

# The next chapter in child protection legislation for Queensland

Directions statement

July 2017



The Queensland Government is building a new child protection and family support system to meet the needs of Queensland children, young people and families, now and into the future.

As part of the *Supporting Families Changing Futures* reform program, the Department of Communities, Child Safety and Disability Services (the department) has undertaken a comprehensive review of Queensland's child protection laws (the *Child Protection Act 1999*).

The review found that Queensland's child protection legislation is generally operating well, however, priority amendments and opportunities for broad legislative reform were identified.

The review continues the Queensland Government's staged approach to reforming the *Child Protection Act 1999* that commenced in 2014. Priority reforms arising from the review will be advanced in 2017, with further reforms arising from the review being advanced in 2018.

## Priority amendments to the *Child Protection Act 1999*

The Minister for Communities, Women and Youth, Minister for Child Safety and Minister for the Prevention of Domestic and Family Violence will soon introduce a Bill into the Queensland Parliament that will progress important changes to Queensland's child protection laws.

The proposed changes aim to achieve:

- permanency and stability for children, now and throughout their lives, including support when they leave care;
- the safe care and connection of Aboriginal and Torres Strait Islander children with their families, communities and cultures;
- a contemporary information sharing framework focused on children's safety and wellbeing.

## Permanency and stability for children, now and throughout their lives

Research shows that achieving stability and permanency is one of the most important aspects contributing to positive outcomes for children and young people, and is critically important for a child's development and long-term wellbeing. More than 60 per cent of children in out-of-home care are on long-term orders until they turn 18 years old. It is crucial that we make timely permanency decisions for children, and make meaningful plans for their future, to promote positive life-long outcomes.

To promote timely decision-making, stability and positive developmental outcomes for children and young people, the proposed changes will **introduce a new permanency framework** for the Act.



### New and expanded principles

The proposed changes will make it clear the paramount principle of the Act is the safety, wellbeing and best interests of a child, both throughout childhood and for the rest of the child's life.

The proposed amendments will also **introduce new permanency principles**, including preferences about the best way to achieve permanency for a child, with the first preference being for the child to be with his or her family. The proposed changes will also **introduce and define the concept of permanency**, with explicit reference to the three dimensions of permanency – physical, relational and legal.

### Permanency planning

The proposed changes will **require a child's case plan to include permanency goals** for the child and actions for achieving those goals. If the permanency goal for a child is to support the family to enable the child to return home safely, the case plan must also include an alternative goal in the event that family reunification is not possible. This will better support timely permanency decision-making to ensure that children are provided with long-term, stable care, whether they return home or require alternative care arrangements.

### Child protection orders

The proposed changes will **introduce a new permanent care** order to provide a child in long-term out-of-home care with a stable and secure family arrangement. A permanent care order will provide an additional option for a child requiring long-term out-of-home care. The order will grant a person the guardianship of the child until the child reaches 18 years of age. This order will not sever the child's legal relationship with their family or change a child's legal identity.

During consultation on the review of the Act, young people who are in, or have been in, out-of-home care strongly supported the introduction of this order as a means of providing long-term care within a normal family environment, with minimal ongoing intrusions into their life.

The proposed changes will **limit the making of consecutive short-term child protection orders to a maximum of two years**, unless the court is satisfied it is in the best interests of the child. In 2013, the Queensland Child Protection Commission of Inquiry reported that some children were in out-of-home care for significant periods of time under consecutive short-term orders, without a realistic prospect of returning home. The new two year limit on short-term orders will further promote timely permanency decision-making for children.

The proposed changes will also **simplify court processes for changing a child's guardian** from being the chief executive to being another suitable person, such as a member of the child's extended family or the child's long-term carer.

### Transition to independence

The proposed changes will **clarify the department's responsibility for planning for a child's transition from out-of-home care to independence** from the time the child turns 15 years of age. They will also **clarify the department's responsibility to make support available to a young person** who has transitioned to independence up to 25 years of age.



## The safe care and connection of Aboriginal and Torres Strait Islander children

To support the reform program, and the *Our Way* Strategy and the *Changing Tracks* Action Plan, the Bill will provide for the **connection of Aboriginal and Torres Strait Islander children with their family, community and culture** and address the disproportionate representation of Aboriginal and Torres Strait Islander children in the child protection system.

These changes recognise the significant and long-term effect of decisions on a child, their family and community; and acknowledge the role of family and community as the source of cultural knowledge to the department.

### Self-determination

The proposed changes will insert a new principle into the Act to recognise the **right of Aboriginal and Torres Strait Islander people to self-determination**.

To give practical effect to self-determination the proposed changes enable the chief executive of the department to **delegate some or all of their functions and powers in relation to an Aboriginal or Torres Strait Islander child** to an appropriate Aboriginal or Torres Strait Islander entity.

If the amendments are passed, this change will contribute to the implementation of Action 4.2 of the *Changing Tracks* Action Plan. The department will continue to work with government and non-government partners to support implementation of this amendment.

### Child Placement Principle

The proposed changes embed in legislation all five elements of the **Aboriginal and Torres Strait Islander Child Placement Principle** – prevention, partnership, placement, participation and connection – as a set of principles for working with Aboriginal and Torres Strait Islander children and families.

### Cultural advice about Aboriginal and Torres Strait Islander children

The proposed changes will provide greater flexibility in how cultural advice is obtained and considered about Aboriginal and Torres Strait Islander children and their family and to **better support a child and their parents to participate in decision-making**.

The range of entities that may support the provision of relevant cultural advice for an Aboriginal or Torres Strait Islander child will be broadened beyond recognised entities to enable the family to choose the person or organisation who is best placed to facilitate their meaningful participation in decision-making.

These changes recognise Aboriginal and Torres Strait Islander children and families are best supported in a way that acknowledges the role of Aboriginal and Torres Strait Islander community and culture.

### Cultural support planning

The proposed changes require a case plan for an Aboriginal or Torres Strait Islander child to include details about how the child will be supported to develop and maintain connections with their family, community and culture.



## A contemporary information sharing framework

The proposed changes provide a **modern information sharing regime** that will improve the ability of individuals and organisations to protect children and enhance the efficiency and effectiveness of service delivery, while protecting people's privacy and safeguarding sensitive information.

### Simplifying the provisions

The proposed changes simplify the current provisions to make them clearer and easier to use. Together with the **new information sharing guideline** that will be published by the chief executive, this will give front-line officers and services a better understanding of when and how they can share and protect information.

### Non-government service providers

Non-government entities play an increasing role in delivering services to support children and families.

The proposed changes will allow specialist service providers that are funded by the Queensland or Commonwealth Governments to share information with each other about children and families they are supporting and providing services to. This will enable support to be better coordinated by the services involved with a family and improve the continuity of support.

It also allows services that are funded by the Queensland or Commonwealth Governments to share information with each other to meet the needs of children who might become in need of protection if preventative support is not provided to them or their families.

### Unborn children and pregnant women

The proposed changes clarify that information can be shared about an unborn child and their family to help the department determine if an unborn child may be in need of protection after their birth and to take necessary action, such as offering help and support to the pregnant woman.

### Information for former children in care

The proposed changes will enable the department to give information to a person who was a child in out-of-home care to improve their connection with their personal and family history, with appropriate safeguards to protect people's safety.



## Other amendments

Other proposed changes to our child protection laws include:

- improving the department's capacity to participate in research projects that will help improve outcomes for children in out-of-home care and the design of services
- clarifying the department's ability to provide information to the Police Commissioner when there is an investigation following a child's death
- extending protections for a child who is or is reasonably likely to be a witness in criminal proceedings involving offences of a violent or sexual nature
- clarifying that the treatment medical practitioners may provide to children in the chief executive's custody includes giving them emergency or routine vaccinations where parental consent cannot be obtained.

## Next steps

The proposed changes do not take effect until the Bill is passed by the Queensland Parliament and commences.

When the Minister introduces the Bill into Parliament, it will be referred to a Parliamentary Committee. The Committee will consider the Bill and report back to Parliament on its findings. In considering the Bill, the Committee may invite stakeholders to make submissions, meet with people and organisations, obtain expert or technical advice, and examine all relevant facts or issues in detail. The Committee may recommend that Parliament pass the Bill, and may make recommendations about possible changes to the Bill.

After the Committee has reported on the Bill, Parliament will consider the Bill and debate it before voting in favour of it or against it. If Parliament passes the Bill, it then becomes law, although it will not commence immediately.

The Bill will commence by proclamation. This means that the changes will take effect at a time in the future yet to be determined, but usually within 12 months.

## More information

For more information about the proposed changes to Queensland's child protection laws, go to [www.qld.gov.au/childprotectionactreview](http://www.qld.gov.au/childprotectionactreview).

