

Adoption in Western Australia

c. 1896 –

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 1896, Western Australia was the first jurisdiction in Australia to pass laws relating to adoption. The Adoption of Children Bill was introduced in August 1896 by a private member. Some parliamentarians expressed a belief that people were abandoning their infants and young children to carers, then trying to reclaim them when they are at an age to earn money (The History of Adoption project website). The object of the Bill was “to provide for the adoption of children, and to see that when they are adopted they cannot be taken away from those who have adopted them when, perhaps, they are becoming useful” (*Hansard*, 12 August 1896, p.335).

WA’s first adoption was granted by the Supreme Court in 1898 but it was not until 1917 that the Secretary of the State Children Department was required to give permission for a state child to be adopted.

From the 1930s, the WA government was proactive in encouraging the adoption of children who were state wards, even [publishing pictures of ‘available’ children in the newspaper](#). Rising numbers of adoptions were proudly reported in the annual reports of the Child Welfare Department.

By 1937, the Child Welfare Department was reporting that there were more children living in institutions than in foster-care. This concerned them, because it was believed that children did not get a sense of the social side of life when they grew up in an institution and that they needed to have contact with adults and children ‘leading normal lives in the outside world’. Adoption was seen as a good long-term solution which would also relieve the short-term problem of overcrowding in the institutions. This was coupled with a genuine belief that the best outcome for a young mother and her illegitimate child was a “fresh start” for both of them through adoption.

In 1961, when the Commonwealth government was beginning the process to harmonise Australia’s various adoption laws, the WA government prepared a brief which described some of the procedures followed in WA adoptions at that time. The Department stated that it was important to establish adopting parents’ “child worthiness” before an infant was placed with them. It pointed out a “serious defect in WA adoption law” which resulted “in too many cases” of a child being placed with prospective adoptive parents before the mother’s consent was obtained. When there was a long delay in obtaining consent or the mother ultimately did not give consent to adoption, the Department stated that the outcome was “inimical to the welfare of the child and unfair to the new parents” (‘Adoption – from the Welfare Viewpoint’, WA briefing paper 1961, quoted in Senate, 2012, p.148).

Unlike some other Australian jurisdictions, in WA, private agencies had no role in arranging adoptions. (Senate, 2012, p.168). Writing about WA’s legal and policy approach to adoptions in the 1960s, David Hambly stated that the law in WA

... makes no provision for the approval of private agencies. The Director [of the Child Welfare Department] maintains control over all placements ... [The adoption act] seeks to ensure that a placement will be made only with the Director's written permission, but it does not prohibit private persons from conducting negotiations or making arrangements with a view to adoption (Hambly, 1967).

WA was the only jurisdiction to not pass new model legislation in the 1960s, although the 1896 Adoption of Children Act was amended significantly to modernise the law and bring it more into line with other jurisdictions.

Like the adoption acts passed in other Australian jurisdictions in the 1960s, the WA amendments were 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. A key amendment to the Rules included changes to the application form so that adopting parents could not see the names of the parent(s) who had registered the child's birth. In practice, this information had been 'covered up' by Departmental social workers when the forms were signed, but the new form removed the identifying information completely.

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 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 WA, adoptions peaked around 1970, when 673 children were placed for adoption (Standing Committee on Environment and Public Affairs, 2024, p.ii)

In 2024, there are on average five to eight adoptions of locally-born children and between six and 10 intercountry adoptions in Western Australia each year (Department of Communities, 2024).

The history of adoption in Western Australia 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).

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. In WA, the [Adoption Act 1994](#) acknowledged that adoption "is not part of Aboriginal or Torres Strait Island culture and that therefore the adoption of a child who is an Aboriginal person or a Torres Strait Islander should occur only in circumstances where there is no other appropriate alternative for that child".

WA was the first state in Australia to make a formal apology for its role in the removal of children from unmarried mothers, with the Premier speaking in the Parliament on 19 October 2010.

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.

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 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).

The WA government's Standing Committee on Environment and Public Affairs began an inquiry into past forced adoption in the state in February 2023. Its [report](#) was handed down in August 2024. The Committee stated that the evidence received by the inquiry included "80 clear accounts of forced adoption in WA last century". The Committee recommended a redress scheme be established for those directly affected by past forced adoption in WA.

Adoption legislation in Western Australia

Western Australia was the first jurisdiction in Australia to enact adoption legislation (the next was Tasmania in 1920). The [Adoption of Children Act 1896](#) was "a relatively short act which formalised adoption arrangements by introducing Supreme Court-issued Adoption Orders. The Act set out basic particulars in relation to an adoption order, including permissible parties to an adoption, the legal effect of an order, and the court procedures to be followed" (Senate, 2012, p.116).

Many amendments were made to the act after it was passed in 1896. The original 1896 Act did not specifically provide for any secrecy of records. Adopted children retained their original names and simply added the adoptive parents surnames, thus creating 'double barrelled' surnames. In 1921 there was a major amendment to introduce secrecy, in response to objections from adopting parents about the child retaining their original surname. This amendment meant that the adopted child assumed the adoptive parents surname but kept their original first name/s. At this time, adoption records could only open to inspection with permission of the Master of the Supreme Court. Another amendment in 1926 prevented adopted children from obtaining their original birth certificate. Up until then, a new registration was not made on adoption, and the adoption was just annotated on the original birth entry. Hence from this time, on applying for a birth certificate adopted children might suddenly realise that they were not the children of those who adopted them, and whom they had always regarded as their parents. In 1949, the legislation was amended to automatically make a child's original birth registration when they were adopted. Prior to 1949 the original birth registration was only altered if an application was made by the adoptive parents on their initiative (The History of Adoption project website).

Major amendments were made to the Adoption of Children Act 1896 in the 1960s during the period when the Commonwealth was leading a process to update and harmonise the various Australian adoption acts. WA was the only jurisdiction not to enact new adoption legislation, but the [Adoption of Children Act Amendment Act 1964](#) (1964/100) made a number of changes. In effect, the amendments ensured that the Child Welfare Department must approve of the adoptive parents before an adoption order could be granted; recognised the mother of an illegitimate child should have sole consent to the adoption, and not the putative father; limited the period for revoking consent to 30 days, so as to decrease the uncertainty for adopting parents; made medical (physical and mental health) checks compulsory for all children being considered for adoption; and allowed the Child Welfare Department to initiate adoption proceedings for children who had been placed in an institution for more than one year and whose parents had 'shown no interest' in their welfare.

The 1964 amendments also recognised "foreign adoptions" (adoptions that had been granted in countries outside the Commonwealth). In addition, the amendments expressly made it illegal to require or receive payments for adoptions, including charging a fee to arrange an adoption, with the exception of legal and medical fees.

Advertising a child for adoption or placing an advertisement seeking a child to adopt were also made illegal, except for those advertisements that were approved by the Director of Child Welfare, and it was illegal to publish

identifying information about adoption cases.

A key amendment to the Rules included changes to the application form so that adopting parents could not see the names of the parent(s) who had registered the child's birth. In practice, this information had been 'covered up' by Departmental social workers when the forms were signed, but the new form removed the identifying information completely.

The 1964 Bill was passed but lay inoperative for another six years. The amended Act and its new Rules did not come into operation until 1 May 1970.

The 1896 legislation was finally repealed by the [Adoption Act 1994](#). This Act completely changed the adoption landscape in Western Australia. The 98 years under the 1896 laws and its amendments had seen adoption legislation and practices move through fairly open and unregulated beginnings to times when information about adoption was 'closed' and contact with families of origin was actively prevented.

Under the Adoption Act 1994 and its subsequent amendments, the framework promotes open adoption, where the three main parties to an adoption – the child, the birth parents and adoptive parents – are aware of each other's identity.

In 2005, changes were made to Information Vetoes for adoptions that occurred in the past. Prior to this, birth parents, adoptive parents or the adoptee could lodge Information Vetoes which restricted access to identifying information about people involved in an adoption. The effects of these Information Vetoes ceased from 1 June 2005 so that identifying information can no longer be restricted.

Prior to June 2003, parties to an adoption could register a Contact Veto against other parties involved. Today, no new Contact Vetoes can be lodged. However, if a Contact Veto exists for a WA adoption, a person has to sign a legally binding agreement not to contact that person before receiving identifying information (Department of Communities, Past adoption information and support).

More info

Related Entries

Related Events

- [Select Committee appointed to enquire into the Adoption of Children Amendment Bill 1983, Parliament of Western Australia \(7 December 1983 - 11 October 1984\)](#)
- [Inquiry into Commonwealth Contribution to Former Forced Adoption Policies and Practices, Commonwealth of Australia \(2011 - 2012\)](#)
- [Apology for the Removal of Children from Unmarried Mothers, Parliament of Western Australia \(19 October 2010\)](#)
- [Inquiry into past forced adoptive policies and practices, Western Australian government \(2023 - 2024\)](#)

Related Glossary Terms

- [Closed Adoption](#)
- [Forced Adoption \(c. 1940 - c. 1970\)](#)

Related Legislation

- [Adoption of Children Act Amendment Act 1973, Western Australia \(1974 - 1995\)](#)
- [Adoption of Children Act Amendment Act \(No. 2\) 1953, Western Australia \(1954 - 1995\)](#)
- [Adoption of Children Amendment Act 1980, Western Australia \(1981 - 1995\)](#)
- [Adoption Act 1994, Western Australia \(1994 - current\)](#)
- [Adoption of Children Act 1896, Western Australia \(1896 - 1995\)](#)
- [Adoption of Children Act Amendment Act 1921, Western Australia \(1921 - 1995\)](#)

- [Adoption of Children Act Amendment Act 1964, Western Australia \(1970 - 1995\)](#)
- [Adoption of Children Amendment Act 1985, Western Australia \(1986 - 1995\)](#)
- [Adoption of Children Act Amendment Act 1926, Western Australia \(1926 - 1995\)](#)
- [Adoption of Children Act Amendment Act 1945, Western Australia \(1946 - 1995\)](#)
- [Adoption of Children Act Amendment Act 1971, Western Australia \(1972 - 1995\)](#)
- [Adoption of Children Act Amendment Act 1949, Western Australia \(1949 - 1995\)](#)

Related Organisations

- [Adoption Jigsaw, Western Australia \(Inc\) \(1978 - 2023\)](#)
- [Association Representing Mothers Separated from their Children by Adoption Inc \(1987 - current\)](#)
- [Adoption Research and Counselling Service \(Inc\) \(1984 - current\)](#)
- [Adoption Services, Child Protection and Family Support \(1994? - current\)](#)

Resources

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