

Case study: Birth registration and birth certificates

A community law reform project



Victorian
Law Reform
Commission

What was this project about?

The project concerns the law of birth registration and birth certificates in Victoria, and the policy and practices of the Victorian Registry of Births, Deaths and Marriages.

This project was part of the Victorian Law Reform Commission's community law reform program. The *Victorian Law Reform Commission Act 2001* states that one of the Commission's functions is to make recommendations about issues of general community concern, as suggested by members of the public and community groups.

In this case, the proposal to review the law originated with the Castan Centre for Human Rights Law at Monash University.

Why did the law need to change?

It is a legal requirement to register the birth of a child. There are around 75,000 births/year in Victoria – the vast majority are registered. However, more than 2,000 births/year were not registered six months later. The total number of unregistered births is unknown.

A birth must be registered before a person can get a birth certificate. Without a birth certificate, a person may be unable to access their full civil citizenship rights – such as enrolling at school, getting a Medicare card, driver licence, passport, and government benefits.

A disadvantaged background is often a factor in non-registration of births. This includes Indigenous people, culturally and linguistically diverse (CALD) groups and people in remote and rural areas, but the issue is not limited to those groups.

The Commission looked at ways to improve the process for disadvantaged/vulnerable groups.

Key dates

2009	The Castan Centre of Human Rights Law at Monash University held a symposium on Indigenous birth registration which highlighted the issue of barriers to obtaining a birth certificate.
Early 2012	The Victorian Law Reform Commission held discussions with the Castan Centre about barriers to birth registration affecting Indigenous people.
May 2012	The Victorian Law Reform Commission developed terms of reference for a project about birth registration and birth certificates.
September 2012	The Commission published a consultation paper that identified the issues and asked people for their opinions, ideas and experiences
1 November 2012	Deadline for submissions
September 2012 – January 2013	The Commission held 33 consultations with individuals and groups.
July 2013	The Commission completed its final report on birth registration and birth certificates, with 26 recommendations, and gave it to the Attorney-General.
November 2013	The final report was tabled in the Victorian Parliament.

Terms of reference

The Victorian Law Reform Commission will consider and review aspects of the *Births, Deaths and Marriages Act 1996* (Vic). The purpose of this review is to:

- examine the processes for birth registration and obtaining a birth certificate to consider whether they are efficient, effective and accessible to all members of the community, particularly culturally and linguistically diverse (CALD) and Indigenous communities, and the disadvantaged and vulnerable.
- identify practical solutions to problems that may exist in Victorian law and practice with regard to birth registration and obtaining a birth certificate.

In undertaking this review, the Commission will have particular regard to:

- whether the need to apply separately for a birth certificate (in addition to registering a birth) creates a barrier to obtaining a birth certificate, and if so, what can be done to remove or minimise this barrier.
- whether specific criteria should apply to section 49¹ of the Act (which provides for the remission of fees), and if so, what these criteria should be and whether they should be contained in legislation, regulations or a publicly available policy document.

The Commission will consider legislative developments in Australian and international jurisdictions.

The policy and research team

The Commission's community law reform team (two people) worked on the project and provided support to the Commissioners. Their job was to plan and co-ordinate the reference, conduct research, draft the consultation papers and final report, and conduct meetings and consultations.

Consultation paper – the issues that were identified

The consultation paper identified issues that may be barriers to people registering the birth of their children, and asked the public to respond. These issues included:

- whether the process of birth registration is easy and accessible enough
- whether the fee charged for a birth certificate is a barrier
- whether there is enough awareness in the community of the obligations and rights regarding birth certificates
- whether Indigenous and culturally diverse communities are more affected than other communities

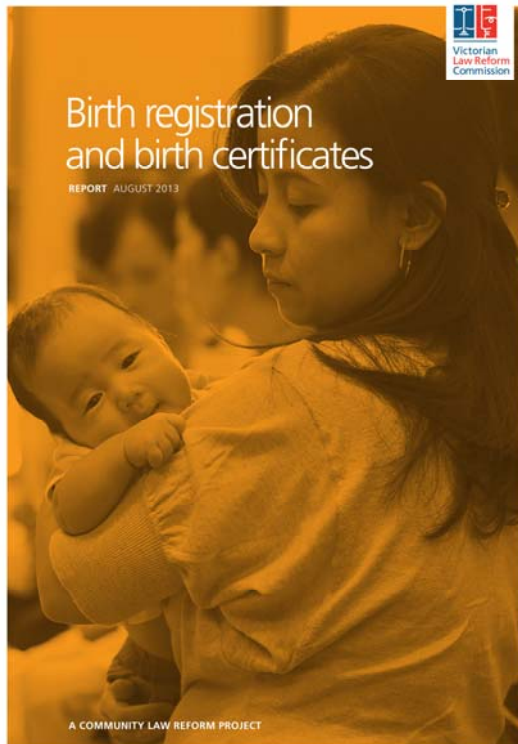
Submissions

The Commission received 13 submissions. These are available on the Commission's website.

Consultations

The Commission held 33 consultations around Victoria with groups affected by the law. Among them were parenting groups, maternal and child health nurses, hospitals, justice service centres and culturally diverse community groups. The Commission consulted with people in Shepparton, Wangaratta, Traralgon, Bairnsdale, Mildura and Horsham as well as Melbourne.

Final report



The final report included 26 recommendations to reform the law and the policy and practice of the Registry of Births, Deaths and Marriages. They were intended to assist people from disadvantaged and vulnerable groups to register the births of their babies more easily and at a lower cost, to ensure that those children can access the full rights of a citizen later in life.

Recommendations included:

- Granting a fee waiver of the birth certificate fee (\$28.60) for vulnerable and disadvantaged people.
- Making it easier for people to obtain the identity documents they need, if they apply for a birth certificate years after their birth was registered.
- Changing the process for birth registration in cases where domestic violence may be an issue.

Response

Attorney-General Robert Clark welcomed the report by the Victorian Law Reform Commission, and tabled it in Parliament in November 2013.

Mr Clark said work by the Registry of Births, Deaths and Marriages was currently underway or completed on many of the Commission's recommendations, including:

- additional information provided on birth registration forms, including clarifying what information will be printed on the birth certificate;
- additional protections for identifying information where the applicant is at risk of family violence;
- development of an online system for parents to register births;
- a page on the Registry website providing information about Koori services provided by BDM;
- revisions to proof of identity requirements when registering a birth; and
- development of guidelines for waiving of certificate fees.

"This report highlights a number of ongoing opportunities to ensure the processes for birth registration are clear and accessible for all Victorians," Mr Clark said.

Mr Clark said the report would strengthen the work of the Registry and ensure it continues to serve the community well.

More information

For more information on this project, including the consultation paper, final report and submissions, see <http://www.lawreform.vic.gov.au/all-projects/birth-registration-and-birth-certificates>