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From: Terri Kelleher <[REDACTED]>
Sent: Monday, 19 October 2015 12:43 PM
To: SARC; Lizzie Blandthorn
Subject: Adoption Amendment (Adoption by Same-Sex Couples) Bill 2015

Ms Lizzie Blandthorn MP,
Chair,
Scrutiny of Acts and Regulations Committee

Mr Nathan Blunt
Executive Officer
Scrutiny of Acts and Regulations Committee

I write on behalf of the Australian Family Association (AFA) as its Victorian President. The AFA is of the view that children do best with a mother and a father and therefore oppose the proposed Adoption Amendment (Adoption by Same-Sex Couples) Bill 2015 (the Bill).

However I am emailing specifically in relation to the Committee's scrutiny of the Bill to ask the Scrutiny of Acts and Regulations Committee (SARC) to consider the following points:

- The functions of the Committee are set out in the Parliamentary Committees Act (the Act);
- Section 17 of the Act requires the Committee
“(a) to consider any Bill introduced into the Council or the Assembly and to report to the Parliament as to whether the Bill directly or indirectly –
(i) trespasses unduly on **rights or freedoms**”;
- One of the stated purposes of the Bill, as set out in Clause 1 (b), is:
“to amend the Equal Opportunity Act 2010 to remove the exemption to the prohibition to discriminate in relation to religious bodies providing adoption services.”
- The present Section 82 (2) of the Equal Opportunity Act protects **the right of religious bodies**, which includes faith-based organisations and institutions, against claims of discrimination for “anything done on the basis of a person's [religious belief or activity](#), sex, sexual orientation, lawful sexual activity, marital status, parental status or [gender identity](#) by a religious body that—
(a) conforms with the doctrines, beliefs or principles of the religion; or
(b) is reasonably necessary to avoid injury to the religious sensitivities of adherents of the religion.”
- At present faith-based agencies that provide adoption services have **the freedom** to place children for adoption in a way that is not opposed to their religious doctrines, beliefs or principles and avoiding injury to the religious sensitivities of the adherents of their religion.
- However Clause 17 of the Bill seeks to **remove the protection of that right and freedom** from faith-based agencies that provide adoption services.

- CatholicCare, a Catholic adoption agency, has said in its submission to the inquiry on the Bill that it risked breaching equal opportunity laws if it declined to provide adoption services to people based on sexual orientation.
- The AFA submits **the Bill trespasses upon the rights and freedoms of faith-based adoption agencies** to make decisions in keeping with their religious beliefs and principles and their religious sensitivities when placing children for adoption.
- The AFA submits further that **the Bill unduly so trespasses on the rights and freedoms of faith-based adoption agencies** in that it is unnecessary to remove the protection of the rights and freedoms of faith-based agencies to ensure there are services that will place children with same-sex couples. There are other agencies who would provide same-sex couples with adoption services and they will have choice. The Department of Human Services provide adoption services as does Anglicare.
- Further, Section 15 of the Adoption Act 1984 provides that in making an order for adoption the Court must be satisfied that consideration has been given to any wishes expressed by the parent(s) of the child in relation to “the religion, race or ethnic background” of proposed adoptive parents. At present there is no issue about the sexual orientation of any proposed adoptive couple as only heterosexual couples can adopt. If the Act is passed to allow same-sex couples to adopt the AFA is of the view that will raise another fundamental issue for **relinquishing parents upon which they should have the freedom to express their wishes and that those wishes should have to be given consideration in placing the child for adoption**. Although the expressed wishes of relinquishing parents may not amount to right to have those wishes met there is nevertheless a serious question. Should they not have the right to express their wishes in regard to their child going to a family where he/she will have a mother and a father and the right that those wishes be given consideration in making the decision as to the placement of the child? If the Bill was passed in its present form then that expressed wish of the relinquishing parent(s) could not be met as that would not be possible as it would amount to discrimination. There could be other reasons for a particular child being placed with a heterosexual couple but the wishes of the relinquishing parent(s) could not be the reason to do so.
- **Relinquishing parents who want their child to go to a heterosexual couple so the child will have a mother and a father will have no agency which would be able to meet their wishes.** Faith-based adoption agencies would not be able to do so without risking being in breach of the Equal Opportunity Act. **Relinquishing parents will have their right and freedom to have an adoption agency which can seek to meet their wishes overruled.**

I respectfully request you to put these points to the Committee to take into account in its consideration of the Bill.

Yours faithfully,

Terri M. Kelleher,
Victorian President,
Australian Family Association