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WA Family Court: Delivering justice for gay and straight de facto couples

gay & lesbian equality
human rights at risk: fact sheet

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The issue:

Equal access to our judicial system

Despite the best efforts of couples, sometimes relationships don't work out and need to end.

And while many couples amicably divide their property and work out child custody issues, in other situations the break-up is not amicable.

It is therefore comforting that WA has the WA Family Court — designed to deal with relationships that end in dispute.

The WA Family Court handles both married and de facto couples. De facto couples are those living in a domestic relationship of at least two years.

Understandably, the issues faced by married and de facto couples on breaking up are no different — child custody and property division.

It is right for all couples to have equal access to the WA Family Court.

The current laws:

One justice system for all relationships

Prior to 2001, the WA Family Court dealt with custody matters for married and de facto couples. It only dealt with property matters for married couples.

For straight and same-sex de facto couples, their property disputes were forced into the slower and considerably more expensive WA Supreme Court.

A 2001 report found: "This legislative exclusion results in significant injustice, often at a time when compassion and equity is most needed."

The report also found many areas of the law where both straight and gay and lesbian couples were not treated the same as married couples.

In response, the Government changed a number of laws in 2002 to equalise the status and treatment of both gay and lesbian couples and heterosexual couples — and granted all de facto couples equal treatment under law.

This included fair access to the WA Family Court for all de facto couples.

The Liberal plan:

Liberals to add pain to de facto break-ups

The WA Liberal Party now wishes to fiddle with WA's Family Court system and ban gay couples using the court to resolve property and custody disputes.

The Liberals will also ban de facto couples from the court unless they've been together five years or have kids.

These changes will send these cases to the more expensive Supreme Court.

Also the Liberal Party's colleagues — the Nationals — have said these changes are a "waste of time".

The Liberal plan to stop access to the WA Family Court will add pain to gay and straight de facto couples already hurting from a relationship ending.

Having one court system for all couples also won't affect the value of marriage.

The myths and facts:**Access to justice should be fair and equal**

Myth: Gay and lesbian couples don't need access to the WA Family Court.

Fact: The WA Family Court is skilled in dealing with property and custody matters, while the Supreme Court is expensive and slow. It is fair for all couples to use the WA Family Court.

Myth: Heterosexual de factos will have the same access the WA Family Court

Fact: Straight de facto couples without children and living together less than five years will also be forced into the WA Supreme Court to resolve disputes.

Myth: It is okay to reserve the WA Family Court for married couples.

Fact: Treating all relationships fairly and in one court system means that all couples and families have the same opportunity to seek a fair outcome when relationships end.

Myth: Allowing access to the WA Family Court for de factos devalues marriage.

Fact: Granting all de factos access to the WA Family Court for disputes does not devalue marriages when a married couple divorces in the Family Court.

Talking points:**Speak up about Family Court access bans**

Straight and gay couples need equal access to the WA Family Court as:

- gay and lesbian couples face the same issues over property and custody when relationships end
- gays and lesbians have children and need the WA Family Court to resolve custody issues
- same-sex couples have been recognised under law and deserve equivalent treatment
- it is bad recognising de factos after two years, and then denying court access until after five years
- it will preserve equal access to one fair system of justice

What you can do:**Help keep fairness in WA law**

There are a number of ways you can oppose the Liberal Party's plans to undo equality for gays, lesbians, single women and de facto straight couples.

You can write letters to newspapers, ask to meet your local Liberal MP or candidate, and tell friends and family

about the issues. You could also vote for a progressive political party like the ALP, Greens and Australian Democrats.

Every individual can make a difference. For information on what you can do to keep the WA Family Court fair, please visit our website at www.galewa.asn.au

More information:**About Gay and Lesbian Equality**

Gay and Lesbian Equality is WA's peak gay and lesbian human rights body.

We also lobby to keep the human rights of others in related issues – like the reproductive rights of single women and relationship rights for de factos.

Our website at www.galewa.asn.au contains more fact sheets.

Topics include adoption rights for gay parents, reproductive rights for single women and lesbians, and raising the age of consent for young gay men.