

Health Legislation Amendment Bill (No. 3) 2025

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Submitted by: Donor Conceived Families Australia
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Health, Environment and Innovation Committee

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Dear Secretary

SUBMISSION TO THE INQUIRY INTO THE HEALTH LEGISLATION AMENDMENT BILL (No. 3) 2025

Donor Conceived Families Australia (DCFA) welcomes and supports the proposed amendments to the *Assisted Reproductive Technology Act 2024* (ART Act) outlined in the Bill.

Overall, the Bill provides the necessary flexibility that has been missing from the framework introduced in Queensland last year. In the context of assisted reproductive technology, rigid and uniform rules can produce inequitable and unintended outcomes for some families, making these amendments both timely and essential.

As a national family-centred organisation dedicated to advancing equality, recognition, and support for families conceived through assisted reproductive technology and donor conception, we believe it is essential that the diversity of family structures is fully recognised and that the current issues in access to assisted reproductive technology in Queensland are addressed. It is essential that Australian law reflects the diversity of how families are created today—through assisted reproduction, donor conception, surrogacy, and a wide range of family structures.

DCFA supports the submission made by Rainbow Families Australia. Our submission is therefore brief.

About us

At Donor Conceived Families Australia (DCFA), we advocate for the rights, wellbeing and recognition of families formed through donor conception. As parents of children who were conceived through donor conception, we want a future where our families are supported, our children are respected, and the rights of our families are protected now and as our children grow through to adulthood. We work to improve laws, systems, and community understanding to ensure donor conception in Australia is accessible, safe, ethical, transparent and family-centred.



Legislation that is inclusive, contemporary, and grounded in the lived realities of families is essential to ensuring that every child in Queensland grows up with equal rights and recognition and with the same security, stability, and dignity no matter how their family was formed.

What is a Donor Conceived Family?

A *donor conceived family*, sometimes referred to in the academic literature as a “new family” (e.g. Golombok et al.), is one in which the parent/s have used donated gametes (sperm or eggs) and/or embryos, sometimes in combination with surrogacy, to form their family. These families are formed by people who cannot or choose not to conceive with their own gametes, and encompass a broad spectrum of diverse family structures including:

- Heterosexual couples who require donated sperm or eggs or embryo donation with or without surrogacy
 - Lesbian, gay, bisexual, transgender, queer and non-binary (LGBTQ+) couples who form families via donor conception and/or surrogacy
 - Solo parents by choice (e.g. unpartnered women) using donated gametes or embryos with or without surrogacy
- Families in which a child is born via surrogacy (gestational or genetic) using donated gametes, or using a combination of donor and non-donor gametes
- Blended, co-parenting, or multi-parent families involving donor conception or surrogacy.

Our vision is that all families formed through donor conception in Australia are supported, respected, recognised, and safeguarded by law and practice.

This definition matters because it reflects the reality that donor conception is not rare or exceptional, it is an established and growing pathway to parenthood in Australia. Donor conceived families are part of the fabric of contemporary family diversity, supported by reproductive healthcare and medical practice and used by many Australians.

What is Reproductive Justice?

Equality for donor conceived families is a matter of reproductive justice. Reproductive justice is defined as the human right to maintain personal bodily autonomy, have children, not have children, and parent the children we have in safe and sustainable communities free from excessive or discriminatory government regulation or restriction. DCFA recognises that reproductive rights are inseparable from social justice issues like gender and sexual equality, anti-racism, First Nations sovereignty, and economic and environmental justice. Donor conceived families from marginalised groups, including LGBTQ+, single parents, First



Nations, disabled, and economically challenged communities are disproportionately affected by policies that restrict access to donor conception and reproductive rights more broadly.

Psychological Impact on Australian Families

The retrospective application of the legislation caused significant psychological distress and impacted the wellbeing of many families, particularly solo parents by choice and LGBTQ+ parents. These groups represent the largest Australian patient groups requiring assisted reproductive treatment with donated gametes, often relying on imported donated gametes from international providers.

Many Australian families were devastated to learn that they might be unable to use their existing embryos—embryos that, for many, represented their final chance to have a child or complete their family. Others were informed that carefully planned treatment cycles could not proceed because of minor technicalities, such as a missing middle name or an unavailable email address for a gamete donor.

Like many organisations, DCFA heard from parents who were anxious, exhausted, heartbroken, and fearful that their long-hoped-for families might never be completed.

Flexible Approach to Contact Information

Under the original *Assisted Reproductive Technology Act 2024*, and as mentioned above, clinics were unable to continue treatment for patients if even minor pieces of contact data (such as a middle name or email address) could not be collected. This created unintended barriers—particularly when donated gametes had been obtained long before the Act commenced and were used to create embryos already in storage.

The Bill’s proposed amendment to section 33 appropriately replaces prescriptive data requirements with a more practical obligation to collect “contact information”. This maintains the Act’s intent—ensuring people conceived with donated gametes can access identifying information in the future—while allowing reasonable flexibility for providers.

Maintaining Protections While Modernising Practice

These changes do not weaken protections for people whose parents conceive with donated gametes. Instead, they update the law to reflect real-world conditions in which of those people who may wish to connect with a donor there are already multiple pathways to do so (e.g., through social media, voluntary registers, and DNA testing).



By shifting to a principles-based approach, the Bill balances privacy, practicality, and transparency, promoting consistency with modern realities while safeguarding the rights of all parties.

Compassionate Transitional Provisions

The retrospective application of the original Act caused significant distress for families who had begun treatment before its commencement. The new provisions (sections 145–149) address this by disapplying prescriptive information requirements for existing patients. This ensures families are not denied access to their own embryos or forced to abandon treatment cycles—an outcome clearly disproportionate to the law’s intent to allow people access to donor information when they turn 18 if they wish to obtain such information.

Case-by-Case Decision-Making

While limited discretion existed previously for Queensland Health, rigid application of the rules was producing unjust outcomes—such as preventing families from creating siblings for existing children.

The Bill provides additional flexibility to consider compassionate factors and the welfare of all parties. Queensland Health can now weigh the impact on existing and future children, parents, and donors while remaining consistent with the Act’s overarching objectives.

Recognising Diverse Family Structures

Earlier drafting failed to account for diverse family forms, such as same-sex couples or those who re-partner. For example, one partner wishing to have another child with the same donor after separation was previously prevented by family limits.

The Bill corrects this by introducing discretion to exceed family limits where appropriate and by amending sections 146 and 147 to ensure both partners—regardless of who carried the first pregnancy—can use existing embryos or gametes. This reform promotes fairness, equity, and the completion of families across all structures.



Sensible Time Limits for Stored Gametes and Embryos

The revised section 27 improves the process for using embryos and gametes stored for more than 15 years. It prevents families from being rushed into difficult decisions about disposal or use before they are ready.

Clinics will still communicate clearly with patients as the limit approaches, but families will now have time to make informed, emotionally grounded choices.

Clear guidance is recommended – clinics should:

1. Inform patients upfront how many years remain on a donor's 15-year limit, and
2. Provide written notice 9–12 months before expiry explaining the implications.

Clarifying Donor Consent in Exceptional Circumstances

The Bill reasonably allows Queensland Health to approve use of gametes beyond time or family limits without renewed donor consent if the donor cannot be contacted despite reasonable efforts. This does not undermine donor rights – it respects the original consent and ensures that families are not unfairly disadvantaged by administrative obstacles or donor inaccessibility.

Strengthening Natural Justice and Review Rights

The introduction of internal review rights (section 119) is an important step forward, ensuring timely reconsideration of decisions that can profoundly affect families. However, the absence of an external review mechanism (e.g. QCAT) is disappointing and may limit access to justice, leaving judicial review in the Supreme Court as the only recourse—an inefficient and inequitable outcome.



Overall Assessment and Support

Donor Conceived Families Australia commends the Queensland Government for addressing the unintended harms caused by the 2024 Act.

The amendments restore fairness, protection, and certainty for families and align regulation with contemporary reproductive practice. They represent a balanced, compassionate, and evidence-based approach that serves the interests of all parties involved in assisted reproductive treatment.

We appreciate the opportunity to provide a submission to the inquiry and are available to discuss this submission further if needed.

Kristi Parsons

Donor Conceived Families Australia

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