

Changes Made to Australia's Law on Childhood Gender Identity Disorder



This month five members of the Full Court of the Family Court have ruled that children experiencing gender dysphoria and who wish to undergo hormone treatment are now able to do so without the approval of the Family Court.

In the historic judgement on the case titled "Re Kelvin" the judges held that children who wish to access irreversible hormone treatment no longer need to seek approval from a Family Court judge. This is in circumstances where all parties - the child, parents and the treating doctors - all agree to the treatment.

A child can now start irreversible hormone treatment to change their sex with the consent of his or her parents and the medical professional or medical expert. The Court no longer needs to be involved if everyone consents. The Court said "The treatment can no longer be considered a medical procedure for which consent lies outside the bounds of parental authority and requires the imprimatur of the Court."

Previously the law was as determined in the Full Court decision of "Re Jamie" which had been delivered in July 2013. "Re Jamie" confirmed that although the Family Court did not need to be involved or authorise medical treatment for a child if that treatment was reversible (stage 1 treatment), the Court did need to be involved if the treatment for the child was irreversible (stage 2 treatment). The Court needed to authorise that stage 2 treatment (classified as a "special medical procedure") even if the parents and the child consented to it. The Court also needed to ascertain whether the child had the capacity to understand the significance of the decision about the medical treatment (i.e. whether the child is "Gillick competent") before such irreversible treatment could be authorised.

Following so closely upon recent changes to the law in relation to same sex marriage, this change to the law in relation to children suffering "gender dysphoria" represents recognition by the Family Court of the significant changes to medical treatment and procedures in recent times and to the nature of changes in our modern family.

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