

**Submission
on
The Evidence Amendment Bill 2008
to the
Senate Legal and Constitutional Affairs Committee
by
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In contrast to other relationships, the marriage relationship is unique in that it provides benefits to the community, as well as to its members, that no other relationship can give. It provides the only natural relationship for sustaining the community through reproduction. It provides the only natural environment for nurturing and training children to equip them for responsible, stable and beneficial adult life in the community. Marriage models and legally requires a commitment absent in other relationships, which is foundational to a stable and trusting society.

Such positive contributions to the community warrant special consideration and benefits in return that are not given to other relationships. Why would people commit themselves to a relationship that is beneficial to the community if they can receive the same privileges and rewards without the commitment? It would be easier for them if they can pursue their self-interest while enjoying the benefits and privileges that ought to be reserved for the marriage commitment.

Therefore, it is appropriate that married couples ought to be given unique benefits, including the right to object to giving evidence against each other. It is inappropriate that those benefits be extended to others who are not committed to the same legally union. To do so would exalt to the status of marriage de-facto relationships that have no legally binding commitment, would devalue the marriage and would undermine the benefits marriage gives the community.

The meanings given by the Bill to “de facto partner” and “de facto relationship” is so vague as to be meaningless and provides opportunity for couples to establish fraudulent relationships for the purpose of hiding evidence. To allow any person to object to giving evidence against his/her de-facto partner would open the way for all kinds of criminals to avoid useful evidence being given by an associate in crime. Further, it provides for legal recognition of adulterous relationships that conflict with the legal definition of marriage in Australia. This is a direct assault on criminal justice. It is also a direct attack on marriage.

The Evidence Amendment Bill 2008 should be scrapped. Instead the future of our nation should be safeguarded by protecting marriage from the destructive effects of rewarding de-facto relationships with the same benefits given to marriage and justice in our nation should be upheld by not providing opportunities for evidence to be hidden.