creating a better life for children and young people in care

Submission to the Legislative Scrutiny Committee on the Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026

"I have been homeless since I turned 18 because there is no housing available for kids leaving care." (Young person, NT)

"If these people understood the kinship system, most of us would have been placed with family." (Young person, NT)

"I'm getting sick of repeating the same things and nothing happens." (Young person, NT)

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CREATE Foundation

A Larrakia Country
11/16 Malak Crescent
Malak NT 0812
T (08) 8945 9993
E advocacy@create.org.au

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Acknowledgements

CREATE Foundation acknowledges the contribution and expertise of all young people who participated and provided their insights as part of this submission, drawing on their lived experiences of the Northern Territory's child protection and out-of-home care system. Your insights and commitment to advocacy work towards improving the system for children now and in the future.

Where this report uses direct quotes from children and young people in care, all identifying information has been removed, including all references to gender, sexuality, age, culture, community, and location of their current or past care experiences.

About CREATE Foundation

CREATE Foundation is the national peak consumer body for children and young people with an out-of-home care experience. We represent the voices of the 45,000 children and young people who have been removed from their families by government child protection services across Australian jurisdictions and live in out-of-home care (OOHC), and those who have transitioned out of care, up to the age of 25.

Our vision is that all children and young people with a care experience reach their full potential. Our mission is to create a better life for children and young people in care. To do this we:

CONNECT children and young people to each other, CREATE and their community to…
EMPOWER children and young people to build self-confidence, self-esteem, and skills that enable them to have a voice and be heard to…
CHANGE the systems that impact children and young people, in consultation with them, through advocacy to improve policies, practices and services and increase community awareness.

We achieve our mission by delivering a variety of programs and supports for children and young people with a care experience, and through robust advocacy for systems change that encourages, supports and promotes their safety and wellbeing, and the conditions that enable them to thrive while in care and into adulthood.

For more information, see:

- CREATE's Strategic Plan 2024-27, which outlines our strategic directions and goals.
- CREATE's Menu of Programs, which outlines the range of programs, events and activities that CREATE runs.
- CREATE's Menu of Consultations, which outlines our engagement, consultation and research offerings.

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List of Recommendations

CREATE Foundation calls on the Legislative Scrutiny Committee to recommend that the Assembly not pass this Bill, and calls on the Northern Territory Government to:

- Defer passage of the Bill in its current form and establish a Board of Inquiry pursuant to the Inquiries Act 2024 (NT), with statutory powers including powers of compulsion, investigatory authority and the ability to make binding recommendations. The Board of Inquiry must be co-led by the Northern Territory Children's Commissioner and include Aboriginal experts and sector professionals.
- This inquiry must examine not only the Department of Children and Families but all systems that are failing vulnerable children and families, including housing, domestic and family violence, criminal justice, mental health and disability, and must have independent statutory powers adequate to compel evidence and produce enforceable findings.
- Assess the scope of the Bill for consistency with the Northern Territory's obligations under the National Agreement on Closing the Gap, Safe and Supported: National Framework for Protecting Australia's Children 2021–2031, the United Nations Convention on the Rights of the Child (UNCRC) and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).
- Restore rights for Aboriginal children and families to participate in significant decisions, consistent with UNCRC Article 12 and UNDRIP Articles 3, 4 and 10.
- Retain and embed all five elements of the Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP): Prevention, Partnership, Placement, Participation and Connection, consistent with the legislative approach in Victoria, Queensland, NSW and the ACT.
- Incorporate Active Efforts provisions consistent with the Queensland and NSW legislative models (Child Protection Act 1999 (Qld) s.5F(6); Children and Young Persons (Care and Protection) Act 1998 (NSW) s.9(a)), defined as purposeful, thorough and timely.
- Amend s.12(1) to mandate, not acknowledge, the right of kinship groups, ACCOs and Aboriginal communities to participate in child protection decision-making, policy development and service delivery, consistent with Queensland's Child Protection Act 1999, s.5C(2)(b).
- Include a definition of 'recognised entities' encompassing ACCOs in the Act, consistent with Recommendation 34.06 of the Royal Commission into the Protection and Detention of Children in the Northern Territory (2017).
- Amend s.49 to mandate that a mediation conference must be convened if requested by a parent, family member or organisation representing a child, with conferencing processes aligned with the Aboriginal Family-Led Decision Making (AFLDM) model, as recommended by the Royal Commission (2017, Recommendation 15.3) and as yet unimplemented.
- Remove the two-year limitation from s.128. Judicial discretion must be preserved and the Court must be required to consider the child's own views, having regard to age and maturity, in any decision about further orders.
- Amend s.72A to make ACCO involvement in care planning mandatory.
- Amend s.70(5) to require active efforts, not 'reasonable actions', to support Aboriginal children's cultural identity and connection.
- Amend s.70(3) to strengthen the mandate that leaving care plans for Aboriginal children include culturally specific actions co-designed with ACCOs from the young person's community.

- Amend s.8A to include an explicit responsibility for public authorities to identify, address and eliminate systemic and personal racism within government agencies, (SNAICC, 2025b).
- Ensure genuine consultation with children and young people with lived care experience, including Aboriginal children and young people, on any proposed changes, led in partnership with CREATE Foundation, Aboriginal Community Controlled Organisations and the Office of the Children's Commissioner.
- Provide unrestricted access to the Northern Territory Children's Commissioner to all care and detention environments and relevant data, as recommended by the Royal Commission (2017) and SNAICC (SNAICC, 2025b).
- Examine the extent to which previous inquiry and royal commission recommendations have been implemented, including those from: Little Children are Sacred (2007); Growing Them Strong, Together (2010); the Royal Commission into the Protection and Detention of Children in the NT (2017); and any relevant coronial inquest findings.
- Assess the extent to which the proposed amendments to the *Care and Protection of Children Act 2007,* uphold child rights and participation, including specific cultural rights of Aboriginal and Torres Strait Islander children.

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Introduction: Northern Territory Context

CREATE Foundation welcomes the opportunity to provide a submission to the Legislative Scrutiny Committee (the Committee) regarding the *Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026* (the Bill). CREATE acknowledges the Northern Territory Government's responsibility to strengthen child protection and supports the principle that every child in the Territory deserves to be safe, stable and connected to their identity.

Any assessment of this Bill must begin with an honest account of the crisis it purports to address. The NT child protection system has been the subject of sustained and serious scrutiny. The Royal Commission into the Protection and Detention of Children in the Northern Territory (the Royal Commission), established in 2016, identified deep structural failures in the care and protection of Aboriginal and Torres Strait Islander children and families, and made 227 recommendations (Royal Commission, 2017). Despite successive NT Government commitments, many of these recommendations remain unimplemented (SNAICC, 2025a; Northern Territory Children's Commissioner, 2025b).

The data on Aboriginal children's overrepresentation is stark and, in key respects, worsening. As of 30 June 2024, Aboriginal children made up 88.5% of all children in out-of-home care (OOHC) in the NT, despite comprising only 41.6% of the NT child population (SCRGSP, 2025, Tables 16A.2 and 16A.3). Aboriginal children in the NT are 11.2 times more likely to be placed in OOHC than their non-Indigenous peers – above the already alarming national rate ratio of 10.8 (SNAICC, 2025a). Australia's National Agreement on Closing the Gap (COAG, 2020) commits all governments to reducing Aboriginal children's overrepresentation in OOHC by 45% by 2031 (Target 12). On current trajectories, the NT is not on track to meet this target.

The placement data is equally alarming. Only 16.7% of Aboriginal children in OOHC in the NT are placed with Aboriginal relatives or kin – the lowest rate in Australia, compared with the national average of 32.1% (SCRGSP, 2025, Table 16A.23). The majority (62.2%) are placed with non-Indigenous, non-relative carers (SNAICC, 2025a). Research consistently demonstrates that removal from family, community, culture and Country causes lasting harm to Aboriginal children's identity, mental health and wellbeing (Dudgeon et al., 2010; Zubrick et al., 2005; SNAICC, 2019). These placement outcomes represent a failure to implement the ATSICPP in any meaningful sense.

The intersection of child protection and youth justice is also critical context. An audit by the NT Office of the Children's Commissioner found that in 2021–22, every single child in NT youth detention under the age of 14 had had prior contact with the child protection system (OCC, 2024). Research in other jurisdictions confirms the 'criminalising' function of OOHC, particularly residential care (Davis, 2019; Mendes et al., 2014). This data reinforces that the child protection and youth justice systems in the NT are not operating as protective mechanisms for Aboriginal children – they are functioning as gateways to further harm.

Prevention efforts require addressing underlying social determinants. SNAICC identifies socio-economic disadvantage and poverty, intergenerational trauma, institutional racism, housing instability, and inadequate access to culturally appropriate health and education services as primary drivers of Aboriginal children's overrepresentation (SNAICC, 2025a; Tilbury, 2009; Libesman, 2004). These causes cannot be addressed by coercive legislative mechanisms. They require sustained investment in community-led early intervention and family support services. In 2022–23, only 3.9% of the NT Government's total child and family services funding was allocated to ACCOs (SNAICC, 2025a) – despite strong evidence that Aboriginal-led, culturally safe services achieve better outcomes for Aboriginal children and families (Dudgeon et al., 2014; Cameron et al., 2019).

While the Bill is framed as strengthening child-centred decision-making, amendments would reduce enforceable participation rights and dilute existing safeguards. These proposed changes are in direct contravention with the recommendations of the Royal Commission into the Protection and Detention of Children in the Northern Territory (2017), the findings of the Yoorrook Justice Commission (2023), a substantial body of national coronial jurisprudence concerning the deaths of Aboriginal children in state care, and the direct expert evidence of Professor Megan Davis, whose case file review of 1,144 Aboriginal children constitutes the most granular analysis of systemic casework failure conducted in Australia in the past decade[1].

CREATE is particularly concerned that:

- The Bill was developed without evidence of adequate consultation with children and young people with lived care experience in the Northern Territory, contrary to children's rights principles and the NT Government's own obligations under Safe and Supported and Closing the Gap;
- The weakening of the Aboriginal and Torres Strait Islander Child Placement Principle as a standalone enforceable right is a significant regression at odds with national best practice, the UN Declaration on the Rights of Indigenous Peoples, and the weight of evidence on outcomes for Aboriginal children;
- The 'proactive efforts' framework and rigid reunification timeframes risk prioritising administrative efficiency over genuine child-centred decision making, without commensurate investment in the family support services required to make such efforts meaningful;
- The family responsibility agreement and order regime introduce coercive measures with an over-broad trigger, limited procedural safeguards, and no mechanism for children's voices to be heard within those proceedings; and
- The limits on short-term parental responsibility orders risk removing judicial discretion in circumstances where children's individual needs and genuine reunification prospects are not yet resolved.

[1] Professor Megan Davies, Family is Culture: Final Report Independent Review into Aboriginal Out of Home Care in NSW, (2019), New South Wales.

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CREATE urges the Committee to recommend significant amendments to the Bill prior to passage, and to call on the Government to pause and genuinely co-design these reforms with children and young people with lived care experience in the Northern Territory before they are enacted.
This submission is structured to address each area of concern in turn, with our recommendations consolidated at the end.

Failure to Consult with Children and Young People

CREATE Foundation is not aware of any structured consultation with children and young people with lived care experience in the NT in the development of this Bill. The Explanatory Statement makes no reference to consultation with children, young people, CREATE Foundation, or with Aboriginal-led organisations that represent the children most directly affected by these laws.

This is not a procedural concern. It is a rights concern, grounded in international and national obligations. UNCRC Article 12 requires that children be given the right – not merely the opportunity – to be heard in all judicial and administrative proceedings affecting them. The National Agreement on Closing the Gap Priority Reforms requires genuine co-design with Aboriginal and Torres Strait Islander people, including ACCOs, in all matters affecting their communities (COAG, 2020). The Safe and Supported First Action Plan (Australian Government, 2023) requires that child protection reforms be developed in partnership with Aboriginal communities.

SNAICC has documented that in January 2025, the NT Government proposed major amendments to the CaPCA, including amendments that would have allowed courts and DCF to override the ATSICPP, with stakeholders given only 48 hours to respond (SNAICC, 2025a). This approach was condemned by SNAICC, Aboriginal Peak Organisations NT (APONT), the OCC and the broader sector. While the Government subsequently committed to a broader review process, the Bill before this Committee reflects a reform trajectory that was contested from its inception.

The NT Children's Commissioner has noted: "it is crucial that any proposed legislative and/or policy reforms which have the potential to affect the operation and administration of the child protection system are not made in haste and without adequate consultation or a sound evidence base" (Northern Territory Children's Commissioner, 2025). SNAICC has been explicit that "collaboration with the Aboriginal Community Controlled Sector by the NT Government must always uphold principles of shared decision-making, as committed by all governments under the National Agreement on Closing the Gap" (SNAICC, 2025b).

CREATE Foundation endorses both positions and calls on the Committee to require evidence of genuine co-design before this Bill proceeds.

Young people drew a clear line between genuine engagement and tokenistic listening. Tokenism involves being asked for their views, having those views selectively used, and then being told their input has been considered regardless of whether it changed anything. The Bill's replacement of the right to participate with a discretionary opportunity is, in practice, the legislative formalisation of the tokenism that young people are already experiencing.

"We're listened to in a tokenistic way — you take what you want and ignore the rest."

"There are spaces where my voice matters, and spaces where it doesn't. How am I meant to value myself when I don't know when I'm allowed to be valuable?"

"Changing policies means nothing if the people on the ground don't change. You're not building outcomes — you're just changing pit stops."

"If we start listening from a younger age, we will be fixing problems we've been complaining about for years."

Young people also raised a consistent frustration: they have been raising the same issues for years, through Roundtables, Youth Advisory Groups and consultations, without seeing substantive change as a result. A consultation process for the Bill that provided stakeholders with 48 hours or days to respond is not meaningfully different from asking young people for their views and then ignoring them.

"I'm getting sick of repeating the same things and nothing happens."

CREATE Foundation response to proposed Amendments

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Dismantling the Aboriginal Child Placement Principle (Clause 6, new s.12C)

CREATE Foundation's most urgent and extensive concern is the effective dismantling of the Aboriginal Torres Strait Islander Child Placement Principle (ATSICPP), a standalone, rights-based protection for Aboriginal children. This is the most consequential and least evidenced provision in the Bill. It moves the NT in the opposite direction to every other Australian jurisdiction at a moment when coronial findings, Royal Commission recommendations, and the lived experiences of Aboriginal children in the NT demand a stronger, not weaker, commitment to their rights.

Background and history of the ATSICPP

The ATSICPP has been part of the CaPCA since 2007, building on the NT's history as the first Australian jurisdiction to embed the principle in child welfare legislation, in 1983. The Principle was developed through sustained advocacy by Aboriginal and Torres Strait Islander leaders and community-controlled child welfare organisations, emerging from grassroots advocacy in the 1970s in direct response to the devastating impacts of child removal policies, including those that produced the Stolen Generations (SNAICC, 2025c; Human Rights and Equal Opportunity Commission [HREOC], 1997). The Stolen Generations Inquiry documented how systematic removal of Aboriginal children from family, community and culture caused profound, multigenerational harm that continues to affect Aboriginal communities today (HREOC, 1997; Atkinson, 2002).

The ATSICPP underpins and addresses this history. It is not merely a placement preference. It is a comprehensive rights framework encompassing five interrelated elements: Prevention, Partnership, Placement, Participation and Connection, each of which must be applied together to realise the full intent of the Principle (SNAICC, 2019). These five elements are now explicitly embedded in child protection legislation in Victoria (Children, Youth and Families Act 2005), Queensland (Child Protection Act 1999), NSW (Children and Young Persons (Care and Protection) Act 1998) and the ACT. SNAICC has consistently recommended that the CaPCA be strengthened to make explicit reference to all five elements (SNAICC, 2025b). The Bill moves in the opposite direction.

What the Bill proposes and why it is wrong

The Bill proposes to remove the ATSICPP from the Act as a standalone provision and subsume it within a general placement hierarchy (s.12B) that applies to all children. It downgrades Aboriginal children's and families' right to participate in significant decisions to merely an 'opportunity' to participate (new s.12C(2)(a)). It removes the right of Aboriginal children and families to identify persons significant in the child's life to participate in decision-making, replacing that right with an 'opportunity' (new s.12C(2)(b)). And it expressly subjects s.12C to the general placement hierarchy in s.12B, so that permanency and stability considerations can override ATSICPP protections.

The Explanatory Statement frames these changes as ensuring that permanency and stability extend to all children. CREATE Foundation, alongside SNAICC and the OCC, rejects this framing. Permanency and stability are not culturally neutral concepts when applied to Aboriginal children. Research demonstrates that for Aboriginal children, cultural connection is itself a fundamental determinant of safety, identity, mental health and long-term wellbeing (Dudgeon et al., 2010; Atkinson, 2002; Zubrick et al., 2005; Secretariat of National Aboriginal and Islander Child Care [SNAICC], 2019). A child placed in a 'stable' non-Indigenous placement away from family, community, culture and Country is not safe in the full sense that the ATSICPP requires. The ATSICPP exists precisely because general 'best interests' frameworks, applied without specific ATSICPP protections, have historically failed to protect Aboriginal children from this harm (Davis, 2019; Yoorrook Justice Commission, 2023).

The proposed changes also constitute a regression on participatory rights that is directly inconsistent with international human rights obligations. UNCRC Article 12 requires states to assure to children who are capable of forming their own views the right to express those views freely in all matters affecting them – as a right, not merely as an opportunity. UNCRC Article 30 protects the rights of Indigenous children to enjoy their culture, religion and language. UNDRIP Article 3 establishes rights to self-determination for Indigenous peoples. UNDRIP Articles 7 and 10 protect against forced assimilation and removal from territories. The UN Committee on the Rights of the Child, in General Comment No.11 (2009) on Indigenous children, provides that the best interests of Indigenous children must be understood in light of their collective rights as a group, including the right to maintain cultural identity. The Bill's replacement of participatory rights with opportunities is inconsistent with each of these instruments (SNAICC, 2025b; Musk, 2025).

Young people described, in immediate and personal terms, the harm caused when cultural connection is not actively facilitated from the moment a child enters care.

"It's like the people you've known and loved for so long don't exist. You don't see them, you don't hear them."

"I came into care when I was 2 and no one made sure that I was connected to my family and my country."

"I was very disconnected from my culture growing up. I never had guidance towards my culture. When I finally got to do cultural things, it felt strange at first, but it gave me a sense of belonging I'd never had."

"You are taken away from your Country and your family, and you don't have access for years. And then family says you've just got to come back and start speaking the language, but how am I supposed to come back when I'm in the system? That broke me."

The Bill's subordination of the ATSICPP to a universal permanency framework will not protect these connections. It will accelerate their loss.

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Young people described the practical, bureaucratic barriers that prevent family contact and return to Country: approval delays, unanswered caseworker communications, travel that is too short to be meaningful, and cultural visits that are withdrawn as punishment. These are the barriers the Bill needs to address. Weakening the ATSICPP does not address any of them.

"I just want to see my family in community, we've asked my case manager but it's been 8 months."

"Every time I want to visit my family, they say they would do it, but then we get nothing back. They don't email us, don't call us — anything like that."

Aboriginal Child Placement Principle Promotes Safety

The NT Government's rationale for a general placement framework is that permanency and stability should apply equally to all children. CREATE Foundation does not oppose permanency and stability as policy objectives. We oppose their use to displace the specific protections that Aboriginal children require because of the documented, systematic failure of the NT system to place them with family, kin and community. As of 2024, only 16.7% of Aboriginal children in NT care are placed with Aboriginal relatives or kin – the lowest rate in Australia (SNAICC, 2025a; SCRGSP, 2025). The national average is 32.1%. The NT's rate of placing Aboriginal children with Aboriginal kin has worsened year on year (SNAICC, 2025a). This is not a system that has exhausted culturally appropriate placement options. It is a system that has systematically failed to implement the ATSICPP it already has. The response to that failure must be to strengthen and resource the ATSICPP, not to remove it.

Young people described, in immediate and personal terms, the harm caused when cultural connection is not actively facilitated from the moment a child enters care. The experiences they described are not edge cases. They are the norm.

Aboriginal and Torres Strait Islander young people describe culture as a living, breathing source of strength, not an add-on activity to be facilitated occasionally, but the connective tissue of identity, community and belonging.

"What makes me proud of my culture is dance and ceremonies."

"What I like about culture is how it makes you feel. It gives you strength around you. It makes you feel like the environment is strong."

"Our culture is not scary. It's strength within us."

"Knowing my skin name and where I come from is the best thing in my story."

"We are connected to land and sea, everything is connected to us."

Active Efforts

The most significant missed opportunity in the Bill, and simultaneously one of its most serious failures, is its treatment of Active Efforts. The concept of Active Efforts originates in the United States' Indian Child Welfare Act, which stipulates that child protection authorities must make affirmative, thorough and timely efforts to maintain or reunite Indigenous children with their families before any foster care placement can proceed (National Indian Child Welfare Association [NICWA], 2018). Queensland and NSW have both legislated Active Efforts in their child protection legislation, defining them as purposeful, thorough and timely (Child Protection Act 1999 (Qld) s.5F(6); Children and Young Persons (Care and Protection) Act 1998 (NSW) s.9(a)). Queensland's Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP) describes Active Efforts as the 'gold standard' for service provision to Aboriginal children and families (QATSICPP, 2023).

SNAICC defines Active Efforts as "purposeful, thorough and timely efforts that are supported by legislation and policy and enable the safety and wellbeing of Aboriginal and Torres Strait Islander children" (SNAICC, 2025b). SNAICC is explicit that "incorporation of active efforts needs to occur alongside a greater recognition of the Child Placement Principle in the Act. Active efforts requirements can only be effective when founded on a strong legislative recognition of the Child Placement Principle" (SNAICC, 2025b). The Bill dismantles the foundation on which Active Efforts must rest.

The Inquest into the Death of Baby G (2024, NTLC 6) specifically recommended Active Efforts provisions modelled on NSW. The OCC has called for an Active Efforts framework with specific legislative provisions requiring implementation of the ATSICPP to that standard (Northern Territory Children's Commissioner, 2025). Safe and Supported Action 8 (Australian Government, 2023) requires all jurisdictions to implement the ATSICPP to the standard of Active Efforts. The NT is an outlier. The Bill not only fails to implement Active Efforts but actively weakens the legislative foundation on which any future framework must be built.

Young people spoke about the urgency of connection to Elders and the intergenerational knowledge they carry. They are not asking for future programs. They are asking for connection now, before it is too late.

"I haven't been back to Country for years. The Elders I wanted to learn from won't be there forever. Nothing changes in the next ten years, but those Elders will be gone."

"Our knowledge comes from our old people."

Recent coronial and commission findings

The weight of the coronial and commission record reinforces the urgency of strengthening, not weakening, ATSICPP protections in the NT. The Inquest into the Death of Baby G (2024, NTLC 6) found systemic failures in the child protection system's engagement with an Aboriginal infant and their family, and specifically recommended Active Efforts modelled on NSW. The Inquest into the death of Kumanjayi Haywood (2024, NTLC 14) identified systemic failures in how the child protection system engaged with Aboriginal families, including failures of cultural connection and family engagement. The Inquest into the death of Kailab Moir (2025, NTLC 6) found that failure to ensure adequate, consistent and culturally safe support contributed to placement breakdown and, ultimately, the young person's death. The Coroner specifically identified the failure to ensure paediatric follow-up as a contributing factor, noting it 'likely contributed to the deterioration in behaviour to crisis point' (Inquest into the death of Kailab Moir, 2025, NTLC 6, p.44).

These findings reflect a consistent pattern documented in interstate reviews. Davis' Family is Culture (2019) in NSW, the Yoorrook Justice Commission's report (2023) in Victoria, and the Commissioner for Aboriginal Children and Young People's Holding onto Our Future (2024) in South Australia all reached the same conclusion: permanency frameworks that prioritise placement stability over cultural connection cause long-term harm to Aboriginal children and communities. The NT Government's Bill ignores this body of evidence.

Aboriginal Family-Led Decision Making and mediation (s.49)

The Bill introduces family responsibility agreements and orders as a new early intervention mechanism but makes no provision for Aboriginal Family-Led Decision Making (AFLDM) or community-led conferencing as the preferred approach to early intervention for Aboriginal families. This is a significant omission. AFLDM is widely recognised as a best-practice model for enabling self-determination and shared decision-making between families and child protection authorities, with evidence of effectiveness in reducing OOHC entries and improving family engagement (SNAICC & Winangali, 2017; Connolly, 2006).

The Royal Commission (2017, Recommendation 15.3) recommended that s.49 of the CaPCA be strengthened so that a mediation conference must be held if requested by a parent, individual or organisation representing a child, a recommendation the NT Government 'supported in principle' but has not implemented. The Bill does not implement this recommendation. Aboriginal community stakeholders have also raised concerns that the NT Government's Signs of Safety Practice Framework does not align with the self-determination principles at the heart of AFLDM, and that DCF-employed Aboriginal Community Workers cannot reasonably be perceived as independent by families (OCC, 2024; SNAICC, 2025b).

The ARDS Aboriginal Corporation in East Arnhem Land has demonstrated the transformative potential of kinship-based AFLDM approaches that centre Yolqu systems of law and shared decision-making with government agencies (Dale & Wunumurra, 2024). The Bill should be building on models like these, not introducing coercive escalation pathways that bypass them.

Young people are clear about the cause of low kinship placement rates in the NT: not the ATSICPP, but a system that does not understand, engage with, or resource the kinship networks that Aboriginal communities have always used to care for their children.

"If these people understood the kinship system, most of us would have been placed with family."

"When we have cultural events, everyone is invited. That inclusiveness is really powerful."

"I talked to this lady from Larrakia Nation and it turns out she is actually related to my family. That one lady taught me more about who my family is than my caseworker. I only talked to her once but I still remember lots of what she told me."

Young people in kinship care described what it looks like when the system gets this right — when they live with family who take them back to Country, speak language with them, and embed culture in daily life. This is the model the evidence supports and the model the Bill should be strengthening.

"I feel more okay with my culture because my carer is also Indigenous, so she knows how I feel about wanting to learn more instead of just standing there, not knowing what my culture is. She teaches me and gets my family to come up and speak language with me."

"We live with our family. They take us back to Country every year and speak language with us."

The insights in this section are drawn primarily from the CREATE Foundation Northern Territory Roundtable, held in Darwin on 8 April 2026. Fifteen young people aged 12 to 25 with lived experience of out-of-home care in the NT participated. The Roundtable was attended by the NT Children's Commission and senior Department of Children and Families officials.

Proactive efforts framework (Clause 6, new s.12D)

CREATE Foundation supports the inclusion of a proactive efforts framework in principle. Evidence from Queensland and NSW demonstrates that where child protection systems make genuine, timely and comprehensive efforts to support family preservation and reunification, outcomes for children and families are better (QATSICPP, 2023; NSW Department of Communities and Justice, 2020). However, legislative timeframes are meaningless without the services and workforce to make them real.

Section 12D(2) sets a 2-year timeframe for reunification, with intensive effort required in the first 6 months. The NT's remote and very remote communities, where the majority of Aboriginal children in care live, have severely limited access to the early intervention, family support and therapeutic services that genuine proactive efforts require. As SNAICC's Implementation Review (2025a) states, ACCOs in the NT remain critically underfunded: 3.9% of total child and family services funding in 2022–23. Research consistently finds that family preservation and reunification efforts are most effective when they are intensive, culturally safe, and delivered by trusted community-based organisations (Fernandez, 2009; Testa & Rolock, 1999; Scott, 2006).

In the absence of such services, legislative timeframes risk functioning as a de facto pathway to permanent removal: the clock runs, services are unavailable, efforts are insufficient, and the child enters long-term care.

The Office of the Children's Commissioner has identified this risk explicitly, noting the importance of understanding "the availability and accessibility of early intervention services, supports and programs to reduce child protection involvement" before legislating requirements that depend on them (Musk, 2025). SNAICC's legislative analysis identifies multiple gaps in the CaPCA that the Bill does not address, including the absence of automatic notifications and referrals to ACCO-led family support services, the absence of a presumption that removal itself causes harm, and the absence of minimum requirements for family preservation supports (SNAICC, 2025b). Without addressing these structural gaps, s.12D is a legislative framework without operational foundations.

The Bill also includes no requirement that a child's views on reunification, family contact and placement be sought, documented or taken into account in the proactive efforts process. For older children and young people, these views are not optional – they are central. Research on children's experiences of OOHC shows that children's sense of agency and participation in placement decisions is associated with better placement stability and wellbeing outcomes (Cashmore & Paxman, 2006; McDowall, 2020).

"As soon as I left care, reality hit me that I was homeless and had no family to go to."

Limits on short-term parental responsibility orders (Clause 21, amended s.128)

The Bill reduces the maximum duration of a short-term parental responsibility direction from 2 years to 1 year, and limits the total number of such directions for any child to two. A second direction may only be made if the Court is satisfied there is a 'high probability' of reunification and the further direction will not adversely affect the child's long-term stability.

CREATE Foundation understands the policy intent: preventing children from being held in prolonged uncertainty on successive short-term orders. Placement instability causes real harm, and the research evidence on the developmental impacts of placement instability on children in OOHC is clear (Osborn & Bromfield, 2007; Newton et al., 2000; Koh et al., 2014). CREATE's work with young people consistently reflects their desire for certainty, stability and connection. However, the mechanism chosen is blunt and risks substituting one form of harm for another.

The 'high probability' threshold is likely to be insurmountable in practice in circumstances where parental risk is ongoing. Courts will rarely be able to find a 'high probability' of reunification where concerns about parental capacity remain, even where genuine reunification is achievable with more support and time. This is particularly so for families affected by family violence, substance dependence or mental illness, where recovery trajectories are non-linear and may extend beyond 2 years (Bromfield & Holzer, 2008; Lonne et al., 2009).

The practical effect of the provision will frequently be to accelerate children into long-term or permanent orders even where a more graduated, child-centred approach would better serve their interests and be consistent with their expressed wishes.

SNAICC's analysis shows that of Aboriginal children who exited care in the NT in 2022–23, only 22.7% were reunified (SNAICC, 2025a). The reasons for this low reunification rate are systemic: absent services, inadequate family support, workforce shortages. Capping orders without addressing these systemic causes will not improve reunification rates – it will simply convert children currently on short-term orders into children on long-term orders, while the underlying barriers to reunification remain unaddressed.

Children's access to legal representation (Clause 25, new s.143A)

CREATE Foundation welcomes the Bill's strengthening of children's access to independent legal representation in long-term child protection proceedings. The requirement that the Court must not hear an application for a permanent care order or a long-term parental responsibility direction unless the child is represented – or has made an informed and independent decision not to be – is a positive step. Research on children's participation in child protection proceedings demonstrates that independent legal representation improves the quality and fairness of decision-making, ensures children's views are properly heard, and is associated with better outcomes for children (Cashmore, 2002; Archard & Skivenes, 2009; Bromfield & Osborn, 2007). CREATE has long advocated for this reform.

However, critical limitations must be addressed. The mandatory representation requirement applies only to permanent care orders and long-term parental responsibility directions. Many significant decisions affecting children occur at earlier stages of proceedings, including applications for short-term orders, assessment orders, and FRO hearings. The OCC has called for a staged approach to extending mandatory independent legal representation to all child protection proceedings (Musk, 2025), and SNAICC has identified that the CaPCA currently says children 'may' be represented, not that they must be, and does not limit judicial decision-making where children are unrepresented (SNAICC, 2025b). CREATE endorses both organisations' recommendations.

The urgency exception permitting proceedings to continue without representation where the Court is satisfied the matter is urgent must be tightly constrained. In a jurisdiction with a chronically under-resourced legal assistance sector, urgency will be frequently invoked. Any exception should require specific findings about why representation cannot be obtained within a reasonable time and should provide for prompt review of interim orders once representation is secured.

Section 143E of the existing Act provides for regulations establishing eligibility criteria and standards for children's legal representatives. As both the OCC (Musk, 2025) and SNAICC (2025b) note, no such regulations have been enacted despite this provision being in place. Without minimum standards, qualifications and specialist cultural training requirements, the right to legal representation will be hollow. SNAICC specifically supports recommendations from the Aboriginal Peak Organisations NT that these standards be developed with explicit reference to how practitioners can meet the cultural needs of Aboriginal children (SNAICC, 2025b). These regulations must be enacted urgently.

Care planning, cultural planning and leaving care (ss.70, 72A, 74)

The Bill does not address significant weaknesses in the Act's care planning provisions that both SNAICC and the OCC have identified as critical gaps. Section 72A currently gives the Department discretion to determine whether ACCO involvement in care planning is 'appropriate'. SNAICC is unambiguous that this is inconsistent with the Priority Reforms of the National Agreement on Closing the Gap, which require genuine shared decision-making with Aboriginal communities (SNAICC, 2025b; COAG, 2020). Section 72A must be amended to make ACCO involvement mandatory.

Section 70(5) requires only 'reasonable actions' to maintain an Aboriginal child's cultural identity and connection. SNAICC recommends this be strengthened to require active efforts, co-designed with the child's local ACCO, consistent with the Active Efforts standard (SNAICC, 2025b). The research evidence on the long-term protective function of cultural connection for Aboriginal children is unambiguous: connection to culture, family and community is associated with better mental health outcomes, stronger identity and resilience, and reduced risk of involvement in the criminal justice system (Dudgeon et al., 2010; Zubrick et al., 2005; Dockery, 2010).

On leaving care, the NT Children's Commissioner's data shows that 56% of young people aged 15–17 years in NT OOHC did not have a leaving care plan in 2023–24 (Musk, 2025). This is a systemic failure with direct, lifelong consequences. CREATE's own research demonstrates that young people leaving care are among the most vulnerable to housing insecurity, financial hardship, social isolation and poor long-term outcomes (McDowall, 2020; Mendes et al., 2014). For Aboriginal young people in the NT, leaving care without a plan, without cultural connection and without community support compounds decades of systemic disadvantage.

"I had a stable placement for 16 years, didn't think I needed support. Now 22, and I don't have a home… All of us mature at different stages in life… Now, I wish I'd done it because now I'm in this situation."

SNAICC recommends that s.70(3) be strengthened to mandate that leaving care plans for Aboriginal children include specific actions to ensure they leave care with a strong sense of cultural identity, belonging and community connection, co-designed with ACCOs from the young person's community (SNAICC, 2025b). CREATE Foundation strongly endorses this recommendation.

Working with Children Clearance amendments (Part 3)

CREATE Foundation is broadly supportive of the WWCC amendments in Part 3. The extension of clearance validity from 2 to 5 years aligns the NT with NSW, Victoria and South Australia and reduces administrative burden without compromising child safety, supported by the continuous monitoring mechanism and new suspension powers under s.191A. CREATE notes that the narrowing of the definition of 'child-related employment' to exclude 'merely incidental' contact should be monitored carefully in the 12 months following commencement, to ensure it does not inadvertently exclude roles where children in care have significant informal contact with adults. We support the removal of CEO discretion to grant WWCC exemptions, which promotes consistency and accountability in the system.

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Recommendations

As the Bill is considered by the Legislative Scrutiny Committee, CREATE Foundation advocates for the following foundational commitments, grounded in the findings of CREATE's NT Roundtable 2026 and national evidence.

Consultation and co-design

1. **Undertake genuine co-design with NT children and young people with lived experience —** NT young people are ready, willing and entirely capable of contributing to system design. They must be genuine partners, not consulted after decisions are made.
2. **Ensure ACCO partnership consistent with Closing the Gap Priority Reform One —** by providing Aboriginal Community Controlled Organisations with adequate timeframes and resources to engage meaningfully with proposed amendments.
3. **Establish a broad, independent Board of Inquiry —** as proposed by NT Children's Commissioner, Shahleena Musk, and National Commissioner for Aboriginal and Torres Strait Islander Children and Young People, Sue-Anne Hunter, with statutory powers, genuine Aboriginal community leadership, and scope to examine system-wide patterns. CREATE's 2026 Roundtable identified cultural support plan absence, caseworker turnover, travel barriers, and post-care homelessness as system-wide patterns — not isolated cases. These require systemic investigation, not a single-case departmental review.

Cultural connection and the ATSICPP

4. **Implement a standalone Cultural Support Plan for every Aboriginal child in care —** drawing on the Victorian model described by young people at CREATE's 2026 Roundtable. The plan must capture skin group, language group, totems, important ceremonies, key people with cultural authority, genogram information, and specific goals identified by the young person and their family — including outstation visits, seasonal activities, and funded pathways back to Country. The NT Roundtable 2026 found that most young people had never seen or been provided with such a plan, despite existing obligations under the Act.
5. **Retain the ATSICPP as a standalone, prioritised and enforceable legislative framework —** and work with ACCOs to develop accountability frameworks that ensure practice does not deviate from the Child Placement Principles.
6. **Prioritise culturally matched placements and expand Indigenous mentoring programs —** recognising, as the Roundtable found, that mentors are frequently providing the cultural connection, family access, and practical support that the formal system is failing to deliver. *"My mentor takes me everywhere — more than my caseworker does. It's something I should have" (Young person, NT Roundtable, 2026).*
7. **Resource and sustain connection to Country, culture and family —** including dedicated budget lines for cultural activities, funded overnight stays in regional centres for family visits, and proactive outreach by ACCOs such as Larrakia Nation. The 2026 Roundtable found that for some young people, a single conversation with an ACCO worker produced more cultural knowledge than years of formal case management.

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8. **Establish accountability for cultural connection —** requiring agencies to document and report publicly on cultural connection outcomes, including family contact, community participation, language engagement, and Country visits.

Kinship placement, reunification and family contact

9. **Reinstate the reunification aspiration (section 12A(4)(b)) in the Act —** and ensure the permanency provisions in sections 123 and 128 do not create structural pressure toward permanent substitute care at the expense of kinship placement and reunification.
10. **Substantially increase investment in kinship placement support —** including simplifying assessment processes, removing barriers to Aboriginal households becoming kinship carers, and providing ongoing financial, cultural and practical support. The NT's 17.5% kinship placement rate is a system failure requiring investment, not legislation that further marginalises kinship placement.
11. **Streamline and expedite approval processes for family visits and return to Country —** ensuring young people are not missing cultural events, family time, and community connections due to administrative delays. The 2026 Roundtable found that geographic barriers — including the three-hour drive to Katherine — are compounded by administrative delays that reduce visits to an hour or less. Funded overnight stays in regional centres is a practical and achievable solution.
12. **Ensure caseworker continuity and manageable caseloads —** recognising caseworker turnover resets all progress on family contact, cultural connection and transition planning. Young people recommended caseworkers carry no more than 10 to 12 young people on their caseload.

Participation, accountability and leaving care

13. **Retain and strengthen enforceable participation rights —** consistent with Article 12 of the UNCRC and Royal Commission Recommendations 2.01 and 2.02. Ensure children's views are sought, recorded and acted upon at every stage of decision-making.
14. **Extend care arrangements to align with national best practice —** urgently. Every other Australian jurisdiction provides extended care to age 21 or beyond. The 2026 Roundtable found that many NT young people receive a letter on their 18th birthday informing them their care order has ended — with no housing, no financial support and no transition plan. *"All support disappears the day you turn 18. The system disengages because you turned a day older" (Young person, NT Roundtable, 2026).*
15. **Significantly expand and properly resource post-care supports —** including Moving On and equivalent services. The 2026 Roundtable found that two Moving On workers are currently responsible for supporting approximately 500 care leavers under 25 in the Darwin region. *"That's not a service. That's a gesture" (Young person, NT Roundtable, 2026).*

16. **Develop a dedicated leaving care housing strategy** — in partnership with the Department of Housing, Local Government and Community Development. The 2026 Roundtable found that multiple young people moved directly from residential or foster care into homelessness, adult emergency accommodation co-located with drug rehabilitation services, or living situations that rapidly became unsafe due to overcrowding. *"I have been homeless since I turned 18 because there is no housing available for kids leaving care" (Young person, NT Roundtable, 2026).*

Conclusion

As with all important decisions that affect their lives, the voices of children and young people must be heard and must be central to how child protection legislation is designed, amended and implemented. The CREATE Foundation Northern Territory Roundtable 2026 demonstrated, once again, the extraordinary capacity of young people with lived care experience to articulate, analyse and propose solutions to the systemic challenges they face. Their insights — grounded in direct experience of the NT child protection system, were expressed just weeks before this Bill was introduced — are not simply compelling testimony. They are evidence.

CREATE Foundation supports evidence-based reform that genuinely strengthens child safety, participation, cultural connection and long-term wellbeing. We welcome the Bill's intent and support specific provisions, particularly the strengthening of children's legal representation. However, CREATE cannot support passage of the Bill as currently drafted. The amendments we have identified — to sections 7(4), 12C(2)(a), 12C(4), 12A(4)(b), and the coercive escalation mechanisms in the FRO framework — are necessary corrections to provisions that will otherwise cause predictable and irreversible harm to Aboriginal children and young people in the Northern Territory.

"The systemic advocacy is important. But when you're not changing the attitudes and practice of the people on the front line, you're not changing anything."

"You can't keep a house standing on a foundation that's sinking. You need to rework the entire foundation — not just patch the corners."

CREATE Foundation will continue to support and share insights from children and young people with lived experience of out-of-home care in the Northern Territory to support continued improvement to child protection legislation and practice.

CREATE welcomes the opportunity to work with the NT Government, the Legislative Assembly, and Aboriginal communities to ensure that reform is shaped by those who have lived it — and that connection to family, culture, Country and community is placed at the centre of every decision made about a child's life in the Northern Territory.

Contact

Should you have any questions or require additional information, please contact the CREATE Foundation's Advocacy team at advocacy@create.org.au.

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