

Adoption in Victoria

c. 1928 –

Details

The Australian Institute of Health and Welfare defines adoption as “The legal process by which a person legally becomes a child of the adoptive parent(s) and legally ceases to be a child of his/her existing parent(s)”. In Australia, each state or territory has its own adoption legislation and its own policies and processes. In the 1960s, the Commonwealth government led a model legislation project to harmonise the various adoption acts in Australia, and to ensure that the states recognised each others’ adoption laws.

In Victoria, the first adoption legislation was passed in 1928. Prior to this, adoptions still did take place in Victoria, however this happened outside of any legal frameworks. Adoptions during this period before legislation existed are referred to as “de facto” or “informal” adoptions. The first adoption acts passed by Australian jurisdictions were designed to provide certainty for parents who had adopted children under the informal arrangements that had applied until that time.

In Victoria, private adoption agencies run by churches and charities played a significant role in arranging adoptions. In the early 1960s, all adoptions other than those of state wards were arranged by agencies. In comparison, in NSW less than half were by private agencies, and in Queensland, Tasmania and WA, agencies had no role in arranging adoptions (Senate, 2012, pp.167-168).

The next major adoption legislation enacted in Victoria was the *Adoption of Children Act 1964*. Like the adoption acts passed in other Australian jurisdictions in the 1960s, this legislation was informed by the “clean break theory” which held that it was best for the mother and soon-to-be adopted child if they were separated as early and as completely as possible. According to the Victorian government, the 1964 legislation “ushered in the era of closed adoptions” (History and timeline of forced adoptions in Victoria).

In Australia, there was a boom in the adoption industry after World War Two. Nationwide adoption data is not available prior to 1969, however the Senate inquiry into forced adoptions used figures in files held by the National Archives of Australia to estimate that around 150,000 adoptions took place in Australia between 1951 and 1975. Policies and practices resulting in forced adoptions were widespread throughout Australia during this period (Senate, 2012, pp.4-5).

The peak period for adoptions in Victoria was between 1950 and 1975. In Victoria, 39,357 adoptions were arranged in Victoria from 1958 to 1984 (History and timeline of forced adoptions in Victoria). The number of adoptions in Australia peaked in the early 1970s and then steadily declined, largely because of changing social attitudes towards single mothers and the introduction of the Supported Parents Benefit in 1973.

In 2011, the Australian Senate began the inquiry into Commonwealth Contribution to Former Forced Adoption Policies and Practices, and its report was handed down in February 2012. The inquiry heard testimony and evidence about the pressure and stigma experienced by pregnant single women and how many were forced to put their child up for adoption. The negative and life-long effects of forced adoptions continue to affect adopted people, mothers and fathers.

The Parliament of Victoria delivered an apology on 25 October 2012, led by the former Premier the Hon Ted Baillieu MP.

On 21 March 2013, the former Prime Minister Julia Gillard apologised on behalf of the Australian Government to people affected by forced adoption or removal policies and practices

In June 2017 the Victorian Law Reform Commission published its report, *Review of the Adoption Act 1984*, which acknowledged that adoption law and practice deeply and intimately affects those to whom it applies. The effects are life-long and do not cease upon the adopted child reaching adulthood.

In 2018 the Australian Government's House of Representatives Standing Committee on Social Policy and Legal Affairs conducted an Inquiry into local adoption. This inquiry considered how to establish a nationally consistent local adoption framework in Australia and the viability of using adoption as an alternative to out-of-home care to create stability and permanency for children. The inquiry discussed that adoption rates in Australia are the second lowest in the developed world, but Australia simultaneously has a growing number of children in out-of-home care. The report identified a key barrier to increasing adoption in Australia is the "fear of repeating the mistakes of past forced adoption policies and practices" (History and timeline of forced adoptions in Victoria).

In 2019 the Victorian government launched the Inquiry into responses to historical forced adoptions in Victoria. In September 2021, this inquiry made 56 recommendations covering a range of issues aimed at government and other public agencies, including hospitals as well as other organisations involved in historical forced adoption. In 2024 the government established the [Historical Forced Adoptions Redress Scheme](#), providing financial redress and support to mothers affected by forced separation.

The history of adoption in Victoria for Aboriginal and Torres Strait Islander peoples is unique. Historian Shurlee Swain writes that Indigenous adoptees have been marginalised, both in the story of the Stolen Generations and in the history of adoption in Australia (Swain, 2013). Adoption was particularly damaging in the context of the Stolen Generations and was one means of removing Aboriginal and Torres Strait Islander children from their families. The Senate report describes how adopted Aboriginal and Torres Strait Islander people experienced cultural loss, and were also subject to "a layer of official secrecy: not only a denial of their original individual parents, but an additional official desire to suppress racial and cultural identity" (Senate, 2012, p.80).

In Victoria, the Aborigines Welfare Board was an official adoption agency authorised by state adoption legislation. Giving evidence to the Bringing Them Home inquiry, Professor Colin Tatz stated that "If you really wanted a baby and you were struggling and couldn't get a baby through a normal adoption agency, you went to the Aborigines Welfare Board and you could get yourself a baby (Tatz, quoted in Bringing them home report, 1997).

Just as adoption numbers have decreased in the overall population, there has also been a reduction in the adoption of Aboriginal and Torres Strait Islander children. The introduction of the Aboriginal Child Placement Principle has meant the majority of Indigenous children are adopted by Indigenous families. This principle was first specifically enshrined in Victorian legislation with the Children and Young Persons Act 1989. The Adoption Act 1984 has been amended to reflect the Aboriginal Child Placement Principle.

Adoption legislation in Victoria

The first adoption legislation in Victoria was the [Adoption of Children Act 1928](#). It provided for the transfer of parental rights, duties, obligations and liabilities to adoptive parents. It also provided for the legitimisation of existing informal adoptions, without the consent of the birth parents. Before this time, informal adoptions were not recognised by law.

The next major piece of legislation was the [Adoption of Children Act 1958](#), an act to consolidate adoption law in Victoria. This statute extended the rules of succession, which in previous legislation was limited in relation to wider family inheritances and introduced the requirement that the court appoint a person to safeguard the interests of the child in adoption proceedings before the court.

In the early 1960s, the Commonwealth government led an initiative to come up with model legislation for all jurisdictions to enact, to harmonise the various adoption acts in Australia, and allow for interstate recognition of adoption laws. A 1961 brief to the Commonwealth from the state government stated that “the Victorian Adoption Act (consolidated in 1958) is considered to be sound in its principles, and while still capable of further improvement in ways outlined later, contains a number of provisions to be retained in any construction of uniform law” (Senate, 2012, p.149). Unlike the other jurisdictions, Victoria had a provision that specified a consent revocation period for the birth mother. This mechanism for the mother to withdraw her consent at any time during the 30 day period was not a point that the Victorian government was prepared to compromise on in the discussions on uniform adoption legislation. The government put forward that it would be for common consent provisions to be adopted, so that children could be placed with adoptive parents interstate. (p.161)

Prior to the passage of model legislation, Victoria and Queensland were the only jurisdictions with laws establishing offences for unlawful adoption practices – in these states, money could not change hands in relation to an adoption. However, in its 1961 brief, the Victorian government noted that some payments had been exchanged in breach of the 1958 Act (Senate, 2012, pp.173-174)

Following the model legislation discussions, Victoria passed the [Adoption of Children Act 1964](#). This prohibited private adoptions and “increased confidentiality and secrecy measures and ushered in the era of closed adoptions” (History and timeline of forced adoptions in Victoria).

After the introduction of the 1964 Act, the Director of Social Welfare became the legal guardian of any child whose mother (or natural parent(s)) had signed a general consent for adoption, up until an adoption order was made. The Director had to report to the Court before an adoption order was made, on whether the potential adoptive parents were suitable parents of “good repute and are fit and proper persons to fulfil the responsibility of parents” and that the welfare of the child would be “promoted” by the adoption. The Court then had to be satisfied these requirements had been met before adoptive parents were granted legal custody of a child.

During the 1960s, evidence began to emerge of the damage caused by closed adoptions and the need of adopted people and birth parents to know about and have contact with each other. Changing social expectations created a momentum for change around access to adoption information, and in 1978, the Victorian Government commissioned a review of the 1964 Act. There was great public interest in the report, which took four years to prepare, received 880 submissions, ran to more than 300 pages and contained 247 recommendations. There was widespread support for its proposals, most of which were taken up in the [Adoption Act 1984](#) (Vic).

The 1984 act was a significant shift in adoption policy in Victoria. It provided for the creation of an Adoption Information Service. It introduced the concept of open adoption, which allows for ongoing contact between the child, birth parents, and adoptive parents, when deemed in the best interests of the child. This recognises the importance of maintaining connections and relationships for the well-being of the child. The Act established mechanisms for the sharing of information between parties involved in the adoption process.

The *Adoption (Amendment) Act 1987 (Vic)* introduced a range of amendments that extended and modified rights to obtain information and enabled increased access to information held by government bodies. Another amending Act (the *Adoption (Amendment) Act 1989 (Vic)*) expanded the categories of people who could apply for adoption information and clarified the prohibition against publicity regarding adoptions.

The *Adoption (Amendment) Act 2000 (Vic)* gave effect to the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption and to certain bilateral arrangements for inter-country adoption. It also provided a method for the wishes of a child to be considered in an adoption proceeding.

Legislative changes in 2013 made it possible for birth parents to obtain identifying information about their adult adopted children. The *Adoption Amendment Act 2013 (Vic)* removed the requirement to obtain an adult adopted person’s consent before giving identifying information about the person to their birth parent.

The 2013 Amendment Act introduced ‘contact statements’, which allowed an adult adopted person to specify their wishes in relation to contact by a birth parent, created an offence for the birth parent to contact the adopted person in breach of their wishes, and imposed a penalty of 60 penalty units (up to \$9100 at the time). Parents,

particularly those who had had their children forcibly removed, regarded the contact statements as hurtful and discriminatory (History and timeline of forced adoptions in Victoria).

After a public campaign, provisions relating to contact statements and the associated offence were removed by the Adoption Amendment Act 2015. Adult adopted people can no longer make contact statements. However, the adopted person, parents and other parties are able to record their wishes regarding contact on the Adoption Information Register. As all contact is mediated by agencies, efforts are made to ensure an adopted person's wishes are known and honoured.

More info

Related Entries

Related Events

- [Inquiry into Commonwealth Contribution to Former Forced Adoption Policies and Practices, Commonwealth of Australia \(2011 - 2012\)](#)
- [Inquiry into Responses to Historical Forced Adoptions in Victoria \(28 May 2019 - August 2021\)](#)
- [Parliamentary Apology for Past Adoption Practices, Parliament of Victoria \(25 October 2012\)](#)

Related Organisations

- [Victorian Adoption Network for Information and Self Help \(1989 - current\)](#)
VANISH is a self-help organisation for people affected by adoption.
- [Adoption Information Services, Department of Justice and Community Safety \(2019 - current\)](#)
Adoption Information Services is the agency managing access to records of Adoption in Victoria.

Related Legislation

- [Adoption of Children Act 1928, Victoria \(1929 - 1959\)](#)
- [Adoption of Children Act 1958, Victoria \(1959 - 1966\)](#)
- [Adoption of Children \(Amendment\) Act 1954, Victoria \(1955 - 1959\)](#)
- [Adoption Act 1984, Victoria \(1985 - current\)](#)
- [Adoption of Children Act 1964, Victoria \(1966 - 1987\)](#)
- [Adoption of Children \(Information\) Act 1980, Victoria \(1981 - 1987\)](#)

Related Archival Collections

- [Records of Jigsaw \[Victoria\] \(1975 - 2004\)](#)

Resources

- Quartly, Marian; Swain, Shurlee; Cuthbert, Denise; Drefus, Kay and Taft, Margaret, *The market in babies: stories of Australian adoption*, 2013
- Herman, Ellen, [The Adoption History Project](#), No date
- Harris, Helen Doxford, *Infant Life Protection Act of 1890 - index to mothers, children, nurses and adoptive parents*, 2001
- Harris, Helen Doxford, [Infant Life Protection Act 1890 - Information compiled by Helen D. Harris OAM, 2004-10.](#), No date
- [The History of Adoption Project website](#), 2010
- Barnett, F Oswald, *Is it safe to adopt a baby? : a social study*, 1948
- Lothian, Kathy, [Australian Adoption Records - Victoria](#), The History of Adoption Project, 2010
- VANISH, [A Post-Adoption Guide: searching for records and birth relatives](#), 2013
- Department of Health and Human Services, [Finding Records](#), 2016

Other Resources



Title: 'Conditions and rules for adopting children by the Victorian Infant Asylum'

Type: Image

Date: 1890s

[Details](#)

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