

Senator Trish Crossin  
Committee Chair  
Senate Standing Committee on Legal and Constitutional Affairs  
Department of the Senate  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

20 July 2008

**Re: Inquiry into the Same-Sex Relationship (Equal Treatment in Commonwealth Laws-Superannuation) Bill 2008**

Dear Senator Crossin

I welcome the introduction of the above Bill into the Commonwealth Parliament and urge the Senate to pass it without amendment prior to the end of the current sitting.

The elimination of discrimination against same-sex couples in superannuation is a matter of great importance, particularly for older and retired partners who currently experience financial insecurity and disadvantage in the absence of equal superannuation laws. I am concerned that the Senate's delay in passing these reforms may prolong the anxiety and uncertainty experienced by many of these people.

I fully support the use of the term "couple relationship" in Commonwealth law as a broad term encompassing both opposite-sex and same-sex partnerships. I also support the inclusion of provisions in the Bill recognising State-based registered partnerships for the purposes of Commonwealth law.

I note that some Senators and members of the community have expressed concern about the use of the term "couple relationship" as an umbrella term including both heterosexual marriages and same-sex relationships.

In this context I would observe that the removal of all forms of discrimination against people in same-sex relationships is essential if the principle of the equality of all citizens before the law is to be a reality rather than just an ideal. Australia has a proud history in this regard- having been one of the first nations in the world to extend equal voting rights to women in 1902. Sadly, on the issue of the legal status of same-sex couple relationships, Australia lags badly behind other comparable Western nations. The vast majority of comparable nations have either enacted laws removing such discrimination, or are in the process of doing so.

**International comparison**

For the Committee's information I include a table listing various comparable nations, along with the recognition that same-sex relationships are accorded under the laws of each country:

<b>NATION</b>	<b>LEGAL STATUS OF SAME-SEX RELATIONSHIPS</b>
Belgium	Full marriage rights
Canada	Full marriage rights
The Netherlands	Full marriage rights
Spain	Full marriage rights
South Africa	Full marriage rights
Sweden	Registrerat partnerskap (registered partnership); a majority of member parties in the governing coalition have supported introducing same-sex marriage.
Norway	The Norwegian Parliament (Storting) approved equal marriage in June 2008 with the new laws taking effect from 1 January 2009. The legislation repeals the <i>Registered Partnership Act</i> and provides previously registered partners the option of converting their partnerships to full marriage.
United Kingdom	Civil partnership
France	Pacte civile de solidarité (civil solidarity pact)
Germany	Lebenspartnerschaft (life partnership)
Ireland	Registered civil partnerships law- to be introduced into Parliament by 2009
United States	Full marriage rights in California and Massachusetts; civil union in Connecticut, New Hampshire, New Jersey and Vermont; domestic partnership in District of Columbia, Maine and Washington
Czech Republic	Registered partnership
New Zealand	Civil partnership
Finland	Rekisteröity parisuhde registrerat partnerskap (registered partnership)
Denmark	Registreret partnerskab (registered partnership)
Switzerland	Civil union

The above list shows how far Australia has slipped behind other Western nations. It is now up to the Commonwealth Parliament to rectify this unfortunate situation.

### **‘Threat’ to marriage as an institution**

Some have objected to the use of the term “couple relationship” as a broad term covering both heterosexual marriages and same-sex partnerships. Those who object to elements of the Bill on the ground that they ‘devalue’ or ‘threaten’ the institution of marriage should note that there is *not a shred of evidence*- from any of the jurisdictions that have provided for same-sex marriage or other forms of recognition- that divorce rates have increased, that extramarital childbearing has increased, or that rates of heterosexual marriage have decreased, as a result of the state formally recognizing same-sex relationships.

Massachusetts, one of only two US states to formally recognize same-sex marriage, has recorded the lowest divorce rate in the nation.

As Darren Spedale and William Eskridge point out in the *Wall Street Journal*:

*[T]here is no evidence that allowing same-sex couples to marry weakens [marriage]. If anything, the numbers indicate the opposite. A decade after Denmark, Norway and Sweden passed their respective partnership laws, heterosexual marriage rates had risen 10.7% in Denmark; 12.7% in Norway; and a whopping 28.8% in Sweden. In Denmark over the last few years, marriage rates are the highest they've been since the early 1970s. Divorce rates among heterosexual couples, on the other hand, have fallen. A decade after each country passed its partnership law, divorce rates had dropped 13.9% in Denmark; 6% in Norway; and 13.7% in Sweden. On average, divorce rates among heterosexuals remain lower now than in the years before same-sex partnerships were legalized.*

*In addition, out-of-wedlock birthrates in each of these countries contradict the suggestion by social conservatives that gay marriage will lead to great increases in out-of-wedlock births and therefore less family stability for children. In Denmark, the percentage of out-of-wedlock births was 46% in 1989; now it is 45%. In Norway, out-of-wedlock births jumped from 14% in 1980 to 45% right before partnerships were adopted in 1993; now they stand at 51%, a much lower rate of increase than in the decade before same-sex unions. The Swedish trend mirrors that of Norway, with much lower rates of increase post-partnership than pre-partnership.<sup>1</sup>*

M.V. Lee Badgett, Associate Professor of Economics at the University of Massachusetts, examined data from Europe and reached similar conclusions:

*Giving gay couples rights does not inexplicably cause heterosexuals to flee marriage... . Looking at the long-term statistical trends, it seems clear that the changes in heterosexuals' marriage and parenting decisions would have occurred anyway, even in the absence of gay marriage.<sup>2</sup>*

In conclusion, I urge the Committee to examine the social issues raised by this Bill in a rational and non-ideological fashion, and to view with skepticism the utterly vacuous arguments that are repeatedly rolled out by opponents of law reform. Those who assert that the sky will fall in if society accepts same-sex partnerships as equal need to provide evidence to support their claims. No such credible evidence has yet been supplied.

In conclusion, I would like to express my full support for the Bill and urge the Committee to recommend its passage through the Senate.

Yours sincerely

C.D. Parkin

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<sup>1</sup> Darren Spedale and William Eskridge Jr, Wall Street Journal Online, October 27, 2006  
< [http://online.wsj.com/article\\_print/SB116191428485605594.html](http://online.wsj.com/article_print/SB116191428485605594.html) >

<sup>2</sup> M.V. Lee Badgett, *Did Gay Marriage Destroy Heterosexual Marriage in Scandinavia?*, Slate, May 20, 2004  
< <http://www.slate.com/id/2100884/> >