

In a paper entitled: 'Same-sex parenting and children's outcomes: A closer examination of the American Psychological Association's brief on lesbian and gay parenting', Loren Marks reviewed the 59 studies on which the APA's statement rested and found that ***all of these studies were, in fact, deeply flawed***. Marks found the studies had significant sampling and design problems and applied inadequate statistical rigor, stating:

*not one of the 59 studies referenced in the 2005 APA Brief... compares a large, random, representative sample of lesbian or gay parents and their children with a large, random, representative sample of married parents and their children. The available data, which are drawn primarily from small convenience samples, are insufficient to support a strong generalizable claim either way. Such a statement [the no difference thesis] would not be grounded in science. To make a generalizable claim, representative, large-sample studies are needed—many of them...*⁹

Marks went on to state:

*...some same-sex parenting researchers seem to have contended for an "exceptionally clear" verdict of "no difference" between same-sex and heterosexual parents since 1992. However, a closer examination leads to the conclusion that strong, generalized assertions, including those made by the APA Brief, were not empirically warranted.*¹⁰

Despite Marks' conclusion, the claim that there is 'no difference' between same-sex and heterosexual parenting, continues to be made by those advocating same-sex parenting without addressing the serious flaws in the methodology behind their claims.

Large, random samples

An important 2012 study by Mark Regnerus which used a large, random sample of American young adults who were raised in different types of family arrangements, compared how young-adult children of at least one parent who had a same-sex romantic relationship fared on 40 different social, emotional, and relational outcome variables when compared with six other family-of-origin types. On 25 out of 40 outcome variables, the children of mothers who had had lesbian relationships fared poorly compared to the children of intact biological families.

Whilst acknowledging the complexity of the 'variety of forces uniquely problematic for child development in lesbian and gay families', thereby limiting himself from any causal conclusions, Regnerus stressed that the findings of the study mean that 'the empirical claim that no notable differences exist [between same-sex parenting and intact biological parenting] must go'. Regnerus did feel confident, however, to draw a strong conclusion, that the study:

⁹ Marks, Loren, Same-Sex Parenting and Children's Outcomes: A Closer Examination of the American Psychological Association's Brief on Lesbian and Gay Parenting (October 3, 2011). Available at SSRN: <http://ssrn.com/abstract=1937762> or <http://dx.doi.org/10.2139/ssrn.1937762>

¹⁰ Ibid.

also clearly reveals that children appear most apt to succeed well as adults – on multiple counts and across a wide variety of domains – when they spend their entire childhood with their married mother and father, and especially when the parents remain married to the present day.¹¹

The Marks and Regnerus papers are significant to the development of research in this area, since they overthrew the ‘consensus’ among sociologists that there are ‘no differences’ in the life outcomes of children between those raised by heterosexual parents and those raised by gay or lesbian ones.

2015 research by Paul Sullins titled, ‘Emotional Problems among Children with Same-sex Parents: Difference by Definition’, in published in the *British Journal of Education, Society & Behavioural Science*, used a representative sample of 207,007 children, including 512 with same-sex parents. The sample came from the U.S. National Health Interview Survey. The research found that emotional problems were over twice as prevalent for children with same-sex parents as for children with opposite sex parents. Sullins concluded:

The importance of common biological parentage for optimum child well-being found in this study raises the difficult prospect that higher child emotional problems may be a persistent feature of same-sex parent families, since they are distinguished from opposite-sex parents on just this capacity. Since same-sex partners cannot, at least at present, conceive a child that is the biological offspring of both partners...

...it is hard to conceive how same-sex parents could ever replicate the level of benefit for child well-being that is the case in opposite-sex relationships involving two biological parents.¹²

The Sullins and Regnerus studies were significant because of the large representative probability samples. Previous studies suggesting ‘no difference’ in outcomes for children of same-sex and opposite-sex parents have been small, non-random, or flawed in other significant ways, as demonstrated by Loren Marks in his 2012 analysis.

Recent longitudinal study

A more recent study by Sullins titled *Invisible Victims: Delayed Onset Depression among Adults with Same-Sex Parents*¹³, found that children raised by same-sex couples had a higher depression rate in early adulthood, coupled with a more frequent history of abuse

¹¹ Mark Regnerus, How different are the adult children of parents who have same-sex relationships? Findings from the New Family Structures Study, *Social Science Research*, Volume 41, Issue 4, July 2012, pp. 752-770. ISSN 0049-089X, <http://dx.doi.org/10.1016/j.ssresearch.2012.03.009>.

(<http://www.sciencedirect.com/science/article/pii/S0049089X12000610>)

¹² Sullins, Donald Paul, Emotional Problems among Children with Same-Sex Parents: Difference by Definition (January 25, 2015). *British Journal of Education, Society and Behavioural Science* 7(2):99-120, 2015. Available at SSRN: <http://ssrn.com/abstract=2500537> or <http://dx.doi.org/10.2139/ssrn.2500537>

¹³ D. Paul Sullins, “Invisible Victims: Delayed Onset Depression among Adults with Same-Sex Parents,” *Depression Research and Treatment*, vol. 2016, Article ID 2410392, 8 pages, 2016. doi:10.1155/2016/2410392 <http://www.hindawi.com/journals/drt/2016/2410392/>

victimisation, parental distance, and obesity. The study casts serious doubt over the frequent claim that children are unaffected by the type of relationship their parents have.

The study looked at outcomes over a significant timeframe with the subjects being measured three times when they were aged approximately 15, 22, and 28. By the time those raised by same-sex parents were 28, they had more than twice the risk of depression compared to those raised by man-woman parents.

The Sullins study employed representative and longitudinal US National Survey of Adolescent to Adult Health data, taking into account changes occurring over time. It was limited, however, by a small sample size, a limitation also facing many of the studies claiming “no difference”, although many of those are self-selecting samples.

While the study should be interpreted with caution and balance, the findings do cast yet further doubt on the claim that there are “no differences” in outcomes for children raised by same-sex parents compared with opposite-sex parents.

Conclusion

Once the evidence of outcomes for children is given full consideration it becomes clear that there is a lack of a sound evidential basis on which to extend eligibility of adoption to include single persons and same-sex couples.

Recommendation: That the bill be amended to remove the extension of eligibility to single persons.

Recommendation: That the bill be amended to remove the extension of eligibility to same-sex couples.

Regards,



Wendy Francis
Queensland State Director
Australian Christian Lobby