

Model legislation

1960 – 1969

Details

Model legislation to harmonise adoption laws in all Australian jurisdictions was an initiative of the Australian Commonwealth in the 1960s. One pressing issue behind this move towards uniformity in adoption legislation in Australia was the lack of recognition of interstate adoption legislation. Jurisdictions all took different approaches to maternal consent and to processes such as the approval of adopting parents. There was also growing concern about issues including the notion of the rights and welfare of the child, and the importance of mothers being fully aware of the legal consequences of giving consent for their child to be adopted.

During the development of model laws, many expressed concern that there was a tendency creeping in which almost could amount to buying and selling of children, and recommended against the use of private adoption agencies to counter this.

The case of [Mace v Murray](#) (1955) highlighted the problem of non recognition of adoption law between Australian jurisdictions. In this case, the mother withdrew her consent after her child had already been placed with prospective adoptive parents. The adoptive mother took the child across the border into the ACT to escape a NSW court order compelling her to return the child to the mother (Senate, 2012, p.126).

New adoption legislation was passed in all Australian jurisdictions between 1964 and 1968. Every adoption act except Western Australia's stated that the "welfare and interests of the child concerned shall be regarded as the paramount consideration". The model legislation expanded the consent provisions for mothers, however consent from fathers of ex-nuptial children was not contemplated by any state. All of the new adoption acts specified a number of characteristics that adoptive parents were required to demonstrate.

During the 1960s when the model legislation was being developed, the clean break theory was prominent in child welfare. The theory was that it was better both for the mother and the soon-to-be adopted child if they were separated as early and as completely as possible. The clean break theory became enshrined in the new legislation, rather than just being a matter of practice. This led to recordkeeping practices such as the issuing of a new birth certificate with the adopted parents' details and the record of the adoption order and the child's original birth certificate being kept secret.

More info

Resources

- [Uniform Adoption Legislation - Material prepared by the States](#), 1961

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