

WELCOME TO OUR FIRST EVER EDITION OF OUR

MONTHLY NEWSLETTER

LGBTI LEGAL SERVICE INC



COVID-19 UPDATE

Throughout 2020, the COVID-19 pandemic brought us many unprecedented challenges which meant our Service had to adapt our service delivery model. As we were unable to provide our face-to-face advice clinics, we completed all our evening clinics by telephone. As COVID restrictions ease across Brisbane, we endeavour to begin providing face-to-face evening clinics again soon. We aim to have these up and running in the first week of March. We thank you for your patience and understanding during these unprecedented times.

**We have moved! Our service is now located at Level 1,
Oxley House, 20 Hockings Street West End Qld 4101**

A MESSAGE FROM THE PRESIDENT

BY MATILDA ALEXANDER



Welcome to the first edition of the LGBTI Legal Service Newsletter. I have been asked to provide an insight into what it means to be the President of the Service. So, I'll tell you a story that is very important to me.

On 20 July 2020 I took the day off my paid job and represented an LGBTI Legal Service client. Many hours of pro bono work went into this case, from me, others at the service and especially one of the most committed, skilled and passionate barristers I know, Paula Morreau.

Our client was a man with an adorable little baby. Single men find their way to parenthood in a variety of ways, but for our client, he conceived and carried his child using parts of his body consistent with the gender assigned to him at birth.

Like any new dad, he was proud of his identity as a father and of his (did I mention adorable?) baby. He wanted to share cute pics on Facebook and introduce bub to friends, family and community. He wanted his baby to fit into this world as he had fitted in since his transition to manhood many years prior.

However, the law defines birth as 'the extraction or expulsion of a child from its mother'. There is no contingency for a child born from their fathers body. Likely the possibilities of this particular variety of rainbow family were not in the minds of the legislators at the time.

And so it came to be that a man who was accepted in his work as a public servant, whose family universally supported him and who was known to friends and family as male was issued a birth certificate for his son that would brand him as female for the rest of his life.

MOTHER. Supposedly not a gendered term, according to the law, but a reflection of the act of birthing.

Motherhood and fatherhood are very gendered spaces. Mater mothers hospital, mothers groups, fathers groups, mother's milk, mums and bubs activities. If you go to any of these events (and I do, being a mother of 2 kids myself) and ask the women there if they would mind being called 'father' or the fathers groups if they would mind being called 'mother' you would be met with incredulous silence. Yet for our client, each time he presented his child's birth certificate, whether to schools, hospitals or day cares, he had to offer an embarrassing explanation.

This consistently meant he was outed as transgender. His child will grow up and for the rest of their life will have to explain why his father is listed under the category of 'mother' on his birth certificate.

From the start we knew we had an uphill battle to win the case but that did not stop us from trying as hard as we possibly could. The law was discriminatory in its text and we had to try to persuade the decision makers to change their minds and go beyond what they saw as the correct statutory construction. We were not successful.

Sometimes you can create change through case law. In this case we did not. But we will not give up because we cannot let this issue rest. We cannot look away in a world where the very text of the law pushes our community into a corner and strips us of our identity.

We have written to the Attorney General, asking to meet to demand law reform to this outdated piece of legislation that continues to cause harm and hurt to valued members of our community.

We appreciate your support for the LGBTI legal service as we continue to push for change in everyway possible.

A link to the decision is **here** <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/qld/QCAT/2020/434.html>

MATILDA ALEXANDER

ANNUAL REPORT: 2019-20

**OUR ANNUAL REPORT IS
AVAILABLE NOW**

If you would like to read our 2019-20 Annual Report, it is available to download from our website (lgbtilegalservice.org.au). The report provides key insights into, and statistics for, the services we delivered in the 2019-20 financial year. The report also includes a number of interesting case studies from some of our former clients.

TRANS CHILD GIVEN DRUGS WITHOUT CONSENT OF FATHER

CASE STUDY: THE MEDICAL TREATMENT OF "A"

A Queensland judge has granted permission for a transgender child to access puberty blockers without the consent of both parents.

This landmark decision was handed down in the Queensland Supreme Court in December 2020.

This case involved "A", a 13-year-old biological male. Since the age of 4, "A" has stated that she is a girl and has been born in the wrong body. "A" has socially transitioned to a female at school. "A" wore the female uniform and used her chosen female name on the school roll. As "A" approaches adolescence, she lives in fear of becoming someone that she's not (a boy). Puberty blockers are used to postpone puberty and delay any unwanted physical changes that do not match a person's gender identity.



Image does not depict parties involved.

"A" lives with her mother. "A" and her mother have not been in contact with "A's" father for three and a half years, nor do they know his whereabouts. "A's" mother is very supportive of her daughter's decision to enter Stage 1 puberty blocking medical treatment. However, prior to this decision, for a minor to undergo treatment of this nature, consent is required from both parents.

"A" has been receiving different forms of treatment and support from a team of specialists including, psychologists, a psychiatrist and an endocrinologist. These medical professionals report that "A" has a history of self-mutilation in relation to her genitalia and has expressed suicidal ideation in relation to her gender identity. "A" also meets the criteria for Gender Dysphoria in Childhood Adolescence. The medical team that the proposed medical treatment is in "A's" best interests. The medical team are of the opinion that considers treatment with puberty blockers will reduce the risk of future mental health problems, deliberate self-harm and suicide.

The application to the Supreme Court was a matter of urgency as "A" is fast approaching adolescence and the physical changes to her body are having a significant impact on "A's" mental wellbeing. Justice Lyons adopted the *parens patriae* jurisdiction in making her decision. The *parens patriae* jurisdictions permits the court to make orders contrary to the wishes of a child's parent if the court is satisfied it is in the child's best interests to do so. Justice Lyons concluded that the treatment was in the best interests of "A" and the treatment should occur without delay. Justice Lyons added that delaying treatment to seek and obtain "A's" father's consent is not in the best interest of "A", meaning that the treatment could occur without the consent of both parents. This decision is the first of its kind and sets an encouraging precedent for transgender minors who want to begin to medically transition.

You can access the full judgement on the Queensland Supreme Court Library website: [Re a Declaration Regarding the Medical Treatment of "A" \[2020\] QSC 389](#)

WHAT AREAS OF LAW CAN WE ADVISE ON?

- FAMILY LAW
- DOMESTIC VIOLENCE
- CRIMINAL LAW
- EMPLOYMENT
- DISCRIMINATION
- GENERAL CIVIL LAW

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VICTORIAN GOVERNMENT VOTES TO BAN CONVERSION THERAPY

CASE STUDY: CHANGE OR SUPPRESSION (CONVERSION) PRACTICES PROHIBITION BILL 2020

On February 4 2021, the Victorian parliament passed the Change or Suppression (Conversion) Practices Prohibition Bill 2020 which limits practices directed at changing or suppressing a person's sexuality or gender identity, including religious practices.

The law seeks to protect Victorians from, and respond to, the serious harm, trauma and potential long term mental health issues caused by change or suppression practices (also known as conversion practices). These practices are those directed at an individual with the aim of changing or suppressing a person's sexual orientation or gender identity. These are practices which have no basis in medicine; there is no evidence that sexual orientation or gender identity can be 'changed'. The laws include a civil response scheme established within the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) to support survivors and address the harm they have endured.

The law aims to ensure that "Victorians are able to live their lives authentically with pride, and makes it clear an individual's sexual orientation and gender identity are not "broken" and do not need to be "fixed".

The definition of 'change or suppression practices' appears to have been carefully crafted, and is not designed to capture all religious practices or teachings or to prevent people seeking religious counsel. The Victorian law purports to carefully weigh the protection of religious freedom against the protection of the rights of LGBTQ+ people and is the product of significant consultation with survivors of the practices and with religious organisations.

Despite some commentator's statements to the contrary, the law does not ban prayer, preaching or pastoral support about gender and sexuality in general. But it does prevent these spiritual practices being misused in attempts to change or suppress a person's sexuality or gender identity and thereby causing them harm. It has been found to be consistent with Victorian human rights law and does not constitute an overreach.

Research conducted by LaTrobe University together with the Human Rights Law Centre in 2018, titled "Preventing Harm, Promoting Justice" found that religious practices are the most common type of practice that attempts to change or suppress a person's gender or sexuality. Only a minority of participants had also experienced conversion practices at the hands of health professionals. The Victorian law accordingly does not merely limit the actions of registered health professionals, which has been the focus of similar laws in other jurisdictions including Queensland.

Dr Timothy W Jones, lead author of the "Preventing Harm, Promoting Justice" research, recently commented that "Rather than stoking unfounded fears, religious and opinion leaders should read the extensive work that has gone into the development and scrutiny of this world leading legislation". We can only hope they do.



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