Submission in Response to the Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 *(NT)*

Summary

This submission is made in response to the Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (NT) (the Bill), introduced to the Legislative Assembly of the Northern Territory (NT or Territory) by Ms Cahill on 13 May 2026. It is made jointly by the undersigned, who represent a range of academic institutions and Indigenous practitioners. The signatories to this submission bring expertise spanning child protection, Aboriginal community services, disability, domestic and family violence, legal services, and remote service delivery.

We are united in our concern about the likely effects of this Bill on the children and families we work with and for.

We welcome the opportunity to contribute to the legislative process and acknowledge the genuine importance of ensuring the safety, wellbeing and long-term stability of children in the NT. We recognise that the Bill is introduced in a context of significant public concern about child safety in the wake of the tragic death of Kumanjayi Little Baby.

However, we have serious concerns about a number of provisions in the Bill and submit that, in its current form, the Bill is likely to increase - rather than reduce - harm to children and families in the NT. Our concerns are grounded in a careful reading of the Bill's provisions, the available evidence on the impacts of out-of-home care (OOHC), the rights of Aboriginal children and communities under domestic and international law, and the practical realities facing families - particularly Aboriginal families - in remote and regional parts of the NT.

The NT has the highest rate of children in OOHC of any Australian jurisdiction. Aboriginal children are profoundly over-represented in that population. Any legislative reform in this space must be assessed against that reality and the long shadow of the Stolen Generations - a period in which the systematic removal of Aboriginal children from their families was not only permitted but mandated by law. That history is not distant. Its effects are present in the lives of families and communities across the Territory today and in the intergenerational trauma that child protection services continue to encounter and, too often, compound.

We also note the extremely short period of time that the community has had to provide submissions to the Territory Government (1 week), and the ostensible absence of consultation with Aboriginal communities, Aboriginal Community Controlled Organisations, and children and young people with lived experience of the child protection system (currently or previously). The absence of this consultation is highly concerning, and increases the risk of the proposed changes having negative and unintended consequences for those communities and families which will be most affected by them.

It is against that backdrop that we urge the Legislative Assembly to subject the Bill to rigorous scrutiny. Legislation that lowers thresholds for intervention, creates escalating pathways toward removal, weakens the Aboriginal Child Placement Principle, and imposes compliance obligations on families least equipped to meet them, cannot be said to serve the best interests of children, regardless of its stated intentions. Good policy in this space must be grounded in evidence, developed in genuine partnership with Aboriginal communities, and measured against outcomes for children rather than the appearance of decisive action. Evidence-based law reform requires significant investment and consultation to be done well. This is undermined by the short timeframes associated with both the development and proposed implementation of this Bill.

This submission is structured as follows:

- Section 1 addresses the ways in which the Bill lowers the threshold for government intervention and creates a structural pipeline toward removal.
- Section 2 addresses the Bill's de-prioritisation of the Aboriginal Child Placement Principle and its inconsistency with Australia's obligations under international human rights law.
- Section 3 addresses the ways in which the Bill sets vulnerable families - including families affected by disability, domestic and family violence, and geographic remoteness - up to fail.

Each section of this submission identifies specific provisions of the Bill that give rise to concern and concludes with broader evidentiary context supporting the submission's recommendations.

We are grateful for the opportunity to make this submission and hope that the points made here will be taken into account, to promote the safety and wellbeing of children in the Territory.

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Section 1: Lowering the Threshold for Removal and the Pipeline to Removal

1.1 Mandatory Removal Language and Undefined Thresholds (s.12A(3))\

The proposed s.12A(3) states that a child must be removed where there is a "significant and likely risk of harm", which is a significant departure from the current wording of 'A child may be removed from the child's family only if there is an unacceptable risk of harm to the child' (current s 8(3)) This provision is alarming on multiple levels.

Neither "significant" nor "likely" are defined anywhere in the Bill or its Explanatory Statement, which merely notes that "a child must be removed from their family if there is a significant and likely risk of harm." These are not technical terms with settled legal meaning. "Likely" in legal contexts can mean anything from more probable than not to a real and non-remote possibility, constituting a vast spectrum of risk. "Significant" is equally elastic and could be applied to circumstances falling well short of the serious, immediate harm that has historically justified removal.

The considerable discretion this gives to government officials, who are likely non-Indigenous, is particularly concerning in the context of Aboriginal families, with various reviews and inquiries finding that the threshold for removal is already lower than for non-Indigenous families. This is due to structural racism and bias that constructs Aboriginal families as neglectful and inadequate. In their review of the Victorian child protection system, Jones, Douglas and Cripps noted that:

> *unconscious bias and overt racism riddle child protection risk assessments and that ignorant assumptions about perceived overcrowding, the cleanliness of homes and, in some cases, children merely having dirty feet, pervade welfare decision-making and effect Aboriginal children's lives (2025, p. 398).*

This issue of unconscious bias is exacerbated by a predominantly non-Aboriginal child protection workforce. In their most recent Annual Report, the NT Department of Children and Families reported that only 25% of their workforce were Aboriginal (NT Government, 2025). The reasons for the low representation of Aboriginal staff in DCF are unclear, however child protection workers are typically required to have a university education (e.g., an undergraduate degree in Social Work), which is often out of reach for many Aboriginal people in the NT due to systemic disadvantage. Many child protection workers have their own world views, life experiences and positions of privilege, and so are confronted by the conditions of poverty that families are living in, in the NT. This drives their determinations of 'risk', but doesn't hold institutions accountable for those conditions (Davis, 2026; Langton, 2026).

The combination of two undefined threshold terms in a mandatory removal obligation creates a provision of extraordinary breadth and uncertainty. A caseworker, a court, or an authorised officer reading s.12A(3) has no legislative guidance whatsoever on where the line falls. In that vacuum, the obligation's mandatory nature creates pressure to remove rather than to question whether the threshold is genuinely met. Without a clear framework, this kind of wording risks shifting practice toward removal rather than requiring decision-makers to first consider the less intrusive, family-supportive options that align with best practice and s. 9, discussed below.

This provision sits in Part 1.3 - the universal principles section - meaning it operates as a governing norm across the entire Act, which is made clear in s. 7(1) of the Bill. This governing norm shapes decision-making culture well beyond the specific operational contexts in which such language might be more defensible. It would therefore not be confined to emergency removal situations, but operate as an overarching principle. As a minimum, it should therefore be moved from this Part.

The provision also sits in direct and unresolved tension with s. 9, which requires that intervention be the least intrusive option, consistent with the child's best interests, and with s. 12D, which

requires the CEO to make proactive efforts to prevent removal. Furthermore, the Bill provides no guidance on when the obligation to make proactive efforts gives way to the mandatory removal obligation. In practice, the mandatory provision is likely to dominate.

The placement of undefined, mandatory removal language as a universal principle of the Act is a policy choice with profound consequences. It echoes, in structure and effect, the legislative architecture that historically enabled the institutional removal of Aboriginal children without requiring individualised justification. That history demands that provisions of this kind be subjected to the most rigorous scrutiny, and that undefined thresholds in mandatory removal obligations be regarded as unacceptable.

1.2 Broad and Undefined Triggers for Intervention "Event of Concern"

The definition of "event of concern" is broad enough to encompass families experiencing poverty, housing instability, or school attendance issues. Social problems that do not necessarily indicate parental incapacity or child protection risk, but have historically been used for intervention in the lives of disadvantaged and/or Aboriginal families in Australia. These issues are indicative of the need for structural supports, not child removal.

Specifically, the Bill defines an "event of concern" as encompassing "an event that adversely affects a child's wellbeing." That is extraordinarily broad. The justification for this in the Explanatory Statement — that this "expands from the current 'behavioural problems' trigger" in the Youth Justice Act — confirms that this expansion is a deliberate policy choice, aimed at broadening the net of children brought into the child protection system. While s. 65D(1) requires that the CEO also believe that family circumstances caused or contributed to the event of concern and that circumstances may be improved by the agreement. These additional conditions do not provide sufficient constraints on the broad event-of-concern framework. Conditions such as "contributed to" and "may be improved" are extremely low bars.

The threshold for inviting a family into a Family Responsibility Agreement is further lowered by the stipulation that intervention may occur not only where an event of concern has occurred, but where one is "at risk of occurring" (s. 65D 1(a)). The term "at risk" is not defined anywhere in the Bill, leaving the threshold for initiating the Family Responsibility Agreement process entirely at the decision-maker's discretion. This compounds the definitional problems already identified in relation to s. 12A(3): not only is "event of concern" itself broadly and inadequately defined, but the trigger for intervention does not even require that such an event has taken place.

In the absence of clear guidance and against the backdrop of mandatory removal if significant harm is "likely", practitioners may again determine to remove a child, rather than engaging in proactive and early intervention responses that prioritise family stability and unification.

1.3 Escalation Pipeline Toward Removal

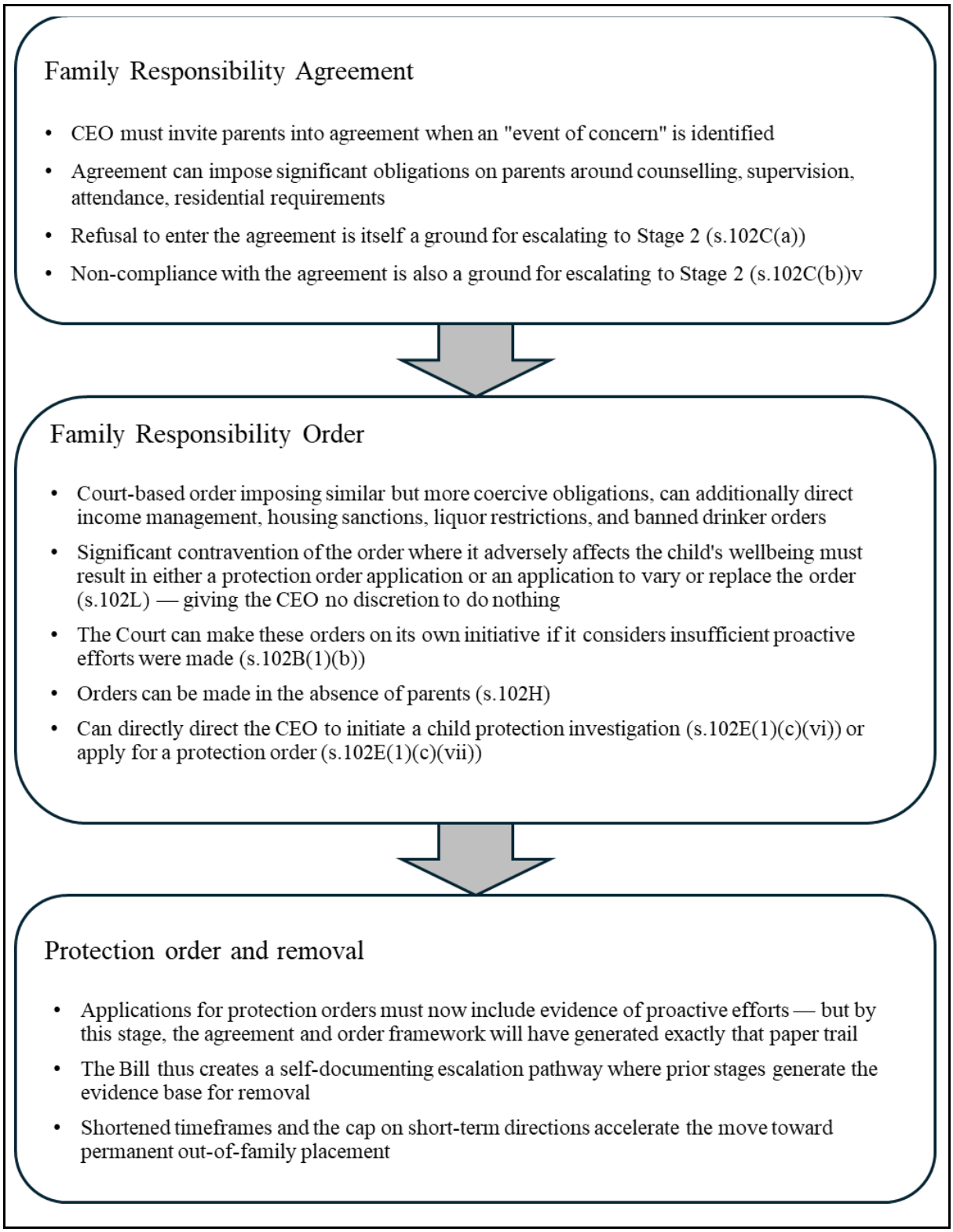
The Bill creates a structured pathway - from Family Responsibility Agreement, to Family Responsibility Order, to Protection Order - where refusal or non-compliance at each stage automatically grounds the next, more coercive intervention, including removal. This pathway is described in Figure 1 below. Of key concern to the signatories is that the pipeline means the decision that matters most — whether a family enters the system at all — is made at Stage 1, based on **broad, undefined triggers**. Once a family is in the system, the architecture of the Bill makes escalation toward removal structurally likely, particularly for families who cannot comply with obligations for reasons outside their control, including the absence of available services and resources necessary to address the obligations set out in the Family Responsibility Plan, a noted issue in regional and remote areas of the NT, and parental disability. We return to these substantive points in Section 3 of this submission.

The emphasis on participation and shared responsibility within the child protection framework assumes that Indigenous families enter the system on equal footing. As Longbottom (2026) has argued, she coined the term ‘false equivalence’, where the system operates through a framework that assumes Indigenous families will enter the child protection system on equal terms as the state. This is fundamentally flawed, with the legislative assumption that Indigenous families will have the same bargaining power to negotiate terms and conditions where participation is voluntary. This reflects a framework in which Indigenous families are invited to participate; yet the state retains control over the entire process. Compliance and regulation at the operational level will be monitored by the state, particularly in the creation, implementation and evaluation of family responsibility agreements, which will, in effect, exclude what are known as Aboriginal cultural care plans today.

Further, the pipeline ignores the structural reasons why families in the NT, particularly Aboriginal and Torres Strait Islander families, may refuse to consent at any of these stages. Compelling evidence now exists that Aboriginal family engagement with health and other services is influenced by the broader colonial context within which these services are being delivered (Austin & Arabena, 2021; Bennett et al., 2011; Gilroy et al., 2016). These issues are exacerbated in the

NT, with the Intervention resulting in increased mistrust of government services and reduced engagement. The proposed pathway therefore, punishes understandable community hesitancy to engage with child protection agencies while doing nothing to address these structural barriers. Aboriginal families are thus positioned within this framework as respondents to state action, rather than equal decision makers in the care and protection of their children. Thus, if removal occurs, there is a high likelihood that long-term state care arrangements will ensue.

Figure 1: Pipeline to child removal in the Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026



1.4 The De-prioritisation of Early Intervention

By lowering the threshold for child removal and expanding the triggers for government intervention in family life, the Bill deprioritises early intervention and continuity of care in favour of a model that treats removal as an earlier and more accessible option. This has significant fiscal and human consequences. When thresholds for removal are lowered, the proportion of child

protection funding consumed by OOHC is expected to increase correspondingly, reducing the resources available for early intervention and primary prevention. Child protection systems are already spending a disproportionate share of their budgets on OOHC; changes such as those proposed in the Bill would likely further reduce the resources available for early intervention and primary prevention.

This concern is compounded by the Territory Government's recent defunding of certain domestic and family violence services - services that address one of the primary drivers of child protection involvement. Reducing investment in such services, while simultaneously lowering the threshold for child removal, is contradictory as a policy position and is likely to increase rather than decrease the number of children entering OOHC.

The Bill is therefore likely to produce a self-reinforcing dynamic, namely, **more children removed, more funding directed to OOHC, and less capacity for the early intervention work that might have prevented removal in the first place.**

1.5 The Harms of OOHC

There is a large and compelling empirical evidence base demonstrating that removal from families of origin is associated with significant negative outcomes for children, even when controlling for the presence of adverse childhood experiences, the number of prior child protection notifications, and other demographic factors associated with child protection involvement (Clapham, et al., 2025; Davis, 2019; Lima et al., 2018; Mendes & Chaffey, 2024; Zhao et al., 2025). Children who are removed from their families of origin are more likely to experience both short- and long-term harms, including chronic mental health difficulties, lower educational attainment, housing insecurity, financial insecurity, disability, and both externalising (e.g., violence and aggression towards others) and internalising (e.g., self harm and suicide ideation) behavioural difficulties. As noted in the *Holding Hope* report, suicide is a significant concern among children and young people in OOHC (Clapham et al., 2025). Critically, this research also demonstrates that Aboriginal young people are more likely than their non-Indigenous peers to experience these harms (Mendes, 2025).

These outcomes are not incidental to the experience of removal — they are its documented consequences, and they must weigh heavily in any assessment of legislation that makes removal more accessible.

A particularly significant and emerging body of evidence concerns what researchers have termed "crossover kids" - children who appear in both child protection and juvenile justice cohorts. Research conducted in Australia and internationally has consistently demonstrated substantial overlap between OOHC populations and those subject to juvenile justice intervention (Baidawi & Sheehan, 2019; Campbell et al., 2023, McFarlane, 2018). One of the primary explanatory pathways for this overlap is that children in OOHC, particularly those in residential or group care settings, are subject to heightened scrutiny by police and other agencies, and that normalised adolescent behaviours including breaking curfew, underage drinking, conflict with peers are effectively criminalised in those settings, in ways they would not be in a family home (Campbell et al., 2023; McFarlane, 2018).

The *Holding Hope* report examined the factors contributing to suicide among Aboriginal and Torres Strait Islander children and young people in NSW by Clapham, Longbottom, Thomas and Masso (2025). The report tabled to NSW Parliament highlighted that many young Aboriginal and Torres Strait Islander young people came into contact with multiple systems, and were often characterised as ‘disengaged.’ A framing that obscures the inaccessibility of services, structural barriers and fragmented service responses. Of the 43 young people, 28 had contact with the child protection system; a small number were in the care of the minister when they suicided, and others had familial contact with the system. This contact must be understood as a reflection of multisystemic interactions and institutional pathways, rather than an indicative individual deficit

or dysfunction within the family. The report warns against interpreting behaviour as non-compliance where it reflects unmet need. In this context, statutory frameworks that rely on compliance, regulation and escalation, reinforce the very conditions identified as contributing to harm. A further finding was the lack of genuine engagement with the Aboriginal Community Controlled Sector, highlighting many missed opportunities in culturally grounded, community-led support.

Indigenous practitioners advocate that the role of statutory actors should be to bring forward statutory concerns, explain these concerns to the family, provide information about available support, resource the process, and support safety planning. The essential element here is that the family, the voice, direction, cultural authority of family, kinship structures, elders, and community leaders should be at the forefront. As Aboriginal kinship carer and social worker Jarrah Longbottom-Wymarra states:

> *If those supports are not genuinely available, culturally safe, accessible in language, and led by trusted Aboriginal organisations or community structures, then the system may turn service failure into parental failure.*

The Bill's proposed lowering of the threshold for removal therefore, not only creates a pipeline into OOHC, but also risks further exacerbating the pipeline from OOHC into the juvenile justice system. This is of particular concern in light of the NT Government's recent decision to reduce the minimum age of criminal responsibility from 12 to 10 years old. A move in direct contract to international human rights standards and Australia's obligations under the Convention on the Rights of the Child (UNCRC). Nevertheless, in situations where a child is under the age of criminal responsibility, police officers are enabled to target children and their families by means of referral (as set out in section 65E). Arguably, this Bill reinforces punitive punishments that conflate early intervention with penal expansionism. The combined effect of these policy directions is that there is likely to be a resulting increase in the number of young people - disproportionately Aboriginal young people - coming into contact with the youth justice system, with the lifelong consequences that entail for housing, employment, education, and family relationships, at high and inefficient financial cost to the taxpayer.

Section 2: De-prioritisation of the Aboriginal and Torres Strait Islander Child Placement Principle

The new framework expressly subordinates the Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP) to general placement principles. The ATSICPP are embedded within a framework that has five core elements that focus on active efforts across state and territory jurisdictions. These core elements include: i) Prevention, ii) Partnership, iii) Placement, iv) Participation, v) Connection (SNAICC, 2017). The framework provides for a strengths-based focus that includes the family and the community to ensure that connection to community, at the very least, remains, where a child or young person is deemed to need protection. This framework identifies that connection to culture is vital, and that removing a child from a family in the first instance must ensure that cultural connection is maintained, given the protective factors of that connection (Davis, 2019; Krakouer, Nakata, & Beaufils et al., 2022).

The subordination of the ATSICPP to general placement principles will likely increase the placement of Aboriginal children outside family, kin and community. Notably:

- proposed s.12C(4) expressly states that the ATSICPP are subject to the general placement principles in s.12B; and
- s.12B prioritises placement with a parent, then a family member, then a CEO-approved person - without specific Aboriginal content.

It is clearly the case that NT care and protection legislation adherence to ATSICPP are already very weak. According to AMSANT, as of June 2024, **only 16.7 per cent of Aboriginal children in NT care were placed with Aboriginal relatives or kin**. This is the lowest rate in Australia and less than half the national average of 32.1 per cent. We agree with their conclusion that "the evidence does not show a system overly constrained by the Placement Principle".[1] A further watering down of this is both unnecessary and regressive.

While the Bill includes reference to the prioritisation of placement with a parent or family member, this does not include specific reference to Aboriginal family members, opening up the door for non-kinship placements. Specifically:

- where s.12C conflicts with s.12B in practice, the general principle prevails;
- decision-makers have no guidance on how to weigh cultural considerations against the general placement hierarchy; and
- This is therefore likely to entrench existing patterns of Aboriginal children being placed outside kin and community.

2.1 Cultural Connection and Education as a Human Right

The ATSICPP is consistent with international and domestic human rights frameworks, which require that placement decisions for Aboriginal children prioritise connection to family, kin, community and culture as substantive rights, not merely as considerations subordinate to a general framework. The ATSICPP is not merely a procedural requirement - it reflects the recognised human rights of Aboriginal and Torres Strait Islander children to connection with their family, community, culture, language and Country.

These rights are enshrined in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the United Nations Convention on the Rights of the Child (CRC), which Australia has ratified, and the CRC is the most widely endorsed UN Convention to date. Article 3(1) of the CRC stipulates that:

> *In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the* ***best interests of the child*** *shall be a primary consideration (emphasis added).*

It is significant that this obligation falls explicitly on legislative bodies - meaning the NT Legislative Assembly is itself bound by this standard when passing this Bill. It is equally significant that the language is "*a* primary consideration" rather than "*the* primary consideration" — a deliberate drafting choice that acknowledges the interconnected nature of children's rights and resists the rigid hierarchy the Bill seeks to impose.

General Comment No. 11, adopted by the UN Committee on the Rights of the Child in 2009, provides authoritative guidance on what the best interests principle requires specifically in relation to Indigenous children. The Committee makes clear that Indigenous children's connection to culture, language and community is not a secondary or supplementary consideration, it is integral to the determination of best interests. As Jones, Douglas and Cripps observed in their review of the Victorian child protection system:

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[1] Aboriginal Medical Services Alliance Northern Territory, *Proposed Child Protection Changes Risk Weakening Protections for Aboriginal Children in the Northern Territory* (Media Statement, 13 May 2026) https://amsant.org.au/proposed-child-protection-changes-risk-weakening-protections-for-aboriginal-children-in-the-northern-territory/

> *The individual and collective right to culture under the CRC is inextricably connected to, and informs, Indigenous children's best interests rights. The Indigenous child's right to culture under the CRC necessitates understanding Indigenous children's best interests rights as having both individual and collective application.* ***The CRC is clear: Indigenous children's cultural rights, conceived both individually and collectively, must inform the best interest principle at the domestic level*** *(2025, p. 405, emphasis added).*

By subordinating Aboriginal child placement principles to general placement principles, the Bill places the Territory out of step with its international human rights obligations and the national consensus that has developed around the importance of the Principle since the *Bringing Them Home* report (Human Rights and Equal Opportunity Commission, 1997). The proposed Bill narrows the best interests of the child (arts 3, CRC) toward safety and stability without adequately ensuring that cultural continuity, kinship and identity are central.

The CRC (arts 5 and 18) recognises the primary role of parents, extended family and community in the upbringing of the child, and the obligation on the state to support families in fulfilling these responsibilities. These international provisions recognise that children are raised within relational, cultural and kinship systems, and that state intervention should strengthen, not displace, those structures. While the Bill adopts human rights-focused language, it does not give full effect to the principles reflected in Articles 5 and 18. Aboriginal families are invited to participate in processes, yet the design, timing and authority of said processes remain regulated by the state. Through these mechanisms, the state regulates, defines risk and assesses compliance. Thus, the state's role shifts from supporting families to regulating them.

Connection to culture, land, and family, has been recognised as a protective factor to social emotional health and wellbeing and connection to mental health (Gee, Dudgeon, & Schultz, et.al., 2014). Self-determination is a guiding principle of the social-emotional wellbeing framework that acknowledges health and wellbeing as interconnected and inseparable from the person or the community (Gee, Dudgeon, & Schultz et al., 2014). The positive impact of connection to culture, family, Country, and community is vital to positive health outcomes later in life (Gee, Dudgeon, & Schultz et al., 2014). What must be recognised is that key inquiries, such as the *Bringing Them Home* report, provided the nation with individual testimonies of the negative impact of child removal and dislocation (HREOC, 1997).

2.2 Cultural Safety of Aboriginal Children

Child safety and cultural connection should not be positioned as competing considerations. For Aboriginal children, connection to family, kin, community, language, culture and Country is part of safety, identity and wellbeing. Any reform in this space should strengthen, not weaken, the Aboriginal Child Placement Principle, and should require genuine participation of Aboriginal families, communities and Aboriginal-controlled community organisations in decisions before removal and throughout any reunification process. The de-prioritisation of the ATSICPP is not only inconsistent with international and domestic human rights, but also with the practice of every other state and territory in Australia.

Aboriginal children placed with non-Indigenous carers risk losing continuity of access to cultural knowledge, language, and community connection. Such losses are not abstract but have been demonstrated in the empirical literature to contribute to poorer long-term outcomes (Clapham et al., 2025).

Cultural safety - the experience of an environment in which a child's cultural identity is respected, supported and affirmed - has been shown to be a significant protective factor for Aboriginal children, including those who have been removed from their families of origin. The Bill's failure to adequately protect cultural safety in placement decisions is therefore, not only a human rights concern, but an evidence-based child welfare concern. A placement that severs a child's cultural

connection is **not** a safe placement. As Aboriginal kinship carer and social worker Longbottom-Wymarra said:

Children must be safe. But for Aboriginal children, safety cannot be separated from family, kinship, culture, language, Country and identity. A child may be physically protected but still culturally harmed if they are removed from the people, places and relationships that hold their identity.

Section 3: Setting up Families to Fail

3.1 Compliance Obligations that Cannot Realistically be Met

Agreements and orders impose obligations on families without guaranteeing services are available to meet them, particularly in remote communities. Non-compliance, whatever its cause, feeds escalation. This is particularly likely to occur in situations where a parent or carer has disability issues which may impact short-term memory, understanding of the conditions of these orders, and in turn, compliance.

Proposed s. 65D(5)(a) requires the CEO to ensure facilities and services are "reasonably available", before entering a Family Responsibility Agreement. However, "reasonably available" is not defined. In the NT context, many required services - including alcohol and drug rehabilitation, counselling, parenting programs, domestic violence services - are either absent in remote communities or have significant waiting lists. This was highlighted in the research of Cripps and Habibis (2019) for the Australian Housing and Urban Research Institute, which identified systemic barriers to housing for women in contact with the child protection system, creating barriers to reunification and escalated risk assessments. The critical shortage of affordable housing in Australia was brought into sharp relief with the recent tragic death of a baby whose family was living in a tent at the time of their birth.

More generally, families may have had prior negative experiences with those services or wish to avoid specific services due to family associations or conflicts with other clients, providers and/or practitioners.

Under the proposed amendments, non-compliance resulting from a lack of engagement with services would be treated the same as wilful non-compliance for the purposes of escalation.

3.2 Disability

The Bill requires disability to be considered prior to entering a Family Responsibility Agreement (s. 65D(5)(c)(ii)) but creates no adjusted standard or additional support obligation. This means that parents with cognitive or psychosocial disability may be structurally unable to meet agreement or order obligations, regardless of their commitment to doing so, and in turn are more likely to be disproportionately caught by the escalation framework. The Bill provides no mechanism for recognising this. Non-compliance would accordingly feed escalation, regardless of its cause.

3.3 Disability within child protection populations

The disproportionate engagement of both parents and children with disabilities with the child protection system is well established. Research conducted on behalf of the Disability Royal Commission (Libesman et al., 2023) recognised the entrenched structural biases in relation to parents with disability, which lead to serial violation of their children's rights. Furthermore, children with a disability are significantly overrepresented in the child protection system. This issue is particularly pronounced among 'crossover kids' (see discussion in 1.5 above). For example, 48 per cent of young people involved in both the child protection and youth justice systems in Victoria were identified as having a neurodisability. Furthermore, this cohort

‘experienced greater cumulative maltreatment and adversity, earlier out-of-home care entry and offending onset, more caregiver relinquishment and residential care placement, and a greater volume of charges’ (Baidiwi & Piquero, 2021, p. 803). As the Royal Commission into Violence, Abuse and Neglect of People with Disability acknowledged, Indigenous people are also more likely to experience disability and this is inextricably linked to ‘the ongoing impacts of colonisation, intergenerational trauma and racism experienced by First Nations people more generally’ (2023, p. 3). This is in turn compounded by and intersects with the over-representation in child protection and criminal justice contexts.

3.4 Procedural Fairness in Remote Contexts

- Orders can be made in the absence of parents (s.102H), including where the court determines the matter should proceed, regardless of whether notice was given
- Service of documents in remote communities where families may be highly mobile, have limited literacy, or face language barriers raises serious questions about whether notice requirements are meaningful in practice
- s.102G(5) requires explanation of orders in the parent's preferred language where practicable — but "not reasonably practicable" is an easy bar to meet in many NT contexts, and the fallback of "a language and manner the parent understands" provides little enforceable protection

3.5 Domestic and family violence

- s.65B requires domestic violence risks to be managed consistently with the family violence framework in Family Responsibility Agreement contexts
- No equivalent provision applies to Family Responsibility Orders
- Agreement and order conditions requiring supervision of children, residential requirements and exclusion of named persons can place victims of domestic and family violence in impossible positions — compliance with child-related conditions may conflict directly with safety
- Non-compliance in this context is not distinguished from wilful non-compliance for escalation purposes
- Victim-survivors of domestic and family violence may thus find themselves on the pipeline to removal not because of their parenting but because of their experiences of victimisation.

Section 4: The politicisation of a death - legislative reform in the shadow of Kumanjayi Little Baby

We wish to address directly the context in which this Bill has been introduced. The death of Kumanjayi Little Baby was a tragedy. However, we are deeply concerned that the circumstances of her death have been used to pathologise her mother, and Aboriginal communities, and provide political impetus for legislative reform that was neither developed in partnership with those communities nor grounded in the evidence about what keeps children safe.

Reports in the public domain have referenced child protection notifications made in relation to Kumanjayi Little Baby's family. We note, in the first instance, that the North Australian Aboriginal Justice Agency has said the leaking of this information to the media constitutes a serious breach of legally protected confidentiality, and that the NT Government's failure to address that breach publicly is itself a matter of concern. We note further that Kumanjayi Little Baby's mother's husband is currently imprisoned for domestic and family violence perpetrated against her. It is therefore reasonable to conclude that many of the notifications made in relation to this family may have related to her experience of domestic and family violence - and that the child protection system's response to those notifications may have identified her as a non-protective parent on the basis of her victimisation, rather than addressing the perpetrator's conduct

(see our above comments on the intersection between domestic and family violence victimisation and child protection involvement).

If this is the case, the public narrative that has emerged - one that questions this mother's parenting capacity and implies Aboriginal community failure - is not only deeply harmful and stigmatising, it is factually misleading. It punishes a woman for being a victim of domestic and family violence and deflects attention from the **structural failures** that contributed to her daughter's death. This is directly inconsistent with the NT Government's stated commitment to the Safe and Together model, which explicitly requires practitioners to stop blaming and criminalising non-offending parents for violence perpetrated against them, and to focus instead on the conduct and accountability of the person who used violence.

Legislation introduced in the shadow of acute public grief, driven by a media narrative that pathologises Aboriginal mothers and communities, and deflects attention from structural government failures, is not good law reform. It is reactive, it is harmful, and it is likely to compound the very harms it claims to address.

The memory of Kumanjayi Little Baby and the broader Territory community deserve better.

We urge the Legislative Assembly to reject that framing and instead ensure an evidence-based, community-partnered approach to child protection reform in the Northern Territory.

Section 5: Omission of Aboriginal Community Controlled Organisations

This bill does not recognise or embed the role of the Aboriginal Controlled Community Organisations in the implementation or oversight of the proposed processes. This is a significant oversight. This omission stands in direct contrast to the commitments set out in the National Agreement on Closing the Gap. Specifically, the agreement that identifies community control as part of the decision-making process. Priority reform one (formal partnerships and shared decision making), priority reform two (building the Aboriginal Community Controlled Sector). Omitting the transfer of authority, resources and service delivery to ACCOs, rather than a reliance on state-controlled systems.

The proposed Bill adopts the language of participation, self-determination and family responsibility - yet it does not embed the structural mechanisms necessary to give effect to those principles. Moreover, while a child and their family members are described as being invited to participate, that participation occurs within a framework of compliance and regulation determined by the state. This process also excludes the support and advocacy of the Aboriginal Community Control Sector and the same national commitments to shared responsibility and decision making. The absence of the Aboriginal Community Controlled sector at this foundational level has significant implications. This reinforces a model reliant upon the state system and the actors within it to decide the plans developed, the support provided, how risk is assessed, and how families are required to engage. Thus, excluding the Aboriginal Community Controlled sector or those services likely to support Aboriginal families.

Indigenous practitioners have contributed to this submission to provide their feedback on the proposed Bill. In section **12c -** *Aboriginal children* the main provision of the Bill recognises the major role of kinship structures, community involvement and self-determination. These appear to be in principle rather than embedded in the Bill. From an Indigenous practitioner's purview, participation is not the same as authority:

> *Being invited into a meeting is not the same as having real power to shape the decision. Being consulted is not the same as leading the decision-making process. If the Department still controls the process, defines the risks, sets the contributions, and decides whether a family is*

compliant, then the system may continue to operate in a way that disempowers Aboriginal families. (Jarrah Longbottom-Wymarra)

Section 6: Recommendations

The undersigned call on the Northern Territory Legislative Assembly to abandon the Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 in its entirety.

The process through which this Bill is being introduced does not allow for a sound basis for reform. There are numerous reasons for this:

- It was developed without evidence of genuine consultation with Aboriginal communities, Aboriginal Community Controlled Organisations, or children and young people with lived experience of the child protection system.
- It has been introduced with only one week for community submissions.
- It is not grounded in the evidence base on what keeps children safe.
- It is likely, for the reasons set out in this submission, to increase rather than reduce harm to the children and families it purports to protect.

The death of Kumanjayi Little Baby was a tragedy that demanded - and continues to demand - a serious, evidence-based and community-partnered response from the government. This Bill is not that response. Reactive legislation, developed in haste and in the shadow of public grief, without the involvement of those most affected, does not honour her memory. It compounds the structural failures that contributed to her death.

The NT Government's obligations to Aboriginal children, families and communities are long-standing, well-documented and largely unmet. Meeting them requires not another round of legislation that expands the reach of a system that has already caused profound harm, but a fundamental reorientation of that system toward self-determination, community control, early intervention, and the transfer of genuine decision-making power to Aboriginal communities. Every major inquiry into Aboriginal child protection over the past 25 years, from *Bringing Them Home* in 1997 to Yoorrook in 2023, has said so. The NT Government has so far failed to act on those findings. This Bill moves further away from them, not closer.

We therefore make the following recommendations: :

Recommendation 1: Abandon the Bill

The Bill should be withdrawn from the Legislative Assembly immediately and not reintroduced in its current or substantially similar form.

Recommendation 2: Commit to genuine, resourced co-design

Any future reform of the NT care and protection framework must be developed through a genuine, adequately resourced and properly timed co-design process, led by Aboriginal communities and Aboriginal Community Controlled Organisations (ACCOs), and informed by the voices of children and young people with lived experience of the child protection system. Consultation must precede drafting, not follow it. A minimum of three months for community submissions on any draft legislation should be provided as a baseline, with additional time where communities request it.

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