

Definition of family: mum, dad, kids? No way

Giuliana Fuscaldo and Sarah Russell

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LAST week two controversial bills were debated in the Victorian Parliament. MPs in the upper house passed the Abortion Law Reform Bill. In the lower house, MPs voted 47 to 34 in support of the Assisted Reproductive Treatment Bill, which proposes expanding access to IVF. The bill also creates greater opportunity for altruistic surrogacy, allows posthumous use of embryos and provides legal recognition of non-birth parents.

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MPs spent three days in heated debate, ending with a conscience vote in the early hours of Wednesday. If the bill passes without amendment, access to IVF will be determined according to the ability of a woman to become pregnant or the likelihood of her passing on a genetic disease. Importantly, the new bill removes the condition that only women who are medically infertile are able to access IVF. It would enable a woman in a lesbian relationship to undergo assisted reproductive treatment in Victoria.

A new requirement would be that all people seeking IVF must have a criminal records check. People who could be prohibited from treatment would be those with convictions for serious sexual or violent offences, those who have had children taken from their care, or who are assessed by counsellors as posing a risk to children.

The bill is based on recommendations of the Victorian Law Reform Commission, which concluded that Victoria's regulation of assisted reproductive treatment had failed to keep pace with advances in reproductive technologies, which have led to the formation of diverse types of families. It is now possible for a child to have many different people in the role of genetic, gestational, nurturing or legal parent.

The commission found that a major problem for children born through surrogacy arrangements or to same-sex couples has been the lack of legal recognition of the people who parent them. This bill would make it possible for the birth mother and her partner to be registered on the child's birth certificate, giving both women in a lesbian relationship legal parental entitlements. In addition, people who commission a surrogacy arrangement would be able to apply to a court to transfer legal parentage to them once the child is born. If the court and surrogate mother agree, the commissioning couple would be recognised on the birth certificate as the child's parents.

The implications of the bill are much more profound than simply reducing the need for "reproductive tourism". This bill will legitimise the idea that biology alone does not define parenthood.

Predictably, the debate in Parliament was polarised. One side argued that children had a right to a mother and father and stressed the importance of biological links and genetic inheritance. MPs on this side raised concerns about the commodification of children and about women being used as incubators.

On the other side, Attorney-General Rob Hulls promised "a robust and stringent framework" to protect the best interests of children, surrogate mothers and commissioning parents. He acknowledged the difficulty of generalising about the value of genetic connections in families.

People have been arguing for years about whether parenthood is a biological fact or a social construct. This bill acknowledges that it does not have to be either/or. Laws that recognise lesbian couples as parents do not mean that a

child is without a genetic father. Record-keeping about genetic origins is compulsory in Victoria.

Although the genetic father may not be the person who raises the child, children born as a result of IVF can access information about their genetic parents when they turn 18, if they choose. Also, with the consent of all parties (children, sperm donors and parents), there is nothing to stop genetic and non-genetic parents negotiating their own parenting arrangements earlier than this. And there is nothing to stop a child from having more than two parents, though currently a birth certificate allows only two people to be registered as parents.

Our laws may finally acknowledge that genetic, gestational, and social parenthood are not competing positions.

The bill aligns the law with an acceptance of the new scientific facts — that a child can have several parents.

Dr Giuliana Fuscaldo is a bioethicist and Dr Sarah Russell is the principal researcher of Research Matters.

This story was found at: <http://www.theage.com.au/federal-politics/definition-of-family-mum-dad-kids-no-way-20081013-4zxe.html>