

MEDIA RELEASE



UNIVERSITY
OF TASMANIA

WEDNESDAY 28 MAY, 2003

ATTENTION: Chiefs of Staff, News Editors ...

TASMANIA LAW REFORM INSTITUTE

Today the Tasmania Law Reform Institute released its Final Report No. 2:

Adoption by same sex couples

This follows the release of an issues paper in February considering whether the current law should be amended so that same sex couples are eligible to apply to adopt. Over 1300 responses to the issues paper were received, many of them duplicates. Of the original responses 134 were against any change to the law and 61 in were in favour.

The final report considers:

- Changing family structures and attitudes to same sex parenting
- Adoption law, process, trends and rates
- Whether same sex couples should be eligible to adopt

The Law Reform Institute has carefully considered the arguments put forward in response to the Issues Paper. Despite the limited practical impact of changes the issue is clearly an emotive one as the volume and tone of the responses to the Issues Paper demonstrate. While most of these responses opposed same sex adoption, it is the Institute's view that to continue to deny same sex couples eligibility to adopt is not in the best interests of children and unjustifiably and unfairly discriminates against gay and lesbian couples and their children. The beliefs of those opposing same sex adoption are no doubt strongly and sincerely held. However underlying this opposition is a view that homosexuality is wrong and unnatural, an inability to divorce the issue of sexual orientation from that of parenting and fear that same sex parenting poses a threat to society. It is no longer the majority view that homosexuality is wrong and unnatural and the suggestion that same sex parenting poses a social threat is implausible. Adoption decisions are made on a case-

by-case basis and gay and lesbian couples should be evaluated individually as suitable parents for a particular child rather than being denied eligibility because of their sexual orientation.

Recommendation 1:

The Institute recommends that s 20(1) of the *Adoption Act* be amended to permit a couple to apply for adoption regardless of the gender or marital status of the partners making up the couple.

- Whether the profile of applicants for adoption should include sexual orientation under the description of family makeup and to what extent birth parents' preferences regarding the sexual orientation of the adoptive parents should be taken into account

Recommendation 2

The Institute recommends:

- (a) that the profile of potential adoptive parents include the sexual orientation of the adoptive couple, and
- (b) that the preferences of relinquishing parents as to sexual orientation of the adoptive couple be taken into account in the selection of adoptive parents.

- Whether same sex couples should be eligible for known child adoption only

The Institute agrees with those respondents to the Issues Paper who argued that to so limit adoption would not address the issues of stigmatisation of lesbian and gay people and their children in particular, nor the issues of human rights and discrimination. While step-parent and relative adoption should be available to the same sex partner of a parent or relative of a child, in the case of co-parents (lesbian couples who have a child as a result of a planned pregnancy) adoption is not the optimal choice. A more appropriate legal response in such a situation is presumptive recognition of both parents from birth.

Recommendation 3

The Institute recommends:

- (a) that both step-parent and relative adoption should be available to the same sex partner of a parent or relative of a child; and
- (b) that the *Status of Children Act 1974* s 10C be amended to apply the conclusive presumption of parenthood to the same sex partner of a woman who, with her partner's consent, conceives a child as the result of an artificial fertilisation procedure.

- Whether there should be any additional qualifications for couples to be eligible to apply to adopt.

Recommendation 4:

The Institute recommends that the length of the relationship of adoptive couples remain at 3 years for eligibility to adopt and that no qualifications be required in addition to the current qualifications.

The final report can be downloaded from the Institute's web page at:

<http://www.law.utas.edu.au/reform/>

or a copy of the issues paper can be sent to any group or person, contact:

address: Tasmania Law Reform Institute
Private Bag 89,
Hobart, TAS 7001

email: law.reform@utas.edu.au

telephone (03) 62262069

fax: (03) 62267623

BACKGROUND: Information on the Tasmania Law Reform Institute

The Tasmania Law Reform Institute was established on 23 July 2001 by agreement between the Government of the State of Tasmania, the University of Tasmania and The Law Society of Tasmania. The creation of the Institute was part of a Partnership Agreement between the University and the State Government signed in 2000.

The Institute is based at the Sandy Bay campus of the University of Tasmania within the Law Faculty. The Institute undertakes law reform work and research on topics proposed by the Government, the community, the University and the Institute itself.

The Institute's Director is Professor Kate Warner of the University of Tasmania. The members of the Board of the Institute are Professor Kate Warner (Chair), Professor Don Chalmers (Dean of the Faculty of Law at the University of Tasmania), The Honourable Justice AM Blow OAM (appointed by the Honourable Chief Justice of Tasmania), Paul Turner (appointed by the Attorney-General), Phillip Jackson (appointed by the Law Society) and Terese Henning (appointed by the Council of the University).

ENDS...

FURTHER INFORMATION/INTERVIEWS:

Professor Kate Warner 6226 2067

Information Released By:
The Media Liaison Office, University of Tasmania.
Tel.: 6226 2124 / Fax.: 6226 2018 / Mobile: 0417 517 291
Email: Media.Office@utas.edu.au