

**INQUIRY INTO THE SAME-SEX RELATIONSHIPS (EQUAL TREATMENT IN COMMONWEALTH
LAWS – GENERAL LAW REFORM) BILL 2008**

SENATE LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE

15 September, 2008

The Social Issues Executive of the Anglican Church Diocese of Sydney thanks the Committee for the opportunity to contribute to this Inquiry.

We support the purpose of this Bill which is to “to eliminate discrimination against same-sex couples and the children of same-sex relationships in a wide range of Commonwealth laws” and commend the Government for addressing the issue as a matter of urgency.

We acknowledge the complexity of this task as well as our own limited legal expertise, however we are concerned that in the interests of expediency the Bill may go beyond its stated purpose of eliminating discrimination. It seems that by expanding certain definitions, the Bill is creating new social and legal definitions in relation to families without the necessary broader public consultation.

We note that while it may be economical to use the term ‘product of a relationship’ to cover the diverse ways in which families are formed, like many others, we question the use of this term to describe children. The term ‘product’ lacks basic human dignity and bestows on children a secondary status implying that they are the property of the parents.

It is also a matter of concern that the principle of ‘consent’ in relation to assisted conception has been minimized “*consent to the procreation of a child is not an express requirement in the key definition of ‘child’*” and in so doing the Bill introduces a new definition of the status of ‘parent’ and ‘child’ which is out of step with other laws.

Our reading of the above clause places this new Federal Bill in conflict with the Status of Children Act 1996 (NSW) where it refers to parenting presumptions arising out of the use of fertilization procedures, ‘*but only if the other woman consented to the procedure*’. Commonsense suggests that this contradiction between certain Federal and State laws will create all sorts of legal complications in the future.

In addition, we note that any attempt to give recognition to same-sex parents will inevitably involve some attention to the various forms of assisted conception that couples use. However we suggest that the ‘jury is still out’ on the legal and moral issues associated with some forms of ART, particularly surrogacy, whether it involves same-sex or opposite-sex couples. We are concerned that the Bill may be indirectly giving a kind of legal validation for certain surrogacy

arrangements, in the absence of a thorough analysis and community consultation about the social, ethical and legal complexities of these practices. The Australian Health Ethics Committee has expressly stated the need for further community discussion on this issue (see NHMRC, Ethical Guidelines on the use of Assisted Reproductive Technology in Clinical Practice and Research, June, 2007).

With the advent of different forms of assisted conception and the increasingly diverse family arrangements that exist in the Australian community, the law seems to be in constant catch up mode. While this Bill rightly aims to eliminate discrimination against same-sex couples and the children of same-sex relationships in relation to financial and work related entitlements, we suggest it is not the place to redefine the legal status of the parent/child relationship. We argue that such an endeavour ought to encompass the views of the wider community and should be done quite independently of this Bill.

We recommend that a more extensive inquiry be conducted into the social, moral and legal meanings of 'family', 'parents' and in particular, the legal status of children and should such an opportunity arise we would be happy to provide a more extensive submission.

We thank you once again for the opportunity to contribute to this current inquiry.

The Social Issues Executive
Anglican Church Diocese of Sydney
C/- 1 King Street
Newtown NSW 2042