

9th January 2023

Dear Committee Secretary (Legal Affairs and Safety Committee),

Please accept my submission in relation to the Births, Deaths and Marriages Registration Bill 2022.

I am writing this submission as a Social Worker who has extensive experience in the area of post adoption support, and who has conducted postgraduate research in this area. I am also a person who was born and adopted in Queensland and who therefore does not have a birth certificate that reflects my true identity. I have been working professionally in the area of post adoption support since 2009 in a range of capacities including as a counselor for Queensland's State funded adoption support service, as a practitioner for the federally funded Forced Adoption Support Service in Queensland and formerly have been a team leader for both of the aforementioned services. As such, I have directly supported many Queenslanders who have been adopted in this state and who do not have access to a true and accurate birth certificate. For these individuals (myself included), this has been a barrier in relation to identity development, ongoing mental health, wellbeing and has adversely impacted family relationships. In addition to my in depth understanding of the impacts of this state of affairs on those affected by adoption, I am aware that similar issues face those affected by donor conception and surrogacy which remain unregulated and unsupported in this state. I am aware of a recent inquiry in 2022 which featured the voices of donor conceived people and am deeply disappointed that these views do not appear to be reflected in the proposed bill. I would also like to note that in 2012 the Queensland State Government apologised for past adoption policies and practices that occurred across the state. Further, in 2013 the Federal Government issued a similar apology which labeled these past policies and practices as 'dishonest, unethical and in many cases illegal'. Both of these apologies took place in response to a federal senate inquiry report that was released in 2012. It is deeply concerning to me that one of the other recommendations of this senate inquiry was the introduction of integrated birth certificates in all states of Australia, yet to date South Australia and New South Wales are the only states to implement this (with Victoria currently considering the matter). As such, this is the matter that my submission will focus upon: the human rights of both adopted and donor conceived people within Queensland. I find it unacceptable that the current Bill is being introduced to Parliament without including accommodations for adopted and donor conceived people.

I am aware that the proposed bill aims to address birth certificates as they relate to gender diverse individuals within Queensland. I am in full support of the human rights of this cohort to have their identity acknowledged in law. At the same time, I believe that the human rights of donor conceived people, those conceived by surrogacy and adopted people hold equal significance and must be addressed simultaneously. After all, the child protection legislation within Queensland aims to uphold the best interests of children throughout their lifespan. Why should this same premise not hold true for any other legislation that impacts young people who do not have their own voice or ability to defend their rights until adulthood? And why is it that adult adopted person's views are not being heard and enacted in law over 10 years on from the

initial senate inquiry and apology?

### **Integrated Birth Certificates**

An integrated birth certificate, quite simply, is a certificate which acknowledges the historical and/or biological identity of an adopted or donor conceived person (their biological parents, their name at birth) as well as the details of that person's current legal identity (current legal parents, current name). The details are contained within two separate columns and it is made clear which reflects the person's current and legal identity. In both of the states that have introduced integrated birth certificates (South Australia and New South Wales), adults applying for an integrated birth certificate continue to have a choice over whether they present their integrated or usual legal birth certificate as an identity document in any given circumstance. This provides them with choice which is very important and empowering for individuals who have not had a voice and who have had permanent decisions made about their lives by state authorities in the past. The column reflecting an individual's historical or biological identity is simply a statement of historical fact that individuals may or may not choose to disclose depending upon their own wishes at any given life stage. Indeed some individuals may choose to never apply for an integrated birth certificate or hold one in their possession and that too is their right. In instances where the adopted or donor conceived person in question is under the age of 18, it is a parent or legal guardian who has a choice over which certificate to present. However, the existence of such a legal document (which the 'child' may apply to obtain at 18 years old) provides these parents with an incentive to have the difficult conversations with their child around their biological origins and support their child with this reality in developmentally appropriate ways as they grow up. I implore the Queensland Parliament to follow the lead of other states of Australia who have enacted the option of Integrated Birth Certificates.

### **Lessons from the Australian Institute of Family Studies Research**

The 2012 Australian Institute of Family Studies research (titled 'Past Adoption Experiences: National Research Study on the Service Response to Past Adoption Practices') surveyed over 800 adopted people affected by past adoption practices within Australia and found that many adopted people did not learn of their adoptive status until adulthood. These individuals fared worse in terms of their reported wellbeing at the time of the study and in regards to their family relationships whereby they described a loss in trust those who raised them and feeling that their whole lives 'had been a lie'. Those who are told of the truth of their origins in a supportive and developmentally appropriate way are able to integrate this knowledge into their identity development as they grow which is associated with better mental health and wellbeing later in life. Birth Certificates legislation is relevant to this issue because it has been made clear that the implications are complex and dire for including falsified information on birth certificates in a way that implies that it is 'truth' when the reality is far more complex. The reality is that many Queenslanders have more than two parents when their biological and historical origins are taken into account. Individuals experience separation not only from their biological parents, but from siblings, aunts, uncles, grandparents and cousins when a birth certificate is issued which denies an individual's true identity.

## Human Rights

The Births, Deaths and Marriages Registration Bill 2022 also violates human rights legislation. All people have a fundamental human right to their true identity, history and ancestry. 'Birth' or 'identity' documents should not be falsified by the state.

Article 8 of the Convention on the Rights of the Child states:

'Parties undertake to respect the right of the child to preserve his or her identity, nationality, name and family relations'

Further, Section 26 of the Queensland Human Rights Act 2019 states that:

"Every child has the right, without discrimination, to the protection that is needed by the child, and is in the child's best interests, because of being a child"

Additionally, 'every person born in Queensland has the right to a name and to be registered as having been born, under a law of the State as soon as practicable after being born'. This implies that it is the child's rights, once born, to have their identity established and preserved before considering the rights of that child's parents. I would argue that it is in a child's best interests to have a truthful document that preserves their true identity for the rest of their life until or unless they choose otherwise (as permitted in law and keeping in mind that an integrated birth certificate could be used and their discretion interchangeably with their legal birth certificate).

We must also keep in mind that birth certificates become historical documents that are often sought by future generations of a family who are seeking a true record of their historical and/or biological heritage, sometimes for medical reasons, and other times for cultural and identity reasons.

## The importance of funded support services

In addition to the points raised in this submission that address the Births, Deaths and Marriages Registration Bill 2022, I also believe that the matter of appropriate support services should be considered. As the notion of 'family' becomes more complex, so too do the support needs of children and parents to navigate the legal and social aspects of the decision making, dialogue and rights of vulnerable young people as they age and become adults. Many adults born under these arrangements will seek out their biological origins later in life which can have complex ethical considerations and implications for all parties involved. The lessons of the past should have taught us that government support is a vital piece of the puzzle and that aside from the implications for individuals, further government apologies and compensation may be sought in future if appropriate legislation, support and safeguards are not put in place.

## Conclusion

All Queenslanders have a human right to a birth certificate that captures the truth of their origins, not only for their own sake but for future generations of Queenslanders who rely on birth certificates to be accurate historical documents.

The implications at both an individual and societal level have been uncovered and addressed at state and federal government levels in the form of apologies, inquiries and recommendations (some of which remain unaddressed). We must learn the lessons of the past and not continue to make mistakes that will only have more serious and devastating impacts later on.

Other states of Australia have learned the lessons of the past and enacted recommendations to introduce integrated birth certificates. New South Wales integrated birth certificate is excellent and should serve as a model for Queensland.

The Births, Deaths and Marriages Registration Bill 2022 should not be allowed to pass in its current form.

Kind regards,

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