



Legislative Assembly of the Northern Territory

Legislative Scrutiny Committee

Inquiry into the Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026

July 2026



Inquiry into the Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026



Legislative Assembly of the Northern Territory

Parliament House

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Chair's Preface

This report details the Committee's findings regarding its examination of the Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026. The Bill seeks to amend the *Care and Protection of Children Act 2007* and related legislation to prioritise safety in decision-making and introduce a stepped escalation model for early intervention support, including a new 'proactive efforts' framework and family responsibility arrangements. In addition, the Bill seeks to amend the Working With Children Clearance framework to align with the National Reform Agenda.

The Committee received 150 submissions and held one public briefing and 2 public hearings with 38 witnesses from 16 organisations. While stakeholders to the inquiry generally agreed that ensuring the safety of children is paramount, many submitters and witnesses opposed the Bill as currently drafted, sought clarification regarding its intended operation, or made recommendations to amend the Bill.

The Committee sought clarification from the Department of Children and Families regarding many of these issues. On balance, the Committee considers that the Department's responses adequately address the issues raised by stakeholders. However, to ensure the intention of the provisions is sufficiently clear to families, practitioners and courts, the Committee has made a number of recommendations for how the provisions could be clarified.

Following its examination of the Bill and consideration of the evidence received, the Committee recommends that the Assembly should pass the Bill with the proposed amendment set out in recommendation 4. Recommendation 4 proposes a legislative note to clarify that the CEO's obligations under the 'proactive efforts' framework interacts with existing obligations under section 42(4) of the Care and Protection Act. To accompany this amendment, recommendation 5 proposes that the Department implement measures to enable families to understand their rights and obligations regarding 'proactive efforts' made by the CEO.

Additionally, as set out in recommendations 2, 3 and 6, the Committee proposes a supplementary explanatory statement be tabled clarifying the intended operation of provisions relating to the threshold for removing a child from their home and the application of the underlying principles of the Care and Protection Act.

On behalf of the Committee, I would like to thank all those who provided submissions or appeared before the Committee. The Committee also thanks the Department of Children and Families who briefed the Committee and provided comprehensive responses to written questions. I also thank my fellow Committee members for their bipartisan commitment to the legislative review process.



Mrs Oly Carlson MLA

Chair

Committee Members

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Deputy Chair:	Mr Clinton Howe, MLA Member for Drysdale
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Acknowledgments

The Committee acknowledges all those who provided submissions to its inquiry, witnesses that attended public hearings and the representatives from the Department of Children and Families for briefing the Committee and providing answers to written questions.

Acronyms and Abbreviations

ACCO	Aboriginal Community Controlled Organisations
ACPP	Aboriginal Child Placement Principle
AMA NT	Australian Medical Association Northern Territory
BDR	Banned Drinker Register
Bill	Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026
Care and Protection Act	<i>Care and Protection of Children Act 2007</i> (NT)
CAWLS	Central Australian Women's Legal Service
CEO	Chief Executive Officer
CFC	Child and Family Centres
UNCRC	United Nations Convention on the Rights of the Child
Department	Department of Children and Families
DFSV	Domestic, family and sexual violence
DFV	Domestic and family violence
FKCANT	Foster and Kinship Carers Association NT
FNAAFV	First Nations Advocates Against Family Violence
KWILS	Katherine Women's Information and Legal Service
NAAFLS	North Australian Aboriginal Family Legal Service
NAAJA	North Australian Aboriginal Justice Agency
NPY	Ngaanyatjarra Pitjantjatjara Yankunytjatjara
NSW	New South Wales
NT	Northern Territory
NTLAF	Northern Territory Legal Assistance Forum
NTPA	Northern Territory Police Association
NTRAI	NT Remote Aboriginal Investment
OOHC	Out of home care
RAMF	Family Violence Risk Assessment and Management Framework
SNAICC	SNAICC – National Voice for Our Children
TEWLS	Top End Women's Legal Service
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
WWCC	Working With Children Clearance
Youth Justice Act	<i>Youth Justice Act 2005</i> (NT)

Note: The word 'Aboriginal' is used in this report to refer to descendants of the Aboriginal people of Australia and the descendants of the Indigenous inhabitants of the Torres Strait Islands. The Legislative Scrutiny Committee acknowledges the cultural diversities within this term.

Terms of Reference

Sessional Order 14

Establishment of Legislative Scrutiny Committee

- (1) The Assembly appoints a Legislative Scrutiny Committee
- (2) The membership of the scrutiny committee will comprise three Government Members, one Opposition Member and one crossbench Member.
- (3) The functions of the scrutiny committee shall be to inquire into and report on:
 - (a) any bill referred to it by the Assembly;
 - (b) in relation to any bill referred by the Assembly:
 - (i) whether the Assembly should pass the bill;
 - (ii) whether the Assembly should amend the bill;
 - (iii) whether the bill has sufficient regard to the rights and liberties of individuals, including whether the bill:
 - (A) makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review; and
 - (B) is consistent with principles of natural justice; and
 - (C) allows the delegation of administrative power only in appropriate cases and to appropriate persons; and
 - (D) does not reverse the onus of proof in criminal proceedings without adequate justification; and
 - (E) confers power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer; and
 - (F) provides appropriate protection against self-incrimination; and
 - (G) does not adversely affect rights and liberties, or impose obligations, retrospectively; and
 - (H) does not confer immunity from proceeding or prosecution without adequate justification; and
 - (I) provides for the compulsory acquisition of property only with fair compensation; and
 - (J) has sufficient regard to Aboriginal and Torres Strait Islander tradition; and
 - (K) is unambiguous and drafted in a sufficiently clear and precise way.

- (iv) whether the bill has sufficient regard to the institution of Parliament, including whether a bill:
 - (A) allows the delegation of legislative power only in appropriate cases and to appropriate persons; and
 - (B) sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly; and
 - (C) authorises the amendment of an Act only by another Act.
- (4) The committee will provide an annual report of its activities to the Assembly.

Adopted 15 October 2024

Recommendations

Recommendation 1

The Committee recommends that the Legislative Assembly pass the Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 with the amendment set out in recommendation 4.

Recommendation 2

The Committee recommends that a supplementary explanatory statement be tabled explaining the interaction between proposed section 7(4)(a) and proposed section 12.

Recommendation 3

The Committee recommends that a supplementary explanatory statement be tabled clarifying whether ‘significant and likely risk of harm’ is intended to alter the existing threshold for removing a child from their family.

Recommendation 4

The Committee recommends that, consistent with proposed section 65D, the Bill be amended to include a note to section 12D that provides ‘Section 42(4) relates to the CEO's responsibilities when providing services to, and interacting with, families’.

Recommendation 5

The Committee recommends that the Department implement measures to enable families to understand their rights and obligations regarding proactive efforts made by the CEO.

Recommendation 6

The Committee recommends that a supplementary explanatory statement be tabled outlining the rationale for removing the content of proposed sections 12E and 12F from being underlying principles of the *Care and Protection of Children Act 2007* and whether it is intended for sections 12E and 12F to create or confer any right or entitlement enforceable at law.

1 Introduction

Introduction of the Bill

- 1.1 The Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (the Bill) was introduced into the Legislative Assembly by the Minister for Child Protection, the Hon Robyn Cahill, MLA OAM, on 13 May 2026. The Assembly subsequently referred the Bill to the Legislative Scrutiny Committee for inquiry and report by 8 July 2026.¹

Conduct of the Inquiry

- 1.2 On 14 May 2026, the Committee called for submissions by 22 May 2026. The call for submissions was advertised via the Legislative Assembly website, Facebook, and email subscription service. In addition, the Committee directly contacted a number of individuals and organisations. The Committee received 150 submissions (see Appendix 1).
- 1.3 On 27 May, the Committee held a public briefing with representatives from the Department of Children and Families (the Department).
- 1.4 On 4 and 5 June, the Committee held public hearings. The Committee heard from the following individuals and organisations:
- Sally Gearin
 - SNAICC – National Voice for Our Children
 - NT Office of the Children’s Commissioner
 - Australian Medical Association NT
 - Aboriginal Medical Services Alliance NT
 - Northern Territory Mental Health Coalition
 - North Australian Aboriginal Justice Agency
 - Northern Territory Legal Assistance Forum
 - NT Police Association
 - Katherine Women’s Information and Legal Service
 - Foster and Kinship Carers Association NT
 - Larrakia Nation Aboriginal Corporation
 - Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women’s Council
 - Aboriginal Housing NT
 - Northern Territory Council of Social Services

¹ Hon Robyn Cahill OAM MLA, Minister for Child Protection, Draft Daily Hansard – Wednesday 13 May 2026, <https://territorystories.nt.gov.au/10070/1036731>, pp. 16-20.

- Anglicare NT
- CatholicCare NT
- ARDS Aboriginal Corporation
- Department of Children and Families.²

1.5 On 9 June 2026, the Committee requested the Department provide additional information in writing by 16 June 2026. The Committee thanks the Department for their assistance.

Outcome of Committee's Consideration

- 1.6 Sessional Order 14 requires that the Committee after examining the Bill determine:
- whether the Assembly should pass the bill;
 - (ii) whether the Assembly should amend the bill;
 - (iii) whether the bill has sufficient regard to the rights and liberties of individuals; and
 - (iv) whether the bill has sufficient regard to the institution of Parliament.
- 1.7 Following examination of the Bill, and consideration of the evidence received, the majority view of the Committee is that the Legislative Assembly should pass the Bill without amendment.

Recommendation 1

The Committee recommends that the Legislative Assembly pass the Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 with the amendment set out in recommendation 4.

Report Structure

- 1.8 Chapter 2 provides an overview of the policy objectives of the Bill and the purpose of the Bill as contained in the Explanatory Statement.
- 1.9 Chapter 3 provides an overview of the main themes raised in submissions.
- 1.10 Chapter 4 considers the main issues raised in evidence received regarding specific clauses of the Bill.

² See Appendix 2.

2 Overview of the Bill

Background to the Bill

- 2.1 In presenting the Bill to the Assembly the Minister outlined that the focus of the Bill is to amend the *Care and Protection of Children Act 2007* (Care and Protection Act).³
- 2.2 Additionally, the Bill remakes select sections of the *Youth Justice Act 2005* (Youth Justice Act) and makes consequential amendments to the *Liquor Act 2019*, the *Education Act 2015*, the *Youth Justice Act 2005*, the Alcohol Harm Reduction Regulations 2017 and the Youth Justice Regulations 2006 to support the parental and family responsibility reforms.⁴
- 2.3 Further consequential amendments are also made to the *Teacher Registration (Northern Territory) Act 2004* and the Care and Protection of Children (Screening) Regulations 2010 to support reforms to the Ochre Card scheme.⁵

Review of the *Care and Protection of Children Act 2007*

- 2.4 In May 2025, the Department commenced a review of the Care and Protection Act:

The Department in May 2025 invited submissions from targeted Aboriginal organisations and legal stakeholders to inform the terms and reference and scope of the review for the [Care and Protection Act]. The invite specifically sought submissions on introducing an active efforts framework.

The Department received submissions advocating a legislated early intervention framework and an active efforts framework which was considered in the Bill's development regarding Parental and Family Responsibility and proactive efforts. Furthermore, the Department received a submission that advocated for the mandatory appointment of Independent Legal Representation for Children.

The Children's Commissioner has engaged with the CEO through regular monthly meetings.⁶

Development and consultation

- 2.5 Development of the Bill commenced in June 2025,⁷ with the Minister stating that the Bill 'represents the culmination of more than a year of work and targeted consultation'.⁸
- 2.6 At the public briefing, the Department acknowledged that the limited timeframe for drafting the Bill constrained consultation opportunities. However, it advised that

³ Hon Robyn Cahill OAM MLA, Minister for Child Protection, Draft Daily Hansard – Wednesday 13 May 2026, <https://territorystories.nt.gov.au/10070/1036731>, p. 16.

⁴ Hon Robyn Cahill OAM MLA, Minister for Child Protection, Draft Daily Hansard – Wednesday 13 May 2026, <https://territorystories.nt.gov.au/10070/1036731>, p. 16.

⁵ Hon Robyn Cahill OAM MLA, Minister for Child Protection, Draft Daily Hansard – Wednesday 13 May 2026, <https://territorystories.nt.gov.au/10070/1036731>, p. 16.

⁶ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 25.

⁷ Department of Children and Families, Committee Transcript, 27 May 2026, p. 4.

⁸ Hon Robyn Cahill OAM MLA, Minister for Child Protection, Draft Daily Hansard – Wednesday 13 May 2026, <https://territorystories.nt.gov.au/10070/1036731>, p. 16.

consultation was undertaken with external service providers and relevant government agencies:

Turning to the issue of consultation, during the work of the department to develop this Bill, time constraints limited the opportunity for consultation prior to the introduction of the Bill. The department has received input from a range of external providers about issues contained within the Bill. Consultation with government agencies, including the Department of the Chief Minister and Cabinet, Attorney-General's Department, Department of Education and Training, Department of Corrections, Department of Health and the Northern Territory Police Force was undertaken throughout the development of the Bill. Development of the parental and family responsibility reforms was also informed by a series of inter-agency working groups, with feedback from participating agencies shaping these reforms.⁹

- 2.7 Additionally, at the public hearing, the Department outlined how regular consultations that are routinely undertaken by the Department informed development of the Bill:

The department engages with children and carers every day, and their voices have directly shaped this Bill. Over the past 18 months that engagement has included foster carers, kinship carers, children and young people with lived experience of the system and frontline practitioners.¹⁰

Purpose of the Bill

- 2.8 At the public briefing, the Department outlined that the Bill was drafted in the context of the child protection system 'not doing enough':

The child protections system, as it currently stands, is not doing enough, fast enough, to keep the most vulnerable children safe. Fundamentally, the Bill seeks to support the timely reunification of children with their families where it is safe to do so and achieve outcomes that put a child's safety, stability, long-term security and permanency first. These reforms will stabilise placements for vulnerable children and hold the Department of Children and Families to account for our work.

The Bill does not solve every problem in the system but it makes a serious and considered attempt to address several critical gaps in the existing legislative framework.

The Every Child Matters Bill addresses issues linked to reliance on successive shorty-term orders and the resulting instability in placement arrangements by providing clearer guidance on achieving long-term permanency for children.

Period of uncertainty and placement instability are known to negatively impact children's wellbeing and development. Research indicates that where successive reunification is likely, it typically occurs within the first one to two years with the likelihood of success, decreasing the longer the child remains in care. This fact underpins the Every Child Matters Bill's focus on sustained, intensive efforts to achieve reunification during this critical first two-year period, alongside requirements for the department to demonstrate those efforts to the court when making an application for a protection order.¹¹

- 2.9 In her first reading speech, the Minister outlined that the purpose of the Bill is:

⁹ Department of Children and Families, Committee Transcript, 27 May 2026, p. 3.

¹⁰ Department of Children and Families, Committee Transcript, 27 May 2026, p. 4.

¹¹ Department of Children and Families, Committee Transcript, 27 May 2026, p. 2.

...to amend the *Care and Protection of Children Act 2007* by introducing reforms that keep children safe, strengthen early intervention, support the families and hold parents accountable for meeting their children's needs.¹²

2.10 As noted in the Explanatory Statement, the Bill seeks to achieve this by:

- (a) removing Part 6A of the *Youth Justice Act 2005* (NT) (responsible care and supervision within the family) and inserting this into the Act;
- (b) introducing accountability measures applicable to parents who refuse to engage with the Chief Executive Officer (CEO), supports and services;
- (c) clarifying the operation of the guiding principles of the Act;
- (d) introducing a broad Child Placement Principle to guide placement decisions with a focus on permanency and stability;
- (e) introducing a legislative framework for proactive efforts to support early intervention and better decision making, and promote accountability; and
- (f) strengthening children's access to independent legal representation in long-term child protection matters

These reforms seek to systemically address the drivers of statutory child protection and youth engagement by providing a stepped escalation pathway and shared accountability for addressing the needs of children and families living in the Northern Territory. This reform will offer early intervention support to parents via family responsibility agreements and orders, which are not intended to replace statutory child protection intervention.

Once families enter the statutory child protection system, this reform seeks to support consistent child-focused decision making with an emphasis on safety, long-term stability and permanency considerations for the child.

Additionally, the Bill amends the Act's Working with Children Clearance (WWCC) scheme contained in Part 3.1 of the Act to extend the period of validity of a clearance from two to five years; introduce the power to suspend a clearance or an application; remove the CEO's discretion to issue WWCC exemptions; address administrative inefficiencies; and support the operationalisation of mutual recognition of negative notices in the Northern Territory.¹³

¹² Hon Robyn Cahill OAM MLA, Minister for Child Protection, Draft Daily Hansard – Wednesday 13 May 2026, <https://territorystories.nt.gov.au/10070/1036731>, p. 16.

¹³ Explanatory Statement, Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (Serial 67), https://parliament.nt.gov.au/_data/assets/pdf_file/0015/1612500/Explanatory-Statement-Care-and-Protection-of-Children-Legislation-Amendment-Every-Child-Matters-Bill-2026-Serial-67.PDF, p. 1.

3 Themes raised in submissions

Introduction

- 3.1 The Committee received 150 submissions to the Inquiry. This Chapter provides a high-level overview of the key themes raised in submissions, including:
- the Aboriginal Child Placement Principle (ACPP)
 - systemic barriers to implementation
 - early intervention
 - stability and long-term care
 - consultation.
- 3.2 As these themes arise across multiple provisions of the Bill, they are discussed thematically in this Chapter. Chapter 4 provides a detailed clause-by-clause examination of the Bill, including the issues raised in submissions and other evidence, the Department's responses to these issues, and the Committee's comments on each clause.

Theme 1: Impact on the Aboriginal Child Placement Principle

- 3.3 Many submitters discussed the impact of the Bill on the ACPP. These comments were often in relation to existing section 12 and proposed sections 12B and 12C of the Care and Protection Act, with many submitters arguing that they substantially weakened the ACPP. However, submitters advised the Committee that a broader range of amendments throughout the Bill also affected the ACPP, with some submitters arguing that the cumulative effect of reforms was to remove the ACPP altogether.¹⁴
- 3.4 The ACPP is a national framework which has been legislated in all Australian jurisdictions.¹⁵ Fully embedding the ACPP in legislation and policy is a key method of addressing the over-representation of Aboriginal and Torres Strait Islander children in child protection systems, as outlined in *Safe and Supported: The National Framework for Protecting Australia's Children 2021-2031*.¹⁶ The ACPP has 5 key elements:
- Prevention: Protecting children's rights to grow up in family, community and culture by redressing the causes of child protection intervention

¹⁴ Submissions 9, 11, 16, 27, 42, 45, 52, 55, 56, 58, 60, 62, 63, 64, 65, 66, 67, 70, 71, 73, 75, 77, 78, 79, 80, 81, 83, 85, 87, 88, 90, 91, 92, 94, 96, 99, 100, 101, 102, 104, 109, 110, 111, 113, 114, 116, 117, 118, 120, 123, 124, 125, 130, 133, 134, 137 and 145.

¹⁵ *Children and Community Services Act 2004* (WA), Part 2 Division 3 ; *Children and Young People (Safety) Act 2017* (SA), s 12; *Child Protection Act 1999* (QLD), Part 2 Division 1; *Children and Young Persons (Care and Protection) Act 1998* (NSW), Part 2; *Children, Youth and Families Act 2005* (Vic), Parts 1.1B and Part 1.2 Division 4; *Children, Young Persons and Their Families Act 1997* (Tas), s 10G; *Children and Young People Act 2008* (ACT), s 10.

¹⁶ Department of Social Services (Cth), *Safe and Supported: The National Framework for Protecting Australia's Children 2021-2031*, 2021, <https://www.dss.gov.au/system/files/documents/2024-10/dess5016-national-framework-protecting-childrenaccessible.pdf>, p. 28.

- Partnership: Ensuring the participation of community representatives in service design, delivery and individual case decisions
- Placement: Placing children in out-of-home care in accordance with the established [ACPP] placement hierarchy
- Participation: Ensuring the participation of children, parents and family members in decisions regarding the care and protection of their children
- Connection: Maintaining and supporting connections to family, community, culture and country for children in out-of-home care¹⁷

3.5 Some submitters saw the parts of existing section 12 that have been retained in the Bill as appropriately balancing different priorities, including elements of the ACPP.¹⁸ For example, Senator Jacinta Nampijinpa Price stated that:

Importantly, the Bill does not remove recognition of Aboriginal children, family or community connections. It retains dedicated principles recognising culture and kinship while establishing a broader framework where safety and best interests remain paramount. Existing outcomes also demonstrate significant challenges in achieving kinship and family placement objectives in practice.¹⁹

3.6 However, many more submitters strongly opposed amendments revising the principles of the Bill. Significantly, submitters highlighted the replacement of the Aboriginal placement hierarchy with a universal placement principle, noting that although not the only element, the placement hierarchy is an important feature of the ACPP.²⁰ Submitters argued the removal of the Aboriginal placement hierarchy would have disproportionate impacts on Aboriginal children.²¹ In particular, removal of the Aboriginal placement hierarchy was seen as likely to cause greater placements of Aboriginal children in non-Aboriginal out of home care (OOHC).²² Submitters noted this concern was particularly pertinent as the NT already has the lowest rate of placement of Aboriginal children in OOHC with Aboriginal kin in Australia.²³

3.7 More broadly, some submitters considered the universal placement principle to be insufficient recognition of the long-term harm that Aboriginal peoples have suffered in care.²⁴ For example, Families Australia stated that:

The universal approach as proposed in this Bill does not fully account for the legacy of intergenerational trauma and structural inequality experienced by Aboriginal and Torres Strait Islander children – driving a system change that may appear equal but is fundamentally inequitable.²⁵

¹⁷ SNAICC – National Voice for Children, *Understanding and Applying the Aboriginal And Torres Strait Islander Child Placement Principle: A Resource For Legislation, Policy, And Program Development*, 2017, https://www.snaicc.org.au/wp-content/uploads/2017/07/Understanding_applying_ATSICCP.pdf, p. 7.

¹⁸ For example, submissions 10, 24, 49 and 108.

¹⁹ Senator Jacinta Nampijinpa Price, Submission No. 49, pp. 4-5.

²⁰ For example, submissions 45, 58, 80 and 87.

²¹ For example, Justice and Equity Centre, Submission No. 77; South Australian Guardian for Children and Young People, Submission No. 120; Emma Henke and Hannah Gibson, Submission No. 122.

²² For example, CREATE Foundation, Submission No. 23; North Australian Aboriginal Justice Agency, Submission No. 30; Aboriginal Medical Services Alliance Northern Territory (AMSANT), Submission No. 32.

²³ For example, Human Rights Law Centre, Submission No. 21; CREATE Foundation, Submission No. 23; Andrew Dawes, Submission No. 34.

²⁴ For example, CREATE Foundation, Submission No. 23; North Australian Aboriginal Justice Agency, Submission No. 30; Aboriginal Medical Services Alliance Northern Territory, Submission No. 32.

²⁵ Families Australia, Submission No. 70, p. 18.

- 3.8 In addition to the explicit removal of the Aboriginal placement hierarchy, many submitters also pointed to erosions of other elements of the ACP, such as connection and partnership. These included the replacement of rights of Aboriginal children and their families with opportunities for Aboriginal children and their families.²⁶ Submitters also noted that the provisions redrafting the ACP were subordinated to the universal placement principle.²⁷
- 3.9 Submitters highlighted further erosion of the ACP evidenced in the removal of language referencing concepts relevant to the ACP throughout the Bill, including references to ‘kinship’, ‘culture’, and ‘Aboriginal community-controlled organisations’ (ACCOs).²⁸
- 3.10 Some submitters highlighted the collective effect of these various reforms on the ACP. For example, the Office of the Children’s Commissioner summarised the combined impact of reforms:
- Clause 6 of the Bill repeals the Aboriginal Child Placement Principle (ACPP). It repeals the dedicated placement hierarchy in current s12(3); subordinates the residual Aboriginal-specific principles in new s12C to a generic placement principle in new s12B (new s12C(4)); drops Aboriginal Community Controlled Organisations (ACCO) from the kinship clause in new s 12C(1); downgrades the family’s “*right to participate*” in significant decisions to an “*opportunity to participate*” in new s 12C(2)(a); deletes the prescribed categories of decision-makers (cultural authority, kinship group, ACCO member); deletes the trauma-informed and healing-focused principle in current s12(2A); and deletes the express right of an Aboriginal child to be brought up within their own family, community and country (current s12(2B))...
- This is not simply watering down the Aboriginal Child Placement Principle but completely dismantling its very existence in the law.²⁹
- 3.11 More broadly, the effect of amendments spread across multiple provisions of the Bill were seen to have a cumulative undermining impact on the ACP. For example, the specification that the principles in the Act do not create or confer any right or entitlement on a person was viewed as weakening the ACP.³⁰ Further, assessments of the best interests of a child include enjoyment of culture and tradition of a child’s family and community only as a secondary consideration that *may* be considered instead of being one of the matters that *must* be considered.³¹ Submitters also noted the removal of requirements to consider a child’s connection to Country when assessing the best interest of a child.³²
- 3.12 For some submitters, child safety and the ACP were not zero-sum.³³ They argued that reforms to prioritise safety as the paramount concern in the best interest principle could be progressed alongside the retention of the ACP. Rather than perceiving the

²⁶ For example, submissions 16, 17, 19, 23, 35, 37, 39, 40, 45, 47, 55, 80, 85, 87, 91, 92, 105, 109, 112, 118, 120 and 122.

²⁷ For example, Mikan Aboriginal Corporation, Submission No. 45; Children’s Ground, Submission No. 80.

²⁸ For example, CREATE Foundation, Submission No. 23.

²⁹ Office of the Children’s Commissioner, Submission No. 40, p. 7.

³⁰ For example, Justin Tutty, Submission No. 19; SNAICC – National Voice for our Children, Submission No. 130.

³¹ For example, submissions 17, 25, 63, 75, 87, 88, 105, 117, 120 and 126.

³² For example, Aboriginal Medical Services Alliance Northern Territory (AMSANT), Submission No. 32; Tiwi Land Council, Submission No. 35.

³³ For example, submissions 37, 39, 50, 56, 63, 77, 80, 81, 88, 90, 99, 120, 123, 126 and 130.

ACPP to conflict with this best interest principle, they viewed the ACPP as providing a culturally safe lens by which to assess best interest. For example, the Queensland Aboriginal and Torres Strait Islander Child Protection Peak argued that:

The [ACPP] does not conflict with the paramountcy of safety as a key principle driving decisions about children. It does not require children to remain in, or return to, unsafe environments, and it does not prescribe reunification regardless of risk. Rather, it provides a culturally informed framework for determining “best interests” for Aboriginal and Torres Strait Islander children by embedding prevention, participation, partnership, connection and placement as the mechanisms through which safety and long-term wellbeing are understood and achieved.³⁴

- 3.13 Because of the reforms to the ACPP, some submitters argued that the Bill failed to comply with other legislation, federal frameworks and agreements, and international agreements. For example, submitters questioned the Bill’s compliance with the *Racial Discrimination Act 1975* (Cth)³⁵ and the *Discrimination Act 1992* (NT).³⁶ Inconsistency of the Bill with obligations under the United Nations *Convention on the Rights of the Child* (UNCRC) and obligations under the United Nations *Declaration on the Rights of Indigenous Peoples* (UNDRIP) were also raised by submitters.³⁷ Many submitters also argued that the Bill was out of step with priority reforms in the *National Agreement on Closing the Gap*.³⁸

- 3.14 For example, summarising several of these concerns, the Australian Human Rights Commission submitted that:

The current Bill raises serious concerns about the commitment of the Northern Territory Government to reducing the rate of Aboriginal and Torres Strait Islander children in out-of-home care, including its wider commitments under the National Agreement on Closing the Gap; and also its commitment to implementing all 5 elements of the ATSICPP in the Safe and Supported Aboriginal and Torres Strait Islander Action Plan 2023-2026 under the National Framework for Protecting Australia’s Children 2021-2031.

In terms of the [United Nations Declaration on the Rights of Indigenous Peoples], weakening the child placement principle runs counter to Article 9 (right of Indigenous peoples to belong to their community), Article 14 & 22 (special protections for Indigenous children) and Article 18 & 19 (right to participate in decisions and free, prior and informed consent).

It also raises concerns under the [Convention on the Rights of the Child] including Article 30 (right to culture) and Article 20 (continuity of cultural identity in care), as it weakens children’s connection to family, culture and community.³⁹

Theme 2: Systemic barriers

- 3.15 Many submissions pointed to underlying systemic issues that intersect with the content of the Bill and may affect its implementation. These are discussed below, and included:

³⁴ Queensland Aboriginal and Torres Strait Islander Child Protection Peak, Submission No. 63, p. 2.

³⁵ For example, Justin Tutty, Submission No. 19; Office of the Children’s Commissioner, Submission No. 40; Yinjya Guyula MLA, Submission No. 97.

³⁶ For example, Yinjya Guyula MLA, Submission No. 97.

³⁷ For example, submissions 20, 21, 22, 23, 58, 88, 91, 96, 97, 99, 101, 117, 120 and 122.

³⁸ For example, submissions 22, 23, 32, 40, 97 and 145.

³⁹ Australian Human Rights Commissions, Submission No. 88, pp. 10-11.

- adequacy of support services for families interacting with the child protection system
 - housing insecurity
 - poverty
 - entrenched discrimination
 - workforce capacity, including resourcing available to the Department and cultural competency
 - flow on expenditure across corrections, policing, health and court systems.
- 3.16 Due to some of these concerns, many submitters stated the Bill could have a disproportionate effect on:
- Aboriginal children and families
 - Remote children and families
 - Victim-survivors of domestic, family and sexual violence (DFSv).
- 3.17 Fundamentally, many submitters argued that issues of child safety were primarily driven by long-term, systemic issues such as economic disenfranchisement, housing insecurity, mental health issues, alcoholism and addiction, and poverty. As such, many submitters advised that reforms in the Bill did not address the structural drivers of child safety issues.⁴⁰
- 3.18 Additionally, submitters questioned whether the Bill's implementation would disproportionately impact those already facing structural disadvantage. For example, various concerns were raised with the Committee regarding how the Bill intersected with homelessness, poverty, and housing insecurity.⁴¹ Submitters queried whether housing insecurity or poverty would mean that child removal was in the best interest of the child.⁴² Housing insecurity was also identified as a potential barrier for kinship care placements⁴³ and reunification following removal.⁴⁴ In particular, submitters argued that extensive waitlists for public housing could inhibit families' capacity to demonstrate stable accommodation within the reunification timeframe.⁴⁵ Additionally, submitters noted that provision of court notices to parents experiencing homelessness could generate procedural fairness issues.⁴⁶

⁴⁰ For example, see this issue discussed in relation to Family Responsibility Orders in submissions 42, 45, 49, 50, 56, 64, 67, 70, 78, 80, 81, 88, 92 and 130.

⁴¹ For example, Roisin Prunty, Submission No. 12; Olivia Ellis, Submission No. 14; North Australian Aboriginal Justice Agency, Submission No. 30.

⁴² For example, Tangentyere Family Violence Prevention Division, Submission No. 103.

⁴³ For example, Aboriginal Housing Northern Territory, Submission No. 136.

⁴⁴ For example, Alexander Mulligan, Submission No. 6; North Australian Aboriginal Justice Agency, Submission No. 30; Joe Horner, Submission No. 33; Anglicare NT, Submission No. 59; Nayomi Naranpanawa and Kate Lightfoot, Submission No. 73.

⁴⁵ For example, submissions 30, 33, 65, 92, 118 and 135.

⁴⁶ For example, National Commission for Aboriginal and Torres Strait Islander Children and Young People, Submission No. 38; CatholicCare NT, Submission No. 105; Northern Territory Legal Assistance Forum, Submission No. 117.

- 3.19 Further, submitters raised concerns regarding practical access to services in relation to several key policy features of the Bill.⁴⁷ Firstly, submitters highlighted the need for support services to be appropriately resourced in order to effectively implement the proactive efforts framework.⁴⁸ In particular, many submitters raised concerns regarding how remote access to services for the purposes of the proactive efforts framework would be facilitated. Many barriers to access were identified for families in remote areas, including lack of local services, lack of local home care placements, travel costs, language barriers, high mobility of families, and seasonal flooding.⁴⁹
- 3.20 Illustrating some of these challenges, the Ngaanyatjarra Pitjantjatjara Yankunytjatjara (NPY) Women's Council stated that:
- The very remote communities of the [Ngaanyatjarra Pitjantjatjara Yankunytjatjara] lands experience additional barriers to seeking supports due to distances, travel time, transport availability, cost of fuel, poor weather and roads, among other things. The tyranny of distance for Anangu and Yarnangu is felt acutely in the context of child protection when parents are provided inadequate time frames and insufficient support to comply with child protection or court requirements. For example, some parents who have children removed are often mandated to attend programs that are not available in their home communities, such as drug and alcohol rehabilitation, domestic & family violence (DFV) and mental health support. Meeting these mandates within specific timeframes becomes almost impossible.⁵⁰
- 3.21 A recurring example of a service that submitters noted that remote families were often unable to access is DFSV services.⁵¹ For example, the First Nations Advocates Against Family Violence (FNAAFV) explained that:
- The [Family Violence Prevention and Legal Services] sector has consistently advocated for a minimum access standard: no Aboriginal and Torres Strait Islander woman should have to travel more than one hour or 100 kilometers to access culturally safe and responsive specialist family violence support. In practice, this standard remains far from being achieved across the NT. Expanding access to culturally safe Aboriginal and Torres Strait Islander-led services is essential to preventing violence escalation, reducing child protection intervention and strengthening family safety.⁵²
- 3.22 Similar resourcing and access issues were raised with the Committee regarding the services associated with the implementation and operation of family responsibility agreements and family responsibility orders.⁵³
- 3.23 Additionally, many submitters held concerns regarding the impact of service resourcing and access to services on obligations or expectations of parents to engage with services under the Bill.⁵⁴ Some submitters noted there were no obligations on the Chief Executive Officer (CEO) of the Department to provide

⁴⁷ For example, Olivia Ellis, Submission No. 14; Palm Tree OT, Submission No. 18; Catholic Church of the Diocese of Darwin, Submission No. 28.

⁴⁸ Submissions 6, 19, 22, 23, 26, 30, 38, 39, 40, 47, 55, 58, 59, 64, 70, 83, 107, 114, 115, 117, 129, 130 and 136.

⁴⁹ Submissions 22, 79, 100, 110 and 129.

⁵⁰ Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council, Submission No. 100, p. 2.

⁵¹ For example, Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council, Submission No. 100; First Nations Advocates Against Family Violence, Submission No. 101; Legal Aid NT, Submission No. 131.

⁵² First Nations Advocates Against Family Violence, Submission No. 101, p. 20.

⁵³ Submissions 21, 30, 47, 59, 64, 67, 70, 71, 79, 81, 94, 100, 101, 111, 115, 116, 117, 120, 130 and 133.

⁵⁴ For example, Katherine West Health Board Aboriginal Corporation, Submission No. 22.

services.⁵⁵ Accordingly, some submitters sought greater obligations on the CEO to ensure services were available when those services were a condition of family responsibility agreements or orders, or amendments to provide that a parent would not be considered non-compliant if they could not access a service.⁵⁶

- 3.24 Submitters also queried how access to legal representation would be ensured.⁵⁷ Submitters raised concerns regarding the possibility that children could be heard without a lawyer, and some argued that services should be funded to ensure children are always represented.⁵⁸
- 3.25 Submitters also asked how staff shortages in the Department would impact the implementation of the Bill.⁵⁹ For example, some submitters questioned how Departmental turnover and availability of caseworkers would impact on families' obligations under provisions introduced in the Bill.⁶⁰ Others tied these concerns to the strict timeframes for reunification proposed in the Bill, noting that failure to meet timeframes may be caused by existing resourcing and vacancy issues in the Department rather than families.⁶¹ Some submitters also suggested that greater workloads associated with new legislative requirements would exacerbate these existing issues.⁶²
- 3.26 Finally, submitters also noted the flow-on effects of the implementation of the Bill. For example, Legal Aid NT highlighted the resource implications of the Bill on their own operations and the wider justice sector:

The proposed amendments introduce additional operational and procedural events which do not exist under the current Act which have resource implications not only for the Department, but the Court and legal assistance services... This will place pressure on Legal Aid NT and other legal assistance services for legal advice and minor assistance services. Legal Aid NT is funded by the NT government to provide duty lawyer services and legal representation at Court. The current funding is limited having regard to budgetary pressures arising from the demand for Legal Aid NT's criminal law services.⁶³

- 3.27 Additional concerns were raised regarding the capacity of the OOH system to provide for additional children removed from their parents because of the Bill.⁶⁴ Submitters also pointed to potential implications to the Bill may have on the healthcare sector.⁶⁵

⁵⁵ For example, submissions 34, 59, 80, 105, 112, 114, 117, 120 and 137.

⁵⁶ For example, Dr Matthew Jennings, Submission No. 17; Katherine West Health Board Aboriginal Corporation, Submission No. 22; Andrew Dawes, Submission No. 34.

⁵⁷ For example, submissions 66, 105, 114, 117, 131 and 137.

⁵⁸ For example, submissions 17, 23, 73, 80, 100 and 131.

⁵⁹ For example, Dr Sophia Nicolades, Submission No. 13; Joe Horner, Submission No. 33.

⁶⁰ For example, North Australian Aboriginal Justice Agency, Submission No. 30; Katherine Women's Legal Service, Submission No. 79.

⁶¹ For example, submissions 19, 30, 38, 42, 64, 110 and 116.

⁶² For example, Dr Sophia Nicolades, Submission No. 13; Unions NT, Submission No. 53.

⁶³ Legal Aid NT, Submission No. 131, pp. 5-6.

⁶⁴ For example, Alexander Mulligan, Submission No. 6.

⁶⁵ For example, Dr Sophia Nicolades, Submission No. 13.

Theme 3: Early intervention

3.28 Many submitters spoke positively about the need for harm prevention and early intervention to reduce child harm or escalation of anti-social or otherwise concerning behaviour.⁶⁶ However, opinions strongly diverged as to whether the Bill appropriately and effectively implemented such mechanisms.

3.29 In some cases, submitters supported the inclusion of the proactive efforts framework as an early intervention mechanism.⁶⁷ Additionally, some submitters saw family responsibility agreements and orders as appropriate stepped escalation tools, which would facilitate early intervention where concerning behaviours were demonstrated prior to more criminal behaviour or victimisation occurring.⁶⁸ For example, the Northern Territory Police Association (NTPA) stated that:

Police officers (our members) are uniquely positioned to identify escalating behavioural concerns, school disengagement, emerging offending patterns, family dysfunction, and children at risk of exploitation or serious offending at an early stage. That is why the NTPA strongly supports the introduction of Family Responsibility Agreements (FRAs), Family Responsibility Orders (FROs), and the “stepped escalation pathway” ... The NTPA submits that earlier coordinated intervention is preferable to delayed intervention after serious offending by the child or victimisation of the child has already occurred.⁶⁹

3.30 Many more submitters considered the proposed reforms in the Bill to be more coercive than reflective of preventative or early intervention measures. For example, many submitters perceived family responsibility agreements and orders to be punitive measures that intruded heavily into family life.⁷⁰ In particular, concerns were raised regarding the proposed threshold for state intervention in the private sphere, particularly in relation to ‘events of concern’.⁷¹

3.31 Seeing early intervention mechanisms in the Bill as punitive in nature, submitters were concerned that they would cause ongoing harms for children and families, including entrenching existing structural issues such as poverty and housing shortages.⁷² These impacts were considered to disproportionately impact Aboriginal families, and in particular, Aboriginal women.⁷³ Illustrating the association with structural issues, the Northern Territory Legal Assistance Forum (NTLAF) discussed a range of amendments in the Bill:

The Committee should carefully consider whether the combined effect of the proposed amendments — including the expansion of “events of concern”, wellbeing-based intervention, broadened inquiry powers under s. 32,

⁶⁶ For example, National Association for the Prevention of Child Abuse and Neglect (NAPCAN), Submission No. 43; Dr Marcia Langton AO and Prof Fiona Stanley, Submission No. 54; First Nations NGO Alliance and Allies for Children, Submission No. 55.

⁶⁷ For example, Katherine West Health Board Aboriginal Corporation, Submission No. 22; Andrew Dawes, Submission No. 34.

⁶⁸ For example, Keith Gregory - Guardians of Earth Foundation, Submission No. 7; Name withheld on request, Submission No. 10; Susan Bamberger, Submission No. 15; Northern Territory Police Association, Submission No. 108.

⁶⁹ Northern Territory Police Association, Submission No. 108, pp. 3-4.

⁷⁰ For example, submissions 16, 17, 21, 23, 31, 34 and 107.

⁷¹ For example, submissions 18, 22, 36 and 107.

⁷² For example, submissions 36, 40, 42, 45, 56, 64, 67, 70, 78, 80, 81, 88, 89, 99, 101, 103, 105, 111, 114, 117, 118, 120, 123, 130 and 131.

⁷³ For example, submissions 19, 22, 30, 34, 36, 38, 39, 49, 67, 74, 78, 88, 101 and 102.

investigation thresholds under s. 35 and expanded family responsibility mechanisms under s. 65D(6) — moves the child protection system beyond its traditional role of protecting children from serious harm and instead creates broader powers for government involvement in the ordinary lives of all families and in particular those experiencing poverty, disability, family breakdown, housing stress or other social disadvantage.⁷⁴

- 3.32 Submitters also highlighted that family responsibility agreements and orders contain insufficient protections for victim-survivors of DFSV.⁷⁵ Here too concerns around the adequacy of support services were raised, as discussed in Theme 2. As the Central Australian Women's Legal Service (CAWLS) explained:

there are no provisions in the Bill allowing for a parent to be released from a [family responsibility agreement] due to the adverse effects of the [family responsibility agreement] on families experiencing DFSV... The Bill punishes victim-survivors in circumstances where it should be working with them to ensure the safety of both the child and the victim-survivor. This not only highlights the fundamental lack of choice given to parents who are invited to participate in a [family responsibility agreement], but also reveals both [family responsibility agreements] and [family responsibility orders] as blunt instruments unsuited to the adaptive and specific needs of families affected by DFSV.⁷⁶

- 3.33 Submitters also argued that punitive measures could decrease trust between families and support services.⁷⁷ For example, the Catholic Church of the Diocese of Darwin explained that:

The Diocese also encourages careful consideration regarding the proposed family responsibility agreements and orders. We recognise the intention to strengthen parental responsibility and encourage earlier engagement with services. However, there is concern that measures experienced primarily as compliance-driven or punitive may unintentionally increase disengagement and distrust among already vulnerable families.⁷⁸

- 3.34 Submitters noted that, although framed as early intervention responses, the amendments could result in families being drawn into the justice system without criminal conduct ever having occurred.⁷⁹ Specific concerns were raised with the Committee that family responsibility orders risked creating a pipeline of children intersecting with, and entering into, the juvenile justice system.⁸⁰ For example, the CREATE Foundation advised the Committee that currently:

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 ([Office of the Children's Commissioner], 2024). Research in other jurisdictions confirms the 'criminalising' function of OOH, 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.⁸¹

⁷⁴ Northern Territory Legal Assistance Forum, Submission No. 117, p. 17.

⁷⁵ For example, submissions 65, 71, 100, 101, 102, 103, 115, 116, 131, 135 and 137.

⁷⁶ Central Australian Women's Legal Service, Submission No. 115, p. 2.

⁷⁷ For example, submissions 18, 28, 30, 105, 107, 115, 116 and 131.

⁷⁸ For example, Catholic Church of the Diocese of Darwin, Submission No. 28.

⁷⁹ For example, Justin Tutty, Submission No. 19; Save the Children and 54 reasons, Submission No. 36.

⁸⁰ For example, submissions 23, 92, 99, 101, and 130.

⁸¹ CREATE Foundation, Submission No. 23, p. 5.

3.35 Accordingly, some submitters supported family responsibility orders but sought amendments to ensure that they are not punitive in nature.⁸² Others sought additional early intervention steps prior to family responsibility orders involving ACCOs, where the child is Aboriginal.⁸³

3.36 Some submitters also noted that the proactive efforts framework in the Bill missed key elements of those adopted in other jurisdictions, including the imposition of duties on the Department.⁸⁴ For example, the North Australian Aboriginal Justice Agency (NAAJA) argued that:

The “proactive efforts” provisions in the Bill are a missed opportunity to create real accountability for the NT Government to support families, prevent unnecessary removals and return children to their family. As drafted, the provisions are weaker than active efforts provisions in other jurisdictions and provide no real accountability or enforceability if [the Department] fails to do the work required. Instead of creating a strong duty to work with families, the Bill uses “proactive efforts” to support arbitrary and ineffective timeframes for reunification.⁸⁵

Theme 4: Stability and long-term care

3.37 Submitters highlighted the negative impact prolonged uncertainty can have on children removed from parental care, and supported amendments seeking to enhance the stability and permanency of care arrangements.⁸⁶ However, whilst supporting a permanency objective, other submitters argued that the Bill sought to achieve permanency in a flawed manner.⁸⁷ For example, Justin Tutty argued that:

The Bill emphasises permanency and timely decision-making... Greater stability for children is an important objective. However, the Bill does not address the practical reality: many families face structural barriers (housing instability, disability, poverty, remoteness, and service shortages) that cannot necessarily be resolved within compressed statutory timeframes.

There is a risk that the combination of expanded intervention pathways and shortened reunification horizons will accelerate families toward long-term separation before adequate support efforts have genuinely occurred.⁸⁸

3.38 In contrast, many submitters were opposed to reforms associated with removals, and argued that the Bill would cumulatively have the effect of more child removals, more children entering long-term or permanent OOHC, and less reunification following removals.⁸⁹ Broadly, submitters argued that timeframes provided in the Bill were insufficient to address long-term and often systematic issues.⁹⁰ Several different mechanisms that could cause increased removals and fewer reunifications were identified by submitters, including:

⁸² For example, Dr Matthew Jennings, Submission No. 17.

⁸³ For example, Dr Matthew Jennings, Submission No. 17; CREATE Foundation, Submission No. 23.

⁸⁴ For example, submissions 23, 30, 40, 45 and 55.

⁸⁵ North Australian Aboriginal Justice Agency, Submission No. 30, p. 5.

⁸⁶ For example, submissions 8, 10, 15, 24 and 108.

⁸⁷ For example, Justin Tutty, Submission No. 19; CREATE Foundation, Submission No. 23; Catholic Church of the Diocese of Darwin, Submission No. 28.

⁸⁸ Justin Tutty, Submission No. 19, p. 5.

⁸⁹ For example, submissions 16, 18, 21, 23, 30, 35, 37, 73, 145 and 148.

⁹⁰ For example, submissions 4, 6, 19, 33, 65, 92, 118, and 135.

- amending the objects of the Care and Protection Act to include promoting ‘the wellbeing, safety, long-term stability and security’ of children⁹¹
- the lack of a long-term goal of reunification, with some noting that the Bill proposes to remove this existing goal from the Care and Protection Act⁹²
- the prioritisation of permanency and stability in the matters determining the best interest of a child as potentially inhibiting reunification efforts⁹³
- the amendment to the threshold for removal of children from their parents⁹⁴
- shortening the maximum length of short-term parental responsibility directions⁹⁵
- capping the number of short-term parental responsibility directions and introducing a high threshold for a second direction to be made⁹⁶
- inserting a requirement that significant decisions involving a child should ensure that legal arrangements for the child’s care provide the child with a sense of permanence and long-term stability⁹⁷
- requiring reunification to occur within two years within the proactive efforts framework.⁹⁸

3.39 Regarding the latter mechanism, submitters pointed to similar amendments made in Victoria, which have since been wound back.⁹⁹ Submitters identified the Victorian amendments as having a disproportionate impact on Aboriginal children.¹⁰⁰ For example, the First Nations NGO Alliance and Allies for Children advised the Committee that:

Similar legislative reforms imposing strict timeframes to achieve permanency have been enacted, trialled and subsequently repealed in other jurisdictions. Imposing strict timelines on reunification after removal of a child has been shown to be unfair for Aboriginal parents as:

- Aboriginal parents are less likely to be able to access supports needed to address protective concerns within strict timeframes;
- time limits are inflexible and cannot be overridden by a court; and
- as a result, Aboriginal children are denied opportunities to enjoy their human rights to identity, family and culture¹⁰¹

⁹¹ For example, Northern Territory Legal Assistance Forum, Submission No. 117, p. 17.

⁹² For example, submissions 16, 21, 35 and 109.

⁹³ For example, Human Rights Law Centre, Submission No. 21; CREATE Foundation, Submission No. 23.

⁹⁴ For example, submissions 16, 21, 30, 37, 73, 145 and 148.

⁹⁵ For example, submissions 18, 23, 33, 38, 42, 45, 65, 70, 73, 87, 100, 105, 114, 117, 118, 130, 135 and 137.

⁹⁶ For example, CREATE Foundation, Submission No. 23.

⁹⁷ Northern Territory Legal Assistance Forum, Submission No. 117, p. 6.

⁹⁸ For example, submissions 23, 58, 59, 70, 87, 101, and 111.

⁹⁹ For example, submissions 4, 55, 58, 65, 73, 79, 83, 117, 130, and 137.

¹⁰⁰ For example, Olivia Ellis, Submission No. 14; First Nations NGO Alliance and Allies for Children, Submission No. 55.

¹⁰¹ First Nations NGO Alliance and Allies for Children, Submission No. 55, p. 8.

- 3.40 Additional concerns were raised regarding the challenges of complying with timeframes for parents experiencing DFSV.¹⁰² These issues also linked to concerns raised regarding the adequacy of and access to services, as discussed in Theme 2.
- 3.41 Alongside reforms to the ACPP, submitters were concerned that reforms would not address underlying systemic issues, and the enhanced focus on long-term care and permanent removal would have a disproportionate impact on Aboriginal children.¹⁰³ Some submitters also noted that different groups conceptualise permanency in different ways, and the Bill did not fully account for transient living across regions as a way of life.¹⁰⁴ Concerns were raised by submitters that, collectively, these changes would lead to Aboriginal children being disconnected from their community, Country, and culture. For example, the National Commission for Aboriginal and Torres Strait Islander Children and Young People argued that:

Collectively, these reforms shift the system from a holistic, culturally informed model of child protection to a hierarchical and compliance-driven framework. The changes reduce the legislative weight given to cultural connection, expand departmental discretion and prioritise administrative permanency over relational and community-based approaches to child safety and wellbeing.

In a context of significant over-representation of Aboriginal children in out-of-home care, these changes are likely to increase removals and accelerate pathways to permanent care, separating children from family, culture and community.¹⁰⁵

Theme 5: Consultation and Aboriginal decision-making

- 3.42 The final major theme raised by submitters was the inadequacy of consultation in the drafting of the Bill with experts, ACCOs and other persons affected by the Bill.¹⁰⁶
- 3.43 Some submitters suggested that additional consultation should occur prior to enactment and/or commencement of the Bill.¹⁰⁷ This included delaying commencement or withdrawing the Bill until further consultation was complete.¹⁰⁸ For example, the Office of the Children's Commissioner argued that the Bill should be split in two to allow the less contentious elements to proceed following additional consultation:

Sitting alongside the substantive, problematic amendments to s12 and the Family Responsibility Order regime are a number of technical reforms that the [Office of the Children's Commissioner] believe could be positive with further consultation and refinement...

These reforms should be considered separately after they have been subject to consultation. They do not depend on the dismantling of the ACPP and do not depend on the introduction of family responsibility orders. They should be

¹⁰² For example, CREATE Foundation, Submission No. 23; Grace & Grit Consulting and Training, Submission No. 65.

¹⁰³ For example, submissions 38, 40, 42, 45, 49, 50, 56, 64, 67, 70, 78, 80, 81, 88, 92, and 130.

¹⁰⁴ For example, Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council, Submission No. 100.

¹⁰⁵ National Commission for Aboriginal and Torres Strait Islander Children and Young People, Submission No. 38, p. 1.

¹⁰⁶ For example, submissions 4, 11, 12, 13, 14, 17, 21, 23, 25, 30, 32, 36, 43, 55, 145 and 148.

¹⁰⁷ For example, Katherine West Health Board Aboriginal Corporation, Submission No. 22; Yeyekerte Aboriginal Corporation, Submission No. 25; Catholic Church of the Diocese of Darwin, Submission No. 28.

¹⁰⁸ For example, submissions 4, 11, 19, 23, 25, 30, 35, 40, 55, 100 and 148.

introduced in a separate, narrowly drafted amending Bill so that they can commence without delay.¹⁰⁹

- 3.44 Some submitters also suggested amendments to the child protection system should be co-designed with ACCOs.¹¹⁰ Indeed, there was a strong desire from Aboriginal organisations to work with the NT Government to improve outcomes for children.¹¹¹ For example, the ARDS Aboriginal Corporation submitted that:

Our leaders have been speaking out about Balanda (non-Yolŋu) welfare laws in our region for many years. We understand there is a problem, and we want to address these problems on our country, with our people, in our own way, with government support... we are the right people to do this work, and that Government needs to recognise and support us to do this work in our own law... we are still advocating to do this work and achieve better outcomes for our children in our communities and in our homelands. We want to continue to do this work with the recognition and support of the NT Government, so that we can work together in the best interest for our children for their future as leaders in our communities/homelands.¹¹²

- 3.45 More broadly, some submitters told the Committee that significant reforms were needed to the Bill to build Aboriginal participation into decision-making.¹¹³ Submitters advised that this would better align the Bill with domestic and international agreements, such as the National Agreement on Closing the Gap. For example, Larrakia Nation submitted that:

Aboriginal participation in decisions affecting Aboriginal children should not be discretionary or limited to informal consultation processes. Aboriginal involvement must be embedded as a legislated decision-making requirement supported by genuine authority, accountability and culturally appropriate governance structures.

Aboriginal communities must be genuine partners in:

- assessment,
- placement,
- reunification,
- permanency planning, and
- long-term care arrangements.

This approach is consistent with:

- Closing the Gap Priority Reforms;
- principles of Aboriginal self-determination;
- the *United Nations Declaration on the Rights of Indigenous Peoples* ("UNDRIP");
- the recommendations of numerous Royal Commissions and child protection inquiries.¹¹⁴

¹⁰⁹ Office of the Children's Commissioner, Submission No. 40, p. 11.

¹¹⁰ For example, submissions 17, 21, 22, 23, 26, 30, 32, 45 and 109.

¹¹¹ For example, ARDS Aboriginal Corporation, Submission No. 52; Rhoda Golun, Lulu Guyula and Nyomba Ganganju, Submission No. 98; Danila Dilba on behalf of Darwin Aboriginal Working Group, Submission No. 145.

¹¹² ARDS Aboriginal Corporation, Submission No. 52, pp. 1-2.

¹¹³ For example, submissions 2, 34, 62 and 70.

¹¹⁴ Larrakia Nation Aboriginal Corporation, Submission No. 62, p. 8.

3.46 Benefits of this approach to child protection legislation were widely discussed, with submitters noting that the ACPD includes partnership and participation as key features of policy and legislation.¹¹⁵

¹¹⁵ For example, submissions 43, 54, 55 and 58.

4 Clause-by-Clause Examination of the Bill

Introduction

- 4.1 As highlighted in the previous chapters, the Committee received 150 submissions to the Inquiry. Additionally, the Committee held one public briefing and two public hearings with 38 witnesses from 16 organisations.
- 4.2 While stakeholders to the inquiry generally agreed that ensuring the safety of children is paramount, the majority of submitters and witnesses opposed the Bill as currently drafted. Many submissions sought clarification regarding the intended operation of various provisions of the Bill, while others made recommendations to amend the Bill.
- 4.3 The following Chapter considers issues that were raised in submissions, at the public briefing, and at the public hearings regarding specific clauses of the Bill.

Commencement

- 4.4 Clause 2 provides the Bill would commence on a day fixed by the Administrator by Gazette Notice no later than 11 May 2028. The Explanatory Statement explains:

It is expected that parts of the Act will commence at separate times. Provisions relating to WWCC reforms in particular are likely to commence separately to all other Parts of the Act.¹¹⁶

- 4.5 The Department clarified that it is intended for the WWCC reforms in Part 3 of the Bill to commence in November 2026, 'subject to ongoing upgrades to digital infrastructure and agreements over data sharing with the National Reference Scheme with the Australian Criminal Intelligence Commission'.¹¹⁷
- 4.6 The Department further advised that the child protection measures in Part 2 of the Bill will commence at a time fixed by Gazette notice, no later than 11 May 2028. The Department stated:

This approach provides flexibility to ensure that operational readiness, stakeholder preparedness, and any necessary implementation and transitional arrangements are appropriately in place prior to commencement.¹¹⁸

- 4.7 Generally, stakeholders to the inquiry supported staged commencement of the Bill. Submitters highlighted the need for Part 3 of the Bill to commence quickly but raised concerns about premature commencement of Part 2 prior to the resolution of implementation-related issues.
- 4.8 As noted in Chapter 3, the Office of the Children's Commissioner submitted that some elements of the Bill, primarily the proposed amendments in Part 3, should commence

¹¹⁶ Explanatory Statement, Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (Serial 67), https://parliament.nt.gov.au/_data/assets/pdf_file/0015/1612500/Explanatory-Statement-Care-and-Protection-of-Children-Legislation-Amendment-Every-Child-Matters-Bill-2026-Serial-67.PDF, p. 2.

¹¹⁷ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 2.

¹¹⁸ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 2.

ahead of Part 2, following additional consultation. However, they recommended that this should occur via a separate 'narrowly-drafted amending Bill'.¹¹⁹

- 4.9 Some submitters highlighted the need for an implementation plan prior to commencement of Part 2 of the Bill. The NTLAF submitted that the Bill should not commence without 'a clear and funded' implementation plan which:

should identify the expected increase in demand arising from [family responsibility agreements], [family responsibility orders] and "proactive efforts"; map the services families will need to comply with agreements and orders; identify current service gaps by region; and commit additional funding to the front-end services needed to prevent escalation. Without that investment, the proposed changes will not achieve early intervention, family preservation or reunification. They will expand statutory intervention in a service system that is already unable to meet need.¹²⁰

- 4.10 In his submission, Dr Matthew Jennings called for implementation planning prior to commencement:

Staged commencement may be sensible, but Parliament should require implementation readiness criteria before commencement of the most coercive provisions, including service availability, legal representation funding, family violence training, Aboriginal community-controlled partnership arrangements, data systems and public reporting mechanisms.¹²¹

- 4.11 With regards to implementation planning prior to commencement of the Bill, the Department advised:

- a recruitment drive is currently underway to increase the size of the departmental workforce, noting that vacancies are lower than previous years
- restructuring will occur internally within the Department, including moving resources to accommodate reforms.¹²²

- 4.12 The Department advised that commencement by Gazette notice is 'designed to support a managed implementation, including time to respond to resourcing needs if they are identified'.¹²³ Modelling the costs of implementation is still ongoing:

Modelling of costs for implementation of reforms is currently being assessed. It is not projected that there will be increases in investigations, OOHC or residential care placements as a result of this Bill. It is anticipated that this Bill will strengthen delivery of family support work with children and families to achieve lasting safety for a child in their own home, or assist families address goals that will enable a child to be reunified into their care as safely and expediently as possible.¹²⁴

¹¹⁹ Office of the Children's Commissioner, Submission No. 40, p. 11.

¹²⁰ NT Legal Assistance Forum, Submission No. 117, p. 22.

¹²¹ Dr Matthew Jennings, Submission No. 17, p. 2.

¹²² Department of Children and Families, Committee Transcript, 5 June 2026, pp. 6-7.

¹²³ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 2.

¹²⁴ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 27.

Committee comments

- 4.13 The Committee notes the Department's advice that flexible commencement will ensure operational readiness. The Committee notes the Department's advice that implementation planning is underway.
- 4.14 The majority of the Committee considers the provisions appropriate as currently drafted.

Objects of the *Care and Protection of Children Act 2007*

- 4.15 Existing section 4 of the Care and Protection Act provides that the objects of the Care and Protection Act are:
- (a) to promote the wellbeing of children, including:
 - (i) to protect children from harm and exploitation; and
 - (ii) to maximise the opportunities for children to realise their full potential; and
 - (b) to assist families to achieve the object in paragraph (a); and
 - (c) to ensure anyone having responsibilities for children has regard to the objects in paragraphs (a) and (b) in fulfilling those responsibilities.
- 4.16 Clause 4 seeks to amend existing section 4(a) to expand the objectives from promoting 'wellbeing' to promoting the 'wellbeing, safety, long-term stability and security' of children. The Explanatory Statements explains the amendment is intended to 'reflect the underlying policy intent of [the Bill's] reforms'.¹²⁵
- 4.17 The Committee received limited comments in relation to the proposed amendments to section 4(a) and opinions on the amendments were varied. One submitter argued the amendments signify a positive, substantive step towards recognising the need for long-term stability for children:
- I support the amendment adding "safety, long-term stability and security" to the objects of the Act. Children need more than good intentions. They need safety, security and stability. Childhood is short and children should not spend years living in uncertainty or instability while adults struggle to resolve complex circumstances around them.¹²⁶
- 4.18 By contrast, the NTLAF submitted proposed section 4(a) 'reframes the objects of the [Care and Protection] Act to emphasise not only a child's wellbeing and safety, but also their long-term stability and security'.¹²⁷ Combined with proposed section 7, the NTLAF argued:
- These provisions broaden the matters that may become relevant to statutory decision-making and increase the circumstances in which child protection systems may become involved in the lives of families.¹²⁸

¹²⁵ Explanatory Statement, Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (Serial 67), https://parliament.nt.gov.au/_data/assets/pdf_file/0015/1612500/Explanatory-Statement-Care-and-Protection-of-Children-Legislation-Amendment-Every-Child-Matters-Bill-2026-Serial-67.PDF, p. 2.

¹²⁶ Name withheld on request, Submission No. 10, pp. 2-3.

¹²⁷ Northern Territory Legal Assistance Forum, Submission No. 117, p. 17.

¹²⁸ Northern Territory Legal Assistance Forum, Submission No. 117, p. 17.

- 4.19 In light of these issues raised by submitters, the Committee sought advice from the Department in relation to the legal definition of ‘security’ in proposed section 4(a). The Department advised:

Not every word contained in a legislative instrument is required to be defined. The fundamental rule of statutory interpretation is that an instrument is explicated by applying the natural and ordinary meaning of the word with the intent imported from reading an instrument in its entirety, not by reading a provision in isolation.

If the natural and ordinary meaning of a word is not clear on its face, a dictionary will assist in identifying common use or the ordinary meaning. The Macquarie Dictionary defines security as “[f]reedom from care, apprehension or doubt; confidence.”

The underlying intent of the Bill places greater emphasis on long-term stability and placement security for children in care, as evidenced by the best interest considerations at section 8(2)(c)-(e), which include: the child’s need for stable and nurturing relationships, permanency in the child’s living arrangements and the likely effect of the child of any changes in the child’s circumstances. Further emphasis on placement security is evidenced by section 12B, which requires significant decisions for a child to ensure that the child will have stable living arrangements that meet the child’s specific needs, that legal arrangements for the child’s care provide the child with a sense of permanence and long-term stability.

By applying these rules of statutory interpretation, it is clear that the objective is to ensure that placement decisions for a child should prioritise stability and security to avoid perpetuating apprehension or anxiety due to uncertainty.¹²⁹

- 4.20 Whilst supporting the provision, another submitter queried whether cultural safety should be expressly included within the expanded objectives.¹³⁰ The Committee notes this relates to broader questions about how ‘safety’ is defined in the Bill which is discussed below in ‘Proposed section 8 – Best Interest principle’.

Committee comments

- 4.21 The Committee notes the Department’s advice about the intended meaning of ‘security’ in the context of proposed section 4(a). The Committee also notes this aligns with the broader policy objectives of the Bill. In this instance, the majority of the Committee considers the provisions are appropriate as currently drafted.

Guiding principles

- 4.22 Clause 6 seeks to replace existing Part 3.1 of the Care and Protection Act to ‘clarify and modernise’ the underlying principles that guide the administration of the Care and Protection Act.¹³¹ In her first reading speech, the Minister explained the rationale for the amendments:

¹²⁹ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, pp. 2-3.

¹³⁰ Andrew Dawes, Submission No. 34, p. 2.

¹³¹ Explanatory Statement, Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (Serial 67), https://parliament.nt.gov.au/data/assets/pdf_file/0015/1612500/Explanatory-Statement-Care-and-Protection-of-Children-Legislation-Amendment-Every-Child-Matters-Bill-2026-Serial-67.PDF, p. 2.

Over the years, successive amendments have led to a confusing, lengthy list of guiding principles, making the Act's decision-making framework complex to navigate, increasing the risk of inappropriate or inequitable decisions.¹³²

Proposed section 7 – Application of principles

4.23 Existing section 6 provides for the application of the underlying principles in Part 1.3 of the Care and Protection Act. Section 6 currently provides:

- (1) The underlying principles of this Act are set out in sections 7 to 12A.
- (2) Anyone exercising a power or performing a function under this Act must, as far as practicable, uphold those principles.
- (3) However, those principles do not affect the operation of any law in force in the Territory.

4.24 Clause 6 of the Bill seeks to replace existing section 6 with proposed section 7. Proposed section 7 remakes the existing provision in substantially the same form with the following amendments:

- updating the underlying principles to include the principles set out in sections 8 to 12D (proposed section 7(1)).
- providing that the principles in sections 9 to 12D are subject to, and do not derogate from, the best interest principle set out in section 8, 'establishing a clear hierarchy for decision-makers in considering a child's best interests' (proposed section 7(2))
- clarifying that the Local Court (the Court), the CEO, authorised officers and each other person exercising a power or performing a function must, as far as practicable, uphold the principles (proposed section 7(3)).
- providing that the underlying principles do not create, or confer on any person, any right or entitlement enforceable at law (proposed section 7(4)(a)).¹³³

4.25 The Explanatory Statement explains that these amendments 'reflect the underlying policy intent of the Bill specifically, that the principles are placed in the [Care and Protection] Act to provide guidance to those who are required to apply the Act'.¹³⁴

4.26 The majority of comments received from submitters focused on the operation of proposed section 7(4)(a). Several stakeholders raised concerns about the effect of proposed section 7(4)(a), in restricting the enforceability of the principles.¹³⁵ The Committee notes the inclusion of proposed section 7(4)(a) is accompanied by amendments in other provisions of the Bill to remove explicit references to 'rights',

¹³² Hon Robyn Cahill OAM MLA, Minister for Child Protection, Draft Daily Hansard – Wednesday 13 May 2026, <https://territorystories.nt.gov.au/10070/1036731>, p. 16.

¹³³ Hon Robyn Cahill OAM MLA, Minister for Child Protection, Draft Daily Hansard – Wednesday 13 May 2026, <https://territorystories.nt.gov.au/10070/1036731>, p. 17.

¹³⁴ Explanatory Statement, Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (Serial 67), https://parliament.nt.gov.au/_data/assets/pdf_file/0015/1612500/Explanatory-Statement-Care-and-Protection-of-Children-Legislation-Amendment-Every-Child-Matters-Bill-2026-Serial-67.PDF, p. 3.

¹³⁵ Dr Matthew Jennings, Submission 17, p. 3; Justin Tutty, Submission 19, p. 2; Mikan Aboriginal Corporation, Submission 45, p. 9; Morgan Rickard, Submission 51, p. 8; Sally Sievers AO, Submission 114, p. 3.

which is discussed below in 'Proposed section 12 - Children with disabilities' and 'Proposed section 12C - Aboriginal children'.

4.27 At the public hearing, Andrew Roberts from NAAJA told the Committee that:

I think what we will see with this Bill is a continuation of what we are seeing now, which is some lovely principles about how it should be implemented, but in the absence of an effective accountability mechanism that sits behind that, it just does not happen in practice.¹³⁶

4.28 Some submitters highlighted the potential imbalance this could create between individuals and the Department.¹³⁷ Morgan Rickard submitted that this will likely lead to a lack of clarity regarding compliance with the principles:

Where principles guide decision-making but do not create enforceable rights or entitlements, their practical influence depends heavily upon administrative culture. Compliance may become harder to assess. Families may have limited avenues to challenge departures from those principles. Accountability may rely primarily upon internal decision-making processes.¹³⁸

4.29 Similarly, Sally Sievers AO highlighted the potential imbalance in accountability implementation this could create between individuals and the Department, noting 'individuals and communities may be subject to expectations and obligations, while government agencies are not subject to equivalent enforceable standards or consequences'.¹³⁹

4.30 Additionally, the Committee heard concerns about the potential implications of proposed section 7(4)(a) on procedural fairness.¹⁴⁰ The Mikan Aboriginal Corporation submitted the section:

is inconsistent with the principles of natural justice and should be removed. The principles in Part 1.3 should give rise to enforceable rights, at least to the extent that procedural fairness in their application is enforceable. To the extent that the Bill seeks to clarify that principles do not displace other operative provisions of the [Care and Protection] Act, this can be achieved with much more targeted drafting.¹⁴¹

4.31 With regard to procedural fairness concerns, the Department advised families have legal recourse under existing provisions of the Care and Protection Act:

current section 140 permits a party to any Court proceedings under the [Care and Protection] Act to appeal to the Supreme Court against any order or decision of the Court (except for a temporary protection order). This provision is retained, and all families will continue to have access to this legal recourse.¹⁴²

4.32 The Law Society NT submitted that section 7(4) is 'directly at odds' with section 7(3). The organisation stated this may create some interpretive risks:

¹³⁶ North Australia Aboriginal Justice Agency, Committee Transcript, 4 June 2026, p. 5.

¹³⁷ Morgan Rickard, Submission 51, p. 8; Sally Sievers AO, Submission 114, p. 3.

¹³⁸ Morgan Rickard, Submission 51, p. 8.

¹³⁹ Sally Sievers AO, Submission 114, p. 3.

¹⁴⁰ Dr Matthew Jennings, Submission 17, p. 3; Justin Tutty, Submission 19, p. 2; Mikan Aboriginal Corporation, Submission 45, p. 9.

¹⁴¹ Mikan Aboriginal Corporation, Submission 45, p. 9.

¹⁴² Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 3.

This amendment introduces considerable uncertainty into the interpretation and application of the [Care and Protection] Act. Accordingly, any dispute about the operation of the principles would require judicial determination, creating a burden on the Court and a liability for the Department of Children and Families (the Department).

The resulting uncertainty is also likely to impact decisions made by the Department and its Chief Executive Officer and open the Department up to a greater risk of appeal or review. Noting the principles also bind decision making by the Court in relation to the Act, the introduction of the proposed subsection (4) may slow the Court's process of decision-making under the [Care and Protection] Act whilst ambiguity as to its interpretation is resolved.¹⁴³

4.33 In this regard, the Committee notes this issue interacts with a number of other provisions of the Bill, including proposed sections 12D, 12E and 12F.

4.34 Other submitters highlighted the cumulative impact proposed section 7(4)(a) may have on reunification efforts, when combined with other parts of the Bill.¹⁴⁴ For example, CatholicCare NT submitted that proposed section 7(4)(a) has the effect of 'weaken[ing] the place of reunification in the statutory framework'.¹⁴⁵

4.35 The Department advised the inclusion of proposed section 7(4)(a) is consistent with the existing legal position and intended to clarify the intention of the principles-based legislation:

The [ACPP] does not currently operate as an enforceable, individual legal right for individuals or families in the Northern Territory (NT). It functions across jurisdictions primarily as a statutory framework and policy directive for Courts and child protection departments, rather than an actionable right that a parent can directly enforce or seek recourse for. The intent of proposed section 7(4) is to make the existing legal position clear that none of the guiding principles create or confer a right or entitlement that is legally enforceable.¹⁴⁶

4.36 The Department further highlighted the way proposed section 7(4)(a) will interact with other amendments made by the Bill to clarify existing policy intentions:

Additionally, the shift from rights-based language to language of principle proposed for Part 1.3 of the Act seeks to clarify this existing position and to avoid confusion about the intention of the principles as guidance for decision makers, rather than representing a policy shift.¹⁴⁷

4.37 The Committee notes the Australian Law Reform Commission advised that a principles-based model of legislative design:

seeks to provide an overarching framework that guides and assists regulated entities to develop an appreciation of the core goals of the regulatory scheme. A key advantage of principles-based regulation is its facilitation of regulatory flexibility through the statement of general principles that can be applied to new and changing situations. It has been said that such a regulatory framework is

¹⁴³ Law Society NT, Submission 137, pp. 2-3.

¹⁴⁴ CatholicCare NT, Submission No. 105, p. 3.

¹⁴⁵ CatholicCare NT, Submission No. 105, p. 3.

¹⁴⁶ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 3.

¹⁴⁷ Department of Children and Families, Answers to Written Questions, p. 3.

exhortatory in that it emphasises a “do the right thing” approach and promotes compliance with the spirit of the law.¹⁴⁸

- 4.38 The Committee observes that child protection legislation in other Australian jurisdictions is generally principles-based.¹⁴⁹ The Department drew the Committee’s attention to the New South Wales (NSW) legislation, which includes similar provisions to proposed section 7(4)(a):

Other jurisdictions, such as New South Wales contain provisions to the effect of proposed section 7(4). The equivalent legislation in New South Wales, *the Children and Young Persons (Care and Protection) Act 1998* (NSW) at section 7 states: “the provisions of this Chapter are intended to give guidance and direction in the administration of this Act. They do not create, or confer on any person, any right or entitlement enforceable at law.” The chapter referred to in section 7 of the NSW Act similarly includes the objects, principles and responsibilities (including the ACP).¹⁵⁰

Committee comment

- 4.39 The majority of the Committee accepts the Department’s advice that the inclusion of proposed section 7(4)(a) is consistent with the intended operation of existing Part 1.3 and does not signify a shift in policy. The Committee further notes proposed section 7(4)(a) mirrors a similar provision in the NSW legislation.
- 4.40 On balance, the majority of the Committee considers the provisions to be appropriate as currently drafted. However, the Committee considers additional clarification may be required with regard to how sections 7(1) and 7(4)(a) are intended to interact with other proposed sections. This issue is discussed below with regard to proposed sections 12, 12A, 12E and 12F.

Proposed section 8 – Best Interest principle

- 4.41 Existing section 10 sets out the best interest principle. It provides:
- (1) When a decision involving a child is made, the best interests of the child are the paramount concern.
 - (2) Without limiting subsection (1), consideration should be given to the following matters in determining the best interests of a child:
 - (a) the need to protect the child from harm and exploitation;
 - (b) the capacity and willingness of the child's parents or other family members to care for the child;

¹⁴⁸ Australian Law Reform Commission, *For Your Information: Australian Privacy Law and Practice* (ALRC Report 108) (2008), <https://www.alrc.gov.au/publication/for-your-information-australian-privacy-law-and-practice-alrc-report-108/>.

¹⁴⁹ *Children and Young Person (Care and Protection) Act 1998* (NSW), s 9; *Children, Youth and Families Act 2005* (Vic), Part 1.2; *Child Protection Act 1999* (Qld), Part 1, Division 1; *Children and Young People Act 2008* (ACT), Part 1.2; *Children and Community Services Act 2004* (WA), Part 2, Divisions 2 and 3; *Children and Young People (Safety) Act 2017* (SA), Chapter 2.

¹⁵⁰ Department of Children and Families, *Answers to Written Questions and Questions on Notice*, 18 June 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 3.

- (c) the nature of the child's relationship with the child's family and other persons who are significant in the child's life;
- (ca) the need to strengthen, preserve and promote positive relationships between the child and the child's parents, family members, kinship group and other persons who are significant in the child's life;
- (cb) in circumstances where the child has been removed from the care of the child's family, all possibilities related to reunifying the child with the child's parents;
- (d) the wishes and views of the child, having regard to the maturity and understanding of the child;
- (e) the child's need for permanency in the child's living arrangements;
- (f) the child's need for stable and nurturing relationships;
- (g) the child's physical, emotional, intellectual, spiritual, developmental and educational needs;
- (h) the child's age, maturity, gender, sexuality and cultural, ethnic and religious backgrounds;
- (ha) if the child is an Aboriginal child – the child's right to enjoy the Aboriginal culture and tradition of the child's family and community including the need to maintain ongoing contact with the child's family and connection to country and language;
- (i) other special characteristics of the child;
- (j) the likely effect on the child of any changes in the child's circumstances.

4.42 Clause 6 of the Bill seeks to replace existing section 10 with proposed section 8. Proposed section 8 remakes the existing provision with several amendments, including:

- reordering the matters in existing section 10(2) (excluding sections 10(ca), (cb), (h) and (ha)) and establishing a new hierarchy of matters that 'must' (rather than should) be considered in determining the best interest of the child (proposed section 8(2)).¹⁵¹

¹⁵¹ In order of priority, matters that must be considered include: The need to ensure the safety of the child; The need to protect the child from harm and exploitation; The child's need for stable and nurturing relationships; The need for permanency in the child's living arrangements; The likely effect on the child of any changes to the child's circumstances; The wishes and views of the child, having regard to the maturity and understanding of the child; The child's physical, emotional, intellectual, spiritual, developmental and educational needs; The capacity and willingness of the child's parents or other family members to care for the child; The nature of the child's relationship with the child's family and other persons who are significant in the child's life; Other special characteristics of the child.

- inserting a new requirement to consider ‘the need to ensure the safety of the child’ as the ‘priority consideration’ in determining the best interest of a child (proposed section 8(2)(a)).¹⁵²
- providing the matters that ‘should’ be considered under existing sections 10(ca), (cb) and (ha) are matters that ‘may also be relevant’ to determining the best interest of a child (proposed section 8(3)).
- removing the matters in existing section 10(h) to consider the child's age, maturity, gender, sexuality and cultural, ethnic and religious backgrounds.

4.43 The Committee notes that proposed section 8 operates in tandem with proposed section 7(2), which provides that the principles in proposed sections 7 to 12D are subject to the best interest principle in section 8.

Best interest hierarchy

4.44 The Committee heard differing views on the introduction of a hierarchy of considerations for determining a child’s best interest under proposed section 8(2).

4.45 On one hand, the Committee heard that the Bill will likely create clearer guidance for practitioners.¹⁵³ The Department contended that the hierarchy is intended to assist frontline decision-makers by establishing a structured framework for assessing a child's best interests. The Department advised that child protection practitioners frequently make complex decisions outside a court setting and require clear statutory direction regarding the priority that should be given to competing considerations:

This Bill is absolutely designed to reset and create a framework for decision-making for frontline workers. It makes it clear and simple for workers to understand the priority considerations that they have to turn their minds to when they are interacting with a child or a family when they are deciding what to do next. It is true to say that sometimes in complex situations and complex scenarios with a child in a family situation, it can be hard for a worker to determine what the right course of action is. This Bill, with its clear framework of safety first and then a series of priority considerations, helps them work through their decision-making in a clear and simple way.¹⁵⁴

4.46 By contrast, while many submitters acknowledged that the best interests of the child should remain the paramount consideration, the Committee heard that introducing a hierarchy fundamentally changes how that principle is applied.¹⁵⁵ SNAICC – National Voice of Our Children (SNAICC) submitted:

The amendments to section 10 substantially reshape the statutory understanding of a child’s best interests by introducing a hierarchy of considerations prioritising safety, protection from harm, permanency and stability. This represents a

¹⁵² Explanatory Statement, Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (Serial 67), https://parliament.nt.gov.au/_data/assets/pdf_file/0015/1612500/Explanatory-Statement-Care-and-Protection-of-Children-Legislation-Amendment-Every-Child-Matters-Bill-2026-Serial-67.PDF, p. 3.

¹⁵³ Elena Gomatos, Submission No. 86, p. 1; Department of Children and Families, Committee Transcript, 5 June 2026, p. 5.

¹⁵⁴ Department of Children and Families, Committee Transcript, 5 June 2026, p. 5.

¹⁵⁵ Office of the Children’s Commissioner, Submission No. 40, pp. 6-7; Queensland Aboriginal and Torres Strait Islander Child Protection Peak, Submission No. 63, p. 3; National Justice Project, Submission No. 87, p. 1; First Nations Advocates Against Family Violence, Submission No. 101, p. 13; Northern Territory Legal Assistance Forum, Submission No. 117, p. 3.

significant departure from an established rights protective framework by separating relational, cultural and participatory considerations from core understandings of child safety and wellbeing.¹⁵⁶

- 4.47 Several submitters expressed concern about the ordering in section 8(2), arguing that the hierarchy elevates permanency and stability above family preservation and reunification, and when read alongside other amendments in the Bill, is likely to increase reliance on non-kinship care for Aboriginal children. The Jumbunna Institute for Indigenous Education and Research argued:

It is possible that the directed hierarchy in the Bill, in combination with other features such as the shift towards long-term orders and joining carers as parties to proceedings, will have the effect of increasing the use of non-familial foster placements, despite the evidence that children in out-of-home care are better served when supported to remain with family and kin where safe to do so.

This is particularly concerning with respect to Aboriginal children and young people, given additional amendments proposed by the Bill that removes key safeguards particularly for Aboriginal children, including recognition of the benefits to children's wellbeing of enduring connections to family, kin, community and culture.¹⁵⁷

- 4.48 Similarly, Yeyekerte Aboriginal Corporation submitted 'placing vital family and community factors lower down the list means they are treated as secondary thoughts, easily overridden if they conflict with top-tier, narrowly defined priority criteria'.¹⁵⁸
- 4.49 Many stakeholders considered that determining a child's best interests is inherently complex and should involve a holistic assessment of the individual circumstances of each child, rather than requiring decision-makers to prioritise certain considerations over others.¹⁵⁹ A consistent theme in the evidence was that the hierarchy reduces the flexibility available to decision-makers to determine what is in a child's best interests on a case-by-case basis.
- 4.50 The National Commission for Aboriginal and Torres Strait Islander Children and Young People submitted that the hierarchy amendment 'shifts the framework away from a holistic model by treating safety as separate from, rather than inherently connected to, cultural identity and relational stability'. The Commission argued this 'narrow[ing] of the concept of safety risks poorer decision-making outcomes, particularly for Aboriginal children'.¹⁶⁰
- 4.51 Submitters argued that the existing Care and Protection Act appropriately allows courts and other decision-makers to weigh competing considerations according to the circumstances of the individual child, whereas the proposed hierarchy risks constraining that discretion and producing outcomes that may not reflect a child's overall best interest. The NTLAF submitted:

¹⁵⁶ SNAICC – National Voice for Our Children, Submission No. 130, p. 5.

¹⁵⁷ Jumbunna Institute for Indigenous Education and Research, University of Technology Sydney, Submission No. 123, p. 9.

¹⁵⁸ Yeyekerte Aboriginal Corporation, Submission No. 25, p. 2.

¹⁵⁹ Submissions 38, 88, 89, 117, 120, 123 and 137; Northern Territory Legal Assistance Forum, Committee Transcript, 4 June 2026.

¹⁶⁰ National Commission for Aboriginal and Torres Strait Islander Children and Young People, Submission No. 38, p. 3.

Overall, we are concerned that an overly structured approach to assessing best interests will force the decision-maker to make decisions which may not actually reflect the child's best interest assessed objectively. The Bill confines decision-maker discretion in a way which could lead to adverse outcomes or unintended consequences to the detriment of children. The current approach of the legislation to providing a range of factors for the Court or other decision-maker to weight and assess in reaching an overall conclusion is the preferred approach. The purpose of having an independent judiciary and adversarial system to ventilate all relevant issues is to ensure that complex decisions are made on a case-by-case basis to achieve the best outcome. This Bill significantly curtails and constrains good case-by-case decision making.¹⁶¹

4.52 The National Justice Project similarly submitted that constraining discretion could have negative effects on the best interests of children:

The amendment ranking the factors to be considered when determining the best interest of the child at sub-s 8(2) unnecessarily constrains the ability of decision-makers to weigh up the various factors that contribute to this complex calculation and to genuinely consider the unique circumstances of each child. The amendment also does not allow decision-makers to give sufficient weight to the child's wishes and their relationships with family and other significant figures in their life. The determination of the 'best interests of the child' occurs against the context of the ongoing failure of governments to invest in services and basic supports to families including access to safe housing, income stability, health services, culturally safe maternal care, disability supports, and therapeutic assistance - all of which are critical to family preservation and impact the factors listed in s 8. The amendment risks further punishing parents and children for circumstances which are symptoms of governmental neglect rather than parental failure.¹⁶²

4.53 The Committee sought advice from the Department regarding the concerns raised by submitters, including the evidence base for the new hierarchical structure. In response, the Department drew the Committee's attention to the *Family Law Act 1975* (Cth):

Best interest considerations that lack a structured priority can make the best interests principle subjective and difficult to apply consistently across diverse situations. The evidence base supporting this change is drawn largely from the *Family Law Act 1975* (Cth) which adopted a hierarchical list of best interest considerations in 2006. An example of this is the *Every Picture tells a story* report (2003) by the Standing Committee on Family Affairs of the Federal House of Representatives shed light on cases of children suffering from child abuse in the care of their parents who were retained in parental custody because the best interests consideration in the *Family Law Act 1975* (Cth) did not emphasise child safety.

The *Every Picture Tells a story* report went on to serve as a catalyst for the *Family Law Amendment (Shared Parental Responsibility) Act 2006* (Cth) which adopted a hierarchical approach to best interests considerations similar to the provisions in the Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 in an attempt to resolve issues in the family law jurisdiction related to children being retained in the custody of abusive parents despite evidence of abuse. The *Family Law Amendment Act 2023* did make changes to the *Family Law Act 1975* to simplify the best interests considerations, which included removing the hierarchy for considerations. Critically, the *Family Law Amendment Act 2023* made amendments to the best interests principle to include that the Court must consider what arrangements would promote the safety of the

¹⁶¹ Northern Territory Legal Assistance Forum, Submission No. 117, p. 6.

¹⁶² National Justice Project, Submission No. 87, p. 1.

child, similar to the prioritisation of safety in proposed section 8 of the Every Child Matters Bill.

It is important to note that the best interests considerations under section 60CC of the *Family Law Act 1975* only relate to decisions made by the Court in family law proceedings, whereas the best interest considerations under current section 10(2) of the *Care and Protection of Children Act 2007* and proposed section 8(2) relate to all decisions made under the Act about a child (including decisions made by the Chief Executive Officer (CEO) of the Department, authorised officers and the Court). The need for clear statutory guidance for decision makers is more acute in this broader administrative context, where many decisions are made by child protection practitioners without formal legal training, and who therefore require clear direction on how to identify and weigh relevant considerations, rather than in a court setting where judicial officers are trained to interpret and balance such factors as part of their role.

It was therefore determined that a hierarchical model is the most effective approach.¹⁶³

- 4.54 Several submitters, including the Australian Human Rights Commission, argued that the proposed hierarchy is inconsistent with international human rights principles governing the determination of a child's best interests.¹⁶⁴ Submitters argued that introducing a mandatory hierarchy departs from the international human rights approach by limiting the ability of decision-makers to undertake an individualised assessment. These submissions drew the Committee's attention to General Comment No. 14 (2013) of the United Nations Committee on the Rights of the Child which states:

The Committee considers it useful to draw up a non-exhaustive and non-hierarchical list of elements that could be included in a best-interests assessment by any decision-maker having to determine a child's best interests. The non-exhaustive nature of the elements in the list implies that it is possible to go beyond those and consider other factors relevant in the specific circumstances of the individual child or group of children. All the elements of the list must be taken into consideration and balanced in light of each situation. The list should provide concrete guidance, yet flexibility.¹⁶⁵

- 4.55 With regard to whether the hierarchy limits any rights under the United Nations Committee on the Rights of the Child, the Department advised:

Article 3 of the United Nations Convention on the Rights of the Child (UNCRC) sets out 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". The UNCRC does not provide guidance to state parties on how the best interests of a child should be determined, or what should be considered in determining the

¹⁶³ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 4.

¹⁶⁴ Australian Human Rights Commission, Submission No. 88, p. 9; Emma Henke and Hannah Gibson, Submission No. 122; Jumbunna Institute for Indigenous Education and Research, University of Technology Sydney, Submission No. 123.

¹⁶⁵ United Nations Committee on the Rights of the Child, *General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1)*, p. 12.

best interests of a child. Therefore, the creation of a hierarchy of best interests' considerations does not limit rights under the UNCRC.¹⁶⁶

Safety as the 'priority consideration'

4.56 Under proposed section 8(2)(a), 'the need to ensure the safety of the child' must be considered as the highest priority in determining the best interest of a child. In her first reading speech, the Minister highlighted the explicit inclusion of 'safety' in proposed section 8(2)(a):

In determining what is in the best interests of the child, the new section 8 in the Bill lists the matters to be considered and the priority in which matter must be considered. For the first time, ensuring the safety of a child is included in those matters and is, in fact, the first matter that must be considered and satisfied.¹⁶⁷

4.57 Some submitters supported expressly identifying safety as the first consideration because it provides greater clarity and reinforces protection from harm.¹⁶⁸ The NTPA submitted:

The Bill strengthens the principle of acting in the best interest of the child but expressly elevates child safety as the foremost consideration... Police officers regularly encounter children exposed to violence, abuse, neglect, substance misuse, exploitation, and entrenched offending environments. The NTPA submits on behalf of those police officers (our members) that legislation governing placement and intervention decisions with regards children that have been so exposed, must clearly prioritise, in order of importance:

- child safety;
- protection from harm;
- permanency; and
- long-term stability.

The Bill appropriately clarifies those priorities¹⁶⁹

4.58 The Australian Christian Lobby similarly supported the explicit prioritisation of safety:

The bill specifically ensures the safety of the child is the highest priority. The bill retains, in principle, many of the same considerations as the current Act does. However, this bill ensures safety and protection from harm and exploitation are rightly the highest consideration, when making decisions involving the child.¹⁷⁰

4.59 However, many submitters argued safety is already central to the existing Care and Protection Act.¹⁷¹ NAAJA highlighted the existing requirements to consider the need to protect the child from harm and exploitation:

¹⁶⁶ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 4.

¹⁶⁷ Hon Robyn Cahill OAM MLA, Minister for Child Protection, Draft Daily Hansard – Wednesday 13 May 2026, <https://territorystories.nt.gov.au/10070/1036731>, p. 17.

¹⁶⁸ Australian Christian Lobby, Submission No. 44, p. 6; Elena Gomatos, Submission No. 86, p. 1; Northern Territory Police Association, Submission No. 108, p. 2.

¹⁶⁹ Northern Territory Police Association, Submission No. 108, p. 2.

¹⁷⁰ Australian Christian Lobby, Submission No. 44, p. 6.

¹⁷¹ Office of the Children's Commissioner, Submission No. 40; Queensland Aboriginal and Torres Strait Islander Protection Peak, Submission No. 63; National Justice Project, Submission No. 87; First Nations Advocates Against Family Violence, Submission No. 101; Northern Territory Legal Assistance Forum, Submission No. 117; SNAICC – Voice of Our Children, Committee Transcript, 4 June 2026.

The current legislation is already designed to protect children from harm and exploitation. It gives the department the power to step in when a child has been or is likely to be exposed to harm or exploitation. If children are still being harmed despite those powers already existing, then we should be asking why and taking a closer look at the operation of the system rather than the legislation.¹⁷²

4.60 At the public hearing on 4 June 2026, the NTLAF contended:

At the same time, [existing] section 10 demonstrates that the [Care and Protection] Act adopts a broad and holistic understanding of safety. While protection from harm is paramount, decision-makers must also consider parental capacity, family relationships, opportunities for reunification, stable and nurturing relationships, developmental needs of the child and the child's cultural identity. For Aboriginal children, the [Care and Protection] Act expressly requires consideration of the right to maintain connection to family, culture, language and country. The legislative scheme therefore recognises that safety encompasses more than immediate physical protection, which is paramount, but also incorporates broader factors that contribute to a child's long-term wellbeing.

The broad concept of safety is reinforced by the definitions of 'wellbeing', 'harm' and 'exploitation'. Section 14 describes wellbeing to include a child's physical, psychological and emotional wellbeing.

Section 15 adopts an expansive definition of 'harm' extended beyond physical injury to include emotional abuse, psychological abuse, neglect, sexual abuse, exposure to violence and exposure to domestic and family violence.

Section 16 separately recognises exploitation as a distinct form of harm. Importantly, that does not limit intervention into circumstances where harm has already occurred. Under section 20, a child may be found to be in need of care and protection where the child has suffered harm or exploitation, but also where a child is likely to suffer harm or exploitation, and the statutory threshold is therefore preventive in nature and authorises intervention before serious harm occurs.¹⁷³

4.61 Submitters queried whether the inclusion of 'safety' introduces a new legal principle to determine the best interest of a child. In this regard, stakeholders highlighted that safety is not defined in the Bill. This contrasts with the concepts of harm and exploitation which are defined under existing sections 15 and 16 of the Care and Protection Act.

4.62 The NTLAF questioned how 'the need to ensure the safety of the child' differs substantially from the need to protect the child from harm and exploitation:

Under the Bill, the first consideration would be "the need to ensure the safety of the child" followed by "the need to protect the child from harm and exploitation". Whilst the existing list of criteria did not use the specific word "safety", in our view that was clearly addressed by the focus given to protecting the child from harm and exploitation and the existing thresholds for statutory intervention. We do not understand what the additional criteria adds to the assessment – safety is already a primary focus of the legislation.

The addition of the phrase "the need to ensure the safety of the child" is poor legislative drafting which will create legal ambiguity. Principles of statutory interpretation mean that each phrase of legislation is presumed to have specific meaning. The inclusion of a provision about safety means that the following phrase 'harm and exploitation' must now carry a separate meaning that is not about safety. This will impact existing case-law about the meaning of harm and

¹⁷² Northern Australian Aboriginal Justice Agency, Committee Transcript, 4 June 2026, p. 1.

¹⁷³ Northern Territory Legal Assistance Forum, Committee Transcript, 4 June 2026, p. 4.

exploitation and gives rise to the question of what does harm and exploitation mean if it does not mean safety.¹⁷⁴

- 4.63 The Committee sought clarification from the Department in relation to how ‘safety’ is defined in this context and how it differs from ‘protection from harm and exploitation’. The Department advised:

Neither the current [Care and Protection] Act, nor the Every Child Matters Bill, seeks to create a legislative definition of “safety”. This reflects the fact that “safety” is already a well understood and commonly applied concept, both in its ordinary meaning and in practice contexts. In its ordinary meaning, ‘safety’ represents the state of being free from physical, emotional or psychological harm or danger and functions as a wider, outcome focused concept that encompasses both the absence of harm and the presence of conditions that support a child’s ongoing wellbeing. On the other hand, protecting a child from harm and exploitation is the active process of preventing, intervening and advocating against specific abuses, such as neglect, physical abuse, sexual abuse, emotional abuse and exposure to domestic violence. Both are included as separate considerations as they perform distinct but complementary functions in a best interests assessment.¹⁷⁵

- 4.64 The Committee heard diverse views on the interactions between safety and culture. Some stakeholders contended that culture and safety are distinct concepts, emphasising the need for physical safety to take precedence over cultural considerations.¹⁷⁶ As noted in Chapter 3, Senator Jacinta Nampijinpa Price submitted:

Cultural connection, family and community remain important factors in a child’s life and the Bill retains specific provisions recognising the role of Aboriginal kinship, family and community structures. However, the Bill makes clear that these considerations operate within an overarching framework where the child’s safety and best interests remain paramount. Where children face serious and ongoing harm, systems must remain capable of acting decisively.¹⁷⁷

- 4.65 Similarly, Foster and Kinship Carers Association NT (FKCANT) submitted:

Cultural connection is critically important to identity, belonging and wellbeing, particularly for Aboriginal children. However, FKCANT believes that safety should never be compromised in order to maintain cultural connection alone. Children should not remain in unsafe situations, nor should unsafe placements be maintained, solely because of cultural or family considerations.¹⁷⁸

At the public hearing, Salley Gearin advocated for ‘safety first rather than kinship’ but noted ‘they may not be inconsistent. They may often be totally consistent’.¹⁷⁹

- 4.66 One of the strongest themes arising from submissions was that child safety and cultural safety are inseparable.¹⁸⁰ In this regard, many submitters stated that the Bill

¹⁷⁴ Northern Territory Legal Assistance Forum, Submission No. 117, p. 4.

¹⁷⁵ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 5.

¹⁷⁶ Foster and Kinship Carers Association, Submission No. 24, p. 11; Senator Jacinta Nampijinpa Price, Submission No. 49, pp. 1-2; Northern Territory Police Association, Submission No. 108, p. 2.

¹⁷⁷ Senator Jacinta Nampijinpa Price, Submission No. 49, pp. 1-2.

¹⁷⁸ Foster and Kinship Carers Association, Submission No. 24, p. 11.

¹⁷⁹ Sally Gearin, Committee Transcript, 4 June 2026, p. 4.

¹⁸⁰ Submissions 28, 39, 57, 62, 63, 65, 100, 104, 105, 110, 111, 113, 120, 123 and 131.

reflects an overly narrow concept of ‘safety’ focused on physical protection.¹⁸¹ Some stakeholders noted safety and culture are often complementary rather than competing concepts; that cultural identity itself is a protective factor for Aboriginal children. These submitters emphasised that for Aboriginal children, safety cannot be separated from family, kinship, language, culture, community and Country.¹⁸²

4.67 The NPY Women’s Council highlighted Anangu and Yarnangu concepts of safety:

We understand there has been a lot of discussion about the word ‘safety’—its definition, visibility and implementation. We highlight the importance of intrinsic safety. This is psychosocial wellbeing and hazards that Anangu and Yarnangu manage. In our communities, Anangu and Yarnangu provide specific forms of safety—physical, emotional, spiritual and cultural—that cannot be replaced by a piranpa or non-Indigenous person, or mitigated through statutory regulation. This type of safety is intersectional, with connection to culture, country and kinship networks through language, and underpins community relationships, safe places and wellbeing inherent to Anangu and Yarnangu way of life. The Western definition of safety is particularly linked to physical safety. Yes, this is important.

We also urge the committee to consider any inherent bias when thinking about who can provide safety for an Yarnangu or Anangu child, and the risk to child wellbeing when other forms of critical safety such as intrinsic safety in the community, are compromised or obstructed from demonstrating strength—another reminder that the ability of a child to communicate with an adult in their first language is perhaps one of the most positive, significant psychosocial enablers to accessing multiple forms of safety in a community.¹⁸³

4.68 ARDS Aboriginal Corporation explained the centrality of gurrutu (kinship) to ensuring child safety for Yolŋu children:

Taking children away from their gurrutu connections breaks their connections and their identity and causes trauma for the children. Gurrutu is safety.¹⁸⁴

4.69 CatholicCare NT pointed to the need to contextualise concepts of safety within the broader historical experiences of Aboriginal people in the NT:

A narrow understanding of “safety” cannot be separated from the lived history of Aboriginal people in the Northern Territory. Past child removal laws and practices were also justified at the time as being in children’s best interests and necessary for their protection, yet the long term consequences for Aboriginal children, families and communities have been profound and devastating. That history means safety cannot be understood only as immediate physical protection or risk avoidance. A contemporary child protection framework and legislation must recognise that, for Aboriginal children, safety also includes connection to family, kin, community, culture and Country, and protection from the enduring harms that can flow from unnecessary removal.¹⁸⁵

4.70 The Committee sought advice from the Department regarding whether cultural safety would be considered as a component of ensuring the safety of Aboriginal children. The Department confirmed cultural safety would not be expressly excluded:

¹⁸¹ CatholicCare NT, Submission No. 105; South Australian Guardian for Children and Young People, Submission No. 120; Jumbunna Institute for Indigenous Education and Research, University of Technology Sydney, Submission No. 123; Legal Aid NT, Submission No. 131.

¹⁸² North Australian Justice Agency, Submission No. 30, p. 5; Office of the Children’s Commission, Submission No. 40, p. 7.

¹⁸³ Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women’s Council, Committee Transcript, 5 June 2026, p. 2.

¹⁸⁴ ARDS Aboriginal Corporation, Submission No. 52, p. 4.

¹⁸⁵ CatholicCare NT, Submission No. 105, p. 1.

Safety is not defined under the *Care and Protection of Children Act 2007*, despite being referred to in the current Act 53 times. Not including a strict legislative definition of safety allows the provisions to be reactive to the individual needs and circumstances of a child, including different ‘domains’ of safety relevant to them. In this way, cultural safety is not expressly excluded from this consideration for any child.¹⁸⁶

- 4.71 Another theme raised in evidence regarding proposed section 8(2)(a) was the experiences of other jurisdictions.¹⁸⁷ SNAICC drew attention to a South Australian inquiry that found the state’s ‘safety first’ model contributed to ‘unnecessary removals’:

South Australia previously introduced safety as a separate paramount consideration in child protection legislation above other best interests considerations. A systemic inquiry in South Australia found that this impacted decision-making that failed to take proper account of the safety and wellbeing needs of Aboriginal children and contributed to unnecessary removals (Lawrie 2024). As a result, legislation has been passed in South Australia in 2025 retaining safety as a guiding principle but removing the hierarchy of principles, bringing the principle of the best interests of the child onto equal footing and allowing for stronger consideration of the holistic factors that impact safety and wellbeing for children. Proposed reforms in the NT risk repeating mistakes that have already been learnt from in other jurisdictions.¹⁸⁸

- 4.72 The Committee sought additional information from the Department regarding whether consideration was given to other jurisdictions that have ‘safety-first’ models. The Department advised that:

In developing proposed section 8, consideration was given to the legislative provisions and experiences of other jurisdictions, as well as national approaches to the best interests principle such as in the *Family Law Act 1975* (Cth). The previous act in South Australia, the *Children and Young People (Safety) Act 2017* (SA) at section 7 stated that the safety of children and young people is paramount and that “the paramount consideration in the administration, operation and enforcement of this Act must always be to ensure that children and young people are protected from harm”, with no mention of best interests.

Comparatively, the passed but not yet commenced *Children and Young People (Safety and Support) Act 2025* (SA) (referred to as the new SA Act) references both safety and best interests in the guiding principles.

The safety principle at section 10 of the new SA Act states that “It is a principle of this Act (the safety principle) that children and young people are to be kept safe and protected from harm (and, despite any other provision of this Act, the safety of the child or young person must always be the priority in determining whether or not to remove a child or young person under section 87(1))”.

The best interests principle is at section 11 of the new SA Act and states, among other things: “It is a principle of this Act (the best interests principle) that the best interests of each child and young person are to be upheld and effected in all decision making under this Act (and a reference in this Act to a particular decision being in the best interests of a child or young person will be taken to be a reference to the decision being made in accordance with the best interests principle)”. Additionally, it states: “In determining whether a decision or action is

¹⁸⁶ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 5.

¹⁸⁷ SNAICC – National Voice for Our Children, Submission, No. 130, p. 16; SNAICC – National Voice for Our Children, Committee Transcript, 4 June 2026, p. 4.

¹⁸⁸ SNAICC – National Voice for Our Children, Submission, No. 130, p. 16.

in the best interests of a child or young person, the need to keep them safe from harm and the risk of harm, to protect their rights and to promote their development (taking into account their age and stage of development) must always be considered”.

This illustrates that while the previous Act in South Australia prioritised safety, to the exclusion of best interests, the new SA Act continues a “safety first model”, but with the inclusion of a best interests principle and considerations. It is also important to note that the new Act in South Australia has not come into operation yet and so remains untested at law or in practice. For this reason, whether the changes to the legislation in South Australia will result in improved outcomes for children cannot be quantified yet.

Both these models are distinct from the approach taken in the Every Child Matters Bill. The Every Child Matters Bill does not separate the concept of safety from the best interests of the child, as is the case in South Australia. Proposed section 8 of the Every Child Matters Bill retains the best interests of the child as the paramount concern in all decisions made under the Act. Proposed section 8(2) integrates safety as the first priority consideration when determining the best interests of the child. This ensures that due weight, regard and priority is given to the safety of a child when a decision is made by the Court, the CEO of the Department, an authorised officer (such as a child protection practitioner) or any other person exercising powers or performing functions under the Act.¹⁸⁹

Other matters that ‘may’ be considered

4.73 Proposed section 8(3) provides that preserving positive relationships, reunification, and enjoying culture and tradition are matters that ‘may also be relevant’ to determining the child’s best interest. These matters largely reflect existing sections 10(ca), (cb) and (ha) with some amendments, including removing explicit references to kinship groups, Aboriginal culture and tradition, and the need to maintain ongoing connection to Country and language. The Explanatory Statement notes that ‘these additional matters do not derogate from the hierarchy of best interest considerations provided for in section 8(2)’.¹⁹⁰

4.74 Submitters considered that the amendments effectively demote family relationships, reunification and cultural connection from core elements of the best interest assessment to discretionary considerations; particularly for Aboriginal children. Several stakeholders argued this represented a weakening of existing protections for ACPP.¹⁹¹ For example, Yeyekerte Aboriginal Corporation submitted that the Bill ‘demoted’ Aboriginal children’s right to culture, language and kinship to a discretionary consideration, arguing this treated cultural identity as optional rather than a fundamental protective factor:

The most damaging aspect of this Bill is that sections safeguarding an Aboriginal child’s right to culture, language, and kinship ties have been demoted to a discretionary category that “may also be relevant.”

¹⁸⁹ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, pp. 5-6.

¹⁹⁰ Explanatory Statement, Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (Serial 67), https://parliament.nt.gov.au/_data/assets/pdf_file/0015/1612500/Explanatory-Statement-Care-and-Protection-of-Children-Legislation-Amendment-Every-Child-Matters-Bill-2026-Serial-67.PDF, p. 3.

¹⁹¹ Submissions 17, 45, 63, 65, 75, 87, 88, 105, 117, 120 and 126.

- Systemic Bias: Relegating culture to a "may" rather than a "must" treats an Aboriginal child's identity as a luxury asset rather than a fundamental safety requirement.
- Ignoring Evidence: This shift directly contradicts decades of child welfare research. For Aboriginal children, connection to culture and Country is a critical protective factor that keeps them safe and grounded.
- The Legal Loophole: Using permissive language like "may be relevant" gives child protection workers and courts a legal loophole to completely ignore the ATSICPP without breaking the law.¹⁹²

4.75 Similarly, the National Justice Project submitted that making these matters discretionary devalues their importance to children's social and emotional wellbeing:

The further separation of certain factors in sub-s 8(3) as factors that 'may also be relevant' rather than as mandatory considerations, including relationships with family, reunification and 'the child's right to enjoy the culture and tradition of the child's family and community including the need to maintain ongoing contact with the child's family', devalues the importance of these factors on the social and emotional wellbeing of children. It risks insufficient weight being given to the benefits of growing up with the people bonded to you through family, community and culture, who share your stories and bloodlines, as well as the protective factors of growing up with a strong network of caregivers, cultural mentors and teachers. This is especially relevant as First Nations children make up 90% of the children in out-of-home care in the Northern Territory.¹⁹³

4.76 The South Australian Guardian for Children and Young People argued the amendments fail to recognise that culture, family, Country and language are themselves protective factors that contribute to children's safety:

the proposed hierarchy of best interests considerations in new section 8 places safety, protection from harm and permanency at the centre of decision-making while moving Aboriginal culture, tradition, family contact, Country and language into "additional matters" that may be relevant. This risks diminishing the significance of culture and identity as central components of best interests for Aboriginal children and indeed it does not acknowledge that Aboriginal culture, tradition, family contact, Country and language are in fact safety and protective factors for Aboriginal children and young people.¹⁹⁴

4.77 Several submitters expressed concern that proposed section 8(3), when read alongside the hierarchy in proposed section 8(2), would reduce the emphasis on family preservation and reunification. Legal Aid NT argued that:

It is Legal Aid NT's position that the proposed hierarchy places undue weight on a child remaining in a care placement, which is likely to undermine any attempts made to reunify the child with parents or family. This is exemplified by the relegation of reunification and need to strengthen positive relationships with parents and family to effectively secondary considerations under the proposed section 8(3) of the Bill.¹⁹⁵

4.78 Similarly, CatholicCare NT submitted that, when combined with other provisions of the Bill, proposed section 8(3) weakens the place of reunification in the statutory framework:

¹⁹² Yeyekerte Aboriginal Corporation, Submission No. 25, p. 2.

¹⁹³ National Justice Project, Submission No. 87, p. 1.

¹⁹⁴ South Australian Guardian for Children and Young People, Submission No. 120, p. 3.

¹⁹⁵ Legal Aid NT, Submission No. 131, p. 2.

section 8(3)(b) treats reunification only as a factor that “may” be relevant rather than a primary consideration...

Under new section 8(2), the best interests test requires decision-makers to consider, in order of priority, the need to ensure the child’s safety, protect the child from harm and exploitation, support stable and nurturing relationships, and promote permanency in the child’s living arrangements. By contrast, preserving family relationships, reunification and the child’s right to enjoy culture and maintain contact with family appear only as matters that “may also be relevant” under section 8(3).¹⁹⁶

4.79 Dr Matthew Jennings suggested amending proposed section 8(3) to require that these matters ‘must also be considered, where relevant’, rather than ‘may also be relevant’, arguing this would ensure that family support, kinship care, cultural connection and reunification are consistently considered while remaining subject to the paramount consideration of the child’s best interests.¹⁹⁷

4.80 The Committee sought advice from the Department in relation to why the matters outlined in proposed section 8(3) were not included as core matters that must be considered in determining a child’s best interest under proposed section 8(2). The Department advised that:

During drafting, it was identified that the matters contained in proposed section 8(3) would not be relevant to all children in every decision made under the [Care and Protection] Act, and that some discretion was required as to whether these considerations were to be applied or not on a case-by-case basis. This ensures that where these matters are not relevant to the decision at hand, they are not required to be considered in determining a child’s best interests.¹⁹⁸

Consideration of age, maturity, gender, sexuality and cultural, ethnic and religious background

4.81 The NTLAF drew the Committee’s attention to the removal of age, maturity, gender and sexuality, cultural background, and ethnic and religious background as matters that should be considered in determining the child’s best interest.¹⁹⁹ The Committee notes that existing section 10(2)(h) provides these matters ‘should’ be considered.

4.82 The Committee sought advice from the Department in relation to this issue. The Department advised:

Existing section 10 states that consideration should be given to the following matters in determining the best interests of a child, including at section 10(2)(h), the child’s age, maturity, gender, sexuality, cultural, ethnic and religious backgrounds. During drafting of the Bill, it was identified that the matters contained in current section 10(2)(h) were already provided for by current section 10(2)(i) and section 10(2)(g) which capture the child’s physical, emotional, intellectual, spiritual, development and educational needs, as well as other special characteristics of the child that warrant consideration. Additionally, as the threshold is changing from ‘consideration should be given’ to ‘matters must be considered in the following order of priority’, it was determined that the consideration should not be too prescriptive as to prevent discretionary

¹⁹⁶ CatholicCare NT, Submission No. 105, p. 2.

¹⁹⁷ Dr Matthew Jennings, Submission No. 17, p. 3.

¹⁹⁸ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 6.

¹⁹⁹ Northern Territory Legal Assistance Forum, Submission No. 117, p. 6.

consideration of any 'other special characteristics of the child' which could include the child's age, maturity, gender, sexuality, cultural, ethnic and religious background as relevant to the individual child and the decision being made.²⁰⁰

Committee comments

- 4.83 The Committee acknowledges the concerns raised by submitters regarding the introduction of a hierarchy of best interest considerations. However, the Committee notes the Department's advice that the hierarchy is intended to provide clearer statutory guidance for decision-makers, particularly frontline child protection practitioners who routinely make complex administrative decisions under the Care and Protection Act.
- 4.84 The Committee also notes the Department's advice that the additional matters in proposed section 8(3) are intended to provide flexibility where those considerations are not relevant to every child or every decision made under the Care and Protection Act.
- 4.85 The Committee acknowledges the differing views regarding the introduction of 'safety' as the priority consideration in determining a child's best interests. The Committee notes the Department's advice that the concept of 'safety' is intentionally not defined to enable decision-makers to assess the individual circumstances of each child, and that this approach does not preclude consideration of cultural safety where it is relevant.
- 4.86 With respect to the removal of the express requirement to consider a child's age, maturity, gender, sexuality cultural background, and ethnic and religious background, the majority of the Committee accepts the Department's advice that these matters are sufficiently covered through consideration of the child's physical, emotional, intellectual, spiritual, developmental and educational needs, and any other special characteristics of the child.
- 4.87 On balance, the majority of the Committee considers the provisions appropriate as currently drafted.

Proposed section 11 – Child participation

- 4.88 Proposed section 11 seeks to remake existing section 11 of the Care and Protection Act in substantially the same form, providing when a decision involving a child is made, the child must be given adequate information, information and opportunity to respond to a decision or express their wishes. The new provision changes previous language that a child 'should' have these opportunities to stating they 'must' have them.
- 4.89 At the public hearing, the Department highlighted the 'strengthened participation rights', including 'the shift from discretionary to mandatory obligations for children to be genuinely involved in decisions'.²⁰¹ The Committee received supportive comments

²⁰⁰ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 6.

²⁰¹ Department of Children and Families, Committee Transcript, 4 June 2026, p. 4.

in relation to the shift in language from discretionary to mandatory obligations.²⁰² FKCANT noted their strong support for the amendments and in particular, 'legislative language strengthening participation obligations from discretionary wording to mandatory obligations'.²⁰³

4.90 FKCANT also submitted that meaningful participation has significant benefits for children, including improving trust and placement stability, supporting wellbeing and reducing trauma, and strengthening children's agency and identity. In this regard, FKCANT highlighted that the shift in legislative language must be accompanied by adequate implementation supports, including:

- age-appropriate communication
- culturally safe participation methods
- trusted adults and advocates
- time to process decisions
- trauma informed engagement.²⁰⁴

4.91 Similarly, the Committee heard sufficient supports must be available to children to enable meaningful participation of children. While acknowledging proposed section 12 is a 'positive element' in the Bill, Families Australia noted that the 'intent of these reforms depends on sustained and effective investment in supports that address the drivers of harm'.²⁰⁵

4.92 The Committee heard the strengthened language enhances the rights of children under the UNCRC.²⁰⁶ Children's Ground submitted that:

It is consistent with the Convention on the Rights of the Child, particularly Article 12, which requires children capable of forming their own views to have the right to express those views freely in all matters affecting them and for those views to be given due weight. It is also consistent with Article 3, which requires the best interests of the child to be a primary consideration, and with Articles 20 and 30, which recognise the importance of cultural identity, community and language for children deprived of their family environment and for Indigenous children.

The strengthening of children's voice is particularly important. However, children's participation must be culturally safe, age appropriate, disability accessible, trauma informed and supported by independent advocacy where required.²⁰⁷

4.93 Similarly, OzChild highlighted that children's voices should be enhanced, but simultaneously understood in the broader context of kinship decision-making:

A child's best interests cannot be determined without hearing their voice in ways that are age-appropriate, trauma-informed, and culturally safe. For Aboriginal

²⁰² Emma Henke and Hannah Gibson, Submission No. 122; Foster and Kinship Carers Association NT, Committee Transcript, 5 June 2026; Department of Children and Families, Committee Transcript, 5 June 2026.

²⁰³ Foster and Kinship Carers Association NT, Submission No. 24, p. 6.

²⁰⁴ Foster and Kinship Carers Association NT, Submission No. 24, p. 6.

²⁰⁵ Families Australia, Submission No. 70, p. 20.

²⁰⁶ Children's Ground, Submission No. 80, p. 1.

²⁰⁷ Children's Ground, Submission No. 80, p. 8.

children, the voice of the child cannot be separated from family, kin, community, culture, and Country.²⁰⁸

4.94 The First Nations NGO Alliance and Allies for Children similarly submitted that:

For Aboriginal children, this must also recognise that a child's voice is inseparable from family, kin, community, culture, and Country. Meaningful participation therefore extends beyond individual consultation and should be culturally grounded, relational, and connected to collective identity and belonging. Without this broader understanding, there is a risk that participation is interpreted too narrowly and does not fully reflect the cultural and community context of Aboriginal children's lives.²⁰⁹

Committee comments

4.95 In this instance, the Committee considers the provisions are appropriate as currently drafted.

Proposed section 12 – Children with disabilities

4.96 Proposed section 12 seeks to set out principles for the treatment of children with disabilities. It remakes existing section 12A in substantially the same form, removing a requirement for age to be considered in determining maturity and understanding. This is consistent with the principles in new section 8, relating to all children.²¹⁰

4.97 The Committee received limited comments in relation to proposed section 12. The NT Anti-Discrimination Commission welcomed the inclusion of provisions relating to children with disabilities, while submitting that the Bill should 'go further to expressly [recognise] the obligation to reasonably accommodate disability, communication, cultural and trauma related needs throughout all stages of engagement, participation and decision making'.²¹¹

4.98 The Committee notes proposed section 12 interacts with proposed section 7(4)(a), which provides the underlying principles do not create, or confer on any person, any right or entitlement enforceable at law. Despite, the operation of proposed section 7(4)(a), the Committee observes that proposed section 12 retains the word 'right' in relation to children with disabilities. The Committee notes that explicit references to 'rights' have been removed from other provisions, such as proposed section 12C(2)(a), to 'reflect the underlying policy intent that the [Care and Protection] Act's principles do not create or confer on any person any right or entitlement [enforceable] at law'.²¹²

4.99 The Committee notes the Explanatory Statement does not currently explain the interaction between the explicit 'rights' in proposed section 12 and proposed section 7(4)(a). The Committee also notes that, while proposed section 7(4)(a) is

²⁰⁸ OzChild, Submission No. 41, p. 3.

²⁰⁹ First Nations NGO Alliance and Allies for Children, Submission No. 55, p. 11.

²¹⁰ Explanatory Statement, Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (Serial 67), https://parliament.nt.gov.au/_data/assets/pdf_file/0015/1612500/Explanatory-Statement-Care-and-Protection-of-Children-Legislation-Amendment-Every-Child-Matters-Bill-2026-Serial-67.PDF, p. 4.

²¹¹ Northern Territory Anti-Discrimination Commission, Submission No. 9, p. 3.

²¹² Explanatory Statement, Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (Serial 67), https://parliament.nt.gov.au/_data/assets/pdf_file/0015/1612500/Explanatory-Statement-Care-and-Protection-of-Children-Legislation-Amendment-Every-Child-Matters-Bill-2026-Serial-67.PDF, p. 5.

modelled on the NSW legislation, explicit references to ‘rights’ are retained in the NSW legislation.²¹³

Committee comments

4.100 In the Committee’s view, it is unclear why proposed section 12 has retained references to ‘rights’ for children with disabilities, noting this language has been removed from other provisions to make the operation of proposed section 7(4)(a) expressly clear. The Committee considers this inconsistency could create confusion in interpreting the legislation.

4.101 In this instance, the Committee considers the provisions appropriate as currently drafted. However, the Committee considers that additional information should be included in the explanatory materials accompanying the Bill to ensure the intention of the provision and its interaction with proposed section 7(4)(a) are expressly clear.

Recommendation 2

The Committee recommends that a supplementary explanatory statement be tabled explaining the interaction between proposed section 7(4)(a) and proposed section 12.

Proposed section 12A – Role of family

4.102 Proposed section 12A seeks to replace existing section 8 of the Care and Protection Act, which provides for the principle of the role of family. Amendments to the existing provision include:

- ‘clarifying’ that a child must be removed from their family if there is ‘a significant and likely risk of harm, rather than providing they may be removed if there is an unacceptable risk of harm (proposed section 12A(3)).²¹⁴
- removing the requirement that, as far as practicable and consistent with the best interest of the child, the child should eventually be returned to their family and, instead providing contact between the child and their family should be encouraged and supported (proposed section 12A(4)).

‘Significant and likely risk of harm’

4.103 Several submitters argued that the wording in proposed section 12A(3) has the effect of lowering the threshold for removing children by changing from an ‘unacceptable risk of harm’ to ‘significant and likely risk of harm’. Submitters contended that the altered threshold may have the effect of:

- more children being removed from their families and entering OOHC.²¹⁵

²¹³ For example, *Children and Young Persons (Care and Protection) Act 1998*, ss 12A(2)(a) and (e).

²¹⁴ Explanatory Statement, Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (Serial 67), https://parliament.nt.gov.au/data/assets/pdf_file/0015/1612500/Explanatory-Statement-Care-and-Protection-of-Children-Legislation-Amendment-Every-Child-Matters-Bill-2026-Serial-67.PDF, p. 4.

²¹⁵ Submissions 21, 37, 38, 73, 75, 99, 100, 105, 117, 123, 133, 136 and 137.

- children experiencing significant trauma or other harms, particularly in OOHHC.²¹⁶
- creating barriers for families to engage with support services and the Department.²¹⁷
- disproportionately impacting Aboriginal children and families, families in remote areas and parents with disabilities.²¹⁸
- weakening the ACPP.²¹⁹

4.104 NAAJA submitted that, when combined with the other amendments in the Bill, proposed section 12A(3) will have a negative impact on children:

Lowering the threshold for removal, prioritising immediate safety and placement stability shifts the focus of the legislation to immediate safety at the cost of the long-term safety, security and wellbeing of children. This legislation is about child removal, not child protection. It will cause harm to a generation of children.²²⁰

4.105 Many submitters noted these risks stemmed from the lack of legal clarity regarding the term ‘significant and likely risk of harm’. The Committee notes the concept of an ‘unacceptable risk of harm’ has been considered extensively by Australian courts.²²¹ The case law establishes that assessment may permit intervention where the consequences of the feared harm are serious, even where the probability of that harm occurring is relatively low.²²² By contrast, submitters noted that proposed section 12A’s reference to ‘significant and likely harm’ would require consideration of both the significance of the anticipated harm and the likelihood of its occurrence.²²³

4.106 With regard to the clarity of the new threshold, the Law Society NT submitted that:

What constitutes a likely risk is not defined in the legislation, and the phrasing of ‘significant and likely risk’ is not a common legal phrase whose meaning is clear (such as the term ‘reasonable likelihood’, which indicates a test on the balance of probabilities). Indeed, the ordinary meaning would not seem to require the risk to be more likely than not, just possible, for the removal of children from the families of Territorians to be mandated.²²⁴

4.107 Some submitters suggested that departing from a well-established legal threshold for removal and introducing a new, unclearly defined threshold, will enable the Department to exercise greater discretion in how the threshold is applied.²²⁵ This could result in ‘inconsistent and disproportionate removals’.²²⁶ In a joint submission,

²¹⁶ Submissions 30, 73, 117, 123 and 137.

²¹⁷ Northern Territory Legal Assistance Forum, Submission No. 117, p. 3

²¹⁸ Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women’s Council, Submission No. 100, p. 4; Dr Hayley Boxall et. al., Submission No. 99, p. 6; Law Society NT, Submission No. 137, p. 3.

²¹⁹ National Commission for Aboriginal and Torres Strait Islander Children and Young People, Submission No. 38, pp. 2-3.

²²⁰ North Australian Aboriginal Justice Agency, Submission No 30, p. 6.

²²¹ *M v M* [1988] HCA 68.

²²² Australasian Institute of Judicial Administration, ‘Unacceptable Risk and Best Interests’, *National Domestic and Family Violence Bench Book* (2025), <https://dfvbenchbook.aija.org.au/article/1080472>.

²²³ Law Society NT, Submission No. 137, p. 3.

²²⁴ Law Society NT, Submission No. 137, p. 3

²²⁵ Dr Hayley Boxall et. al., Submission No. 99, p. 6; Law Society NT, Submission No. 137, p. 3.

²²⁶ Aboriginal Medical Services Alliance NT, Committee Transcript, 4 June 2026, p. 4.

Dr Hayley Boxall and other academics highlighted this discretion and the potential effects bias may have on Aboriginal families:

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.²²⁷

4.108 Some submitters suggested that the lack of clear language in proposed section 12A(3) will likely lead to an increase in burdens on the courts.²²⁸ For example, the Law Society NT submitted the amendments would result in 'an increase in Court proceedings' and 'a significant burden on the Courts to determine the uncertainty of language in the proposed amendments with respect to risk assessments for children'.

²²⁹ This would in turn:

result in a substantial increase in workload for the sector. Of particular concern to the Society is the increased burden on the Youth Court that this change will create, likely resulting in a backlog of matters and additional pressure on a system which is already struggling under the demand for its resources.²³⁰

In light of these uncertainties, many submitters recommended that proposed section 12A should be amended to retain the 'unacceptable risk of harm' threshold.²³¹

4.109 The Committee sought advice about what will constitute 'significant and likely risk of harm', and how this differs from 'an unacceptable risk of harm'. The Department did not advise whether it was intended to alter the threshold for removals but stated that:

The test in section 12A has been amended to align with the language in related provisions, which provide guidance on what constitutes "significant and likely risk of harm", specifically:

Section 15 deals with harm to child, and states at subsection (1) that "Harm to a child is any significant detrimental effect caused by any act, omission or circumstance on:

- (a) the physical, psychological or emotional wellbeing of the child; or
- (b) the physical, psychological or emotional development of the child.

Section 15(2) provides guidance on causation of harm to a child, including:

²²⁷ Dr Hayley Boxall et. al., Submission No. 99, p. 6.

²²⁸ Dr Hayley Boxall et. al., Submission No. 99, p. 6; Law Society NT, Submission No. 137, p. 3.

²²⁹ Law Society NT, Submission No. 137, p. 3.

²³⁰ Law Society NT, Submission No. 137, p. 3.

²³¹ Submissions 30, 37, 38, 73, 75, 99, 100, 105, 117, 123, 133, 136, 137 and 138.

- (a) physical, psychological or emotional abuse or neglect of the child;
- (b) sexual abuse or other exploitation of the child;
- (c) exposure of the child to physical violence;
- (d) exposure of the child to domestic or family violence.”

Section 20 of the current Act provides guidance for when child is in need of care and protection, and relevantly states:

- (a) the child has suffered or is likely to suffer harm or exploitation because of an act or omission of a parent of the child.

In *Re H. & Others* [1996] AC 563, the court discussed the use of the term likely in the context of a similar provision in English child welfare legislation. [L]ikely is being used in the sense of a real possibility, a possibility that cannot sensibly be ignored having regard to the nature and gravity of the feared harm in the particular case.²³²

4.110 Due to the lack of clarity around the threshold, some stakeholders called for additional guidance to be provided to families. The NPY Women’s Council emphasised how important it is for parents to understand their rights and obligations under the new threshold:

It is crucial that parents are supported throughout this process, including understanding their rights and obligations, particularly about any new court processes or orders proposed in the Bill. Parents in the NPY region already face significant barriers to being able to fully engage in child protection processes including; language barriers, high mobility across borders, high staff turnover within [the Department] among others. These implications need to be carefully considered, with adequate time for consultation, when making any changes to legislation.²³³

4.111 The Committee also sought advice from the Department regarding public guidance on factors that will be considered in determining ‘significant and likely risk of harm’. The Department advised that:

Current public guidance on child abuse provided by the NT Government informs the community about types of harm and how to report suspected child abuse, neglect or exploitation. Importantly, this guidance reflects a different threshold to that applied by the Department in making statutory decisions. Mandatory reporters and members of the public are required to report where they reasonably believe a child has suffered or is likely to suffer harm or exploitation. This is deliberately a lower threshold to encourage early reporting of concerns. By contrast, the threshold for statutory child protection intervention under the proposed Bill, such as removing a child from their family, is where there is a ‘significant and likely risk of harm’, which is a higher and more complex legal and professional standard. Determining whether this higher threshold is met is the responsibility of professionally trained child protection practitioners, based on comprehensive assessments and evidence. Providing detailed public guidance on how to assess a “significant and likely risk of harm” could create confusion between these 2 thresholds and may inadvertently discourage reporting by leading community members to believe they must assess risk at a level beyond that required of them. For this reason, public guidance will continue to focus on

²³² Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 9.

²³³ Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women’s Council, Submission No. 100, p. 4.

supporting early identification and reporting of concerns, while the application of statutory thresholds remains a professional responsibility.²³⁴

4.112 Submitters noted the use of the word 'must' in proposed section 12A(3) has the effect of changing a previous discretion to a mandatory requirement.²³⁵ The Committee heard the unclear threshold could have significant consequences noting removal is now mandatory rather than discretionary.²³⁶

4.113 The National Commission for Aboriginal and Torres Strait Islander Children and Young People submitted that:

The proposed change states that a child 'must be removed' based on a broader test of 'significant or likely risk of harm', expanding the circumstances in which removal 'must' occur. In practice, this is likely to result in more children being removed in situations where appropriate, culturally informed support could instead reduce risk and keep families safely together. This is particularly concerning given the well-documented harms associated with removal, including trauma and an increased likelihood of future interaction with the justice system.²³⁷

4.114 In relation to the effect of changing the word 'may' to 'must' in proposed section 12A, and whether the Department anticipates this will result in more child removals, the Department advised that:

When used in legislation, the word "may" affords discretion, whereas the use of "must" specifies an obligation. Thus, the effect is that when a child protection practitioner forms a belief that there is a significant and likely risk of harm to a child, the child must be removed to safeguard their safety and wellbeing. Removing the subjective element of what an individual believes is unacceptable, and removing discretionary language ensures clearer consistent decision making. The Department does not anticipate this will result in more children being removed from their families, and that opinion can only be formed by reading this provision in isolation and ignoring the introduction of early intervention mechanisms designed to support families before risks escalate.²³⁸

Removal of 'returned to family' requirement

4.115 Proposed section 12A(4) has the effect of removing the existing requirement under section 8(4)(b) that, as far as practicable and consistent with the best interest of the child, the child should eventually be returned to their family and, instead provides that contact between the child and their family should be encouraged and supported. The Explanatory Statement explains 'subsection (4)(b) relating to the eventual return of a

²³⁴ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 8.

²³⁵ National Commission for Aboriginal and Torres Strait Islander Children and Young People, Submission No. 38, pp. 2-3; Dr Hayley Boxall et. al., Submission No. 99, p. 6; Jumbunna Institute for Indigenous Education and Research, University of Technology Sydney, Submission No. 123, pp. 8-9.

²³⁶ National Commission for Aboriginal and Torres Strait Islander Children and Young People, Submission No. 38, pp. 2-3; Dr Hayley Boxall et. al., Submission No. 99, p. 6; Jumbunna Institute for Indigenous Education and Research, University of Technology Sydney, Submission No. 123, pp. 8-9.

²³⁷ National Commission for Aboriginal and Torres Strait Islander Children and Young People, Submission No. 38, pp. 2-3.

²³⁸ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 8.

child to their family is removed to avoid confusion regarding the interaction with other principles in new Part 1.3'.²³⁹

4.116 The Committee notes the amendments are intended to work in tandem with the broader 2-year reunification framework set out in the Bill, including the 'proactive efforts' in proposed section 12D and short-term responsibility directions in proposed sections 123 and 128.

4.117 Submitters highlighted the effect of this amendment on reunification within the broader context of the Bill. CatholicCare NT advocated for retaining the requirement that, as far as practicable and consistent with the best interest of the child, the child should eventually be returned to their family. CatholicCare submitted that, in combination with other parts of the Bill, the cumulative impact will weaken reunification practices:

While section 12D requires "proactive efforts" to prevent removal and, after removal, to reunify the child with parents or family within two years, section 7(4) makes clear that these principles do not create enforceable legal rights, and section 8(3)(b) treats reunification only as a factor that "may" be relevant rather than a primary consideration. This concern is reinforced by the Bill's reduction of short-term parental responsibility directions from two years to one year and by the requirement in section 128(1A) that any further short-term order can only be made where there is a high probability of reunification and no adverse impact on long-term stability and security, which may push matters more quickly toward long-term separation.²⁴⁰

4.118 Some submitters contended that proposed section 12A(4) limits a child's right to ongoing contact with their family. The Law Society NT submitted this will likely have a disproportionate effect on children from remote communities, who will require adequate resourcing to support contact:

The unique geographical and resourcing constraints in the Northern Territory already prove difficult for children removed from their families to maintain and foster meaningful relationships. Children taken from remote communities are disproportionately affected by the lack of resources and funding available to facilitate regular contact. The introduction of the proposed s 12A(4) will likely result in the practical effect of less contact being maintained for children removed to metropolitan areas, away from family and community which will further impact whether reunification is a realistic possibility.

If the proposed amendment in s 12A(4) is adopted, it must be accompanied by adequate resourcing to support families in maintaining contact, particularly where children are placed with carers at significant geographic distance from their families and communities. This resourcing has not been provided for in the NT Budget and, in the Society's view, will require considerable funding.²⁴¹

4.119 Families Australia submitted that proposed section 12A does not include sufficient reference to shared decision-making or the role of ACCOs:

²³⁹ Explanatory Statement, Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (Serial 67), https://parliament.nt.gov.au/_data/assets/pdf_file/0015/1612500/Explanatory-Statement-Care-and-Protection-of-Children-Legislation-Amendment-Every-Child-Matters-Bill-2026-Serial-67.PDF, p. 4.

²⁴⁰ CatholicCare NT, Submission No. 105, p. 7.

²⁴¹ Law Society NT, Submission No. 137, pp. 4-5.

While the Bill recognises family in s. 12A (Role of family) and the responsibilities of public authorities in section 12F (Responsibility of public authorities), it does not include reference to:

- shared decision-making
- statutory involvement of community-controlled organisations in care, planning and placement decisions.²⁴²

4.120 The Committee sought advice from the Department regarding the intention of this proposed amendment and how will it operate different to the existing provision. The Department advised that:

When new provisions are added to an existing Act by an amending bill, the interaction of the new and existing provisions must be considered to avoid conflict and ensure clear intent and objectives.

The amendment in proposed section 12A reflects this need. The introduction of the proactive efforts principle, and timeframes for reunification and family finding, and achieving stability and certainty for a child may conflict with a child eventually being returned to their family, if it is not in the child's best interest.

In these circumstances, section 12A supports and encourages that contact between a child and their family is maintained, subject to the best interest considerations.²⁴³

Committee comments

4.121 The Committee notes the Department's advice that the change in wording in proposed section 12A(3) is intended to align with other provisions of the Care and Protection Act. Notwithstanding the Department's advice, it remains unclear whether the proposed amendment is intended to alter the statutory threshold for intervention or merely restate the existing threshold using different language.

4.122 On balance, the majority of the Committee considers the provisions are appropriate as currently drafted. However, the Committee considers that the explanatory materials should explain the changes to the statutory threshold for removals.

4.123 The Committee notes the effect of proposed section 12(4) in removing the 'return to family' requirement is consistent with the policy objectives of the Bill and intended to operate alongside the broader reunification framework.

Recommendation 3

The Committee recommends that a supplementary explanatory statement be tabled clarifying whether 'significant and likely risk of harm' is intended to alter the existing threshold for removing a child from their family.

Proposed section 12B – Universal principle

4.124 Proposed section 12B introduces a new universal principle for the placement of children. It provides:

²⁴² Families Australian, Submission No. 70, p. 18.

²⁴³ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 9.

- As far as practicable, and consistent with their best interest, a child should be placed with a parent (proposed section 12B(1)).
- Where this is not practicable or consistent with the best interest of the child, the child should be placed with:
 - a family member, or
 - a person approved by the CEO for a placement arrangement under section 78(1)(a)(iii) of the Care and Protection Act (proposed section 12B(2)).
- Factors that a decision should ensure, when a significant decision involving a child is made, including providing the child with a sense of permanence and long-term stability (proposed section 12B(3)).

4.125 The Explanatory Statement notes that:

New section 12B introduces a principle providing for the placement of children. This new provision aims to promote positive long-term outcomes for children in the statutory child protection system through timely decision making and decisive action towards either reunification with family or alternative long-term care to mitigate the trauma, emotional, and behavioural difficulties caused by uncertainty and multiple placement changes.²⁴⁴

4.126 During her second reading speech, the Minister further explained that proposed section 12B aligns with the Bill's broader policy objective to increase permanency and stability for children:

The Every Child Matters Bill strengthens the focus on permanency and stability for children through the introduction of section 12B, Placement of Children, a universal principle that applies to all children in the Territory, no matter their background.

This principle ensures decision-makers will prioritise the child's long-term safety, stability and sense of permanency in every placement decision consistent with the child's best interest. It also requires decision-makers to support positive, trusting and nurturing relationships with people who are significant to the child ensuring that every child receives the stability and connections they need to thrive.

By making all children subject to the child placement hierarchy, we are ensuring consistency across the statutory child protection system and reinforcing that where it is safe to do so, children should be placed with their families.²⁴⁵

4.127 The Committee notes the universal principle is intended to operate in tandem with proposed section 12C to replace the principles relating to placement arrangements for Aboriginal children currently set out in existing section 12. The Committee further

²⁴⁴ Explanatory Statement, Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (Serial 67), https://parliament.nt.gov.au/_data/assets/pdf_file/0015/1612500/Explanatory-Statement-Care-and-Protection-of-Children-Legislation-Amendment-Every-Child-Matters-Bill-2026-Serial-67.PDF, p. 4.

²⁴⁵ Hon Robyn Cahill OAM MLA, Minister for Child Protection, Draft Daily Hansard – Wednesday 13 May 2026, <https://territorystories.nt.gov.au/10070/1036731>, p. 16.

notes proposed sections 12B and 12C interact with the Department's current policy guidance on placement arrangements.²⁴⁶

- 4.128 Many submitters discussed issues associated with proposed sections 12B and 12C together. These issues are discussed below in 'Removal of the placement hierarchy for Aboriginal children'.

Permanency and stability

- 4.129 Proposed section 12B(3)(b) provides that when a significant decision involving a child is to be made, the decision should ensure that the legal arrangements for the child's care provide the child with a sense of permanence and long-term stability. A note accompanying section 12B explains: 'Legal arrangements include a long-term parental responsibility direction or a permanent care order'.

- 4.130 Some submitters supported the enhanced focus on permanency. For example, one submitter stated:

I support prioritising placement with parents and family members where safe and appropriate.

This demonstrates that the Bill is not about removing children from families unnecessarily. It supports family connection where safe while recognising that safety and best interests must guide decisions.²⁴⁷

- 4.131 However, other submissions raised concerns that, when combined with other provisions in the Bill, proposed section 12B(3)(b) will result in more children being removed from their homes permanently.²⁴⁸

- 4.132 The Mikan Aboriginal Corporation submitted proposed section 12B(3) works in conjunction with other parts of the Bill to 'to compress the timeframe within which reunification with family is realistically possible, and to push the system toward early decisions for permanent placement'.²⁴⁹ For example, Emma Henke and Hannah Gibson argued that:

the considerations provided in proposed s 12B will disproportionately impact children whose families or carers are experiencing financial and/or housing insecurity.²⁵⁰

Committee comments

- 4.133 The majority of the Committee considers proposed section 12B reflects the policy intent of the Bill and is appropriate as currently drafted.

²⁴⁶ Department of Children and Families, *Placements Policy* (2026), <https://families.nt.gov.au/media/documents/for-people-working-with-or-caring-for-children/child-protection-policies-for-carers/placements-policy.pdf>.

²⁴⁷ Name withheld on request, Submission No. 10, p. 3.

²⁴⁸ Stephen Enciso, Submission No. 16, p. 3.

²⁴⁹ Mikan Aboriginal Corporation, Submission No. 45, p. 12.

²⁵⁰ Emma Henke and Hannah Gibson, Submission No. 122, p. 2.

Proposed section 12C – Principles for Aboriginal children

4.134 Existing section 12 of the Care and Protection Act sets out specific principles that apply to Aboriginal children, including:

- setting out a placement hierarchy for Aboriginal children and requiring they be placed, as far as practicable, in close proximity to the child's family and community.²⁵¹
- setting out certain rights for Aboriginal children and families.²⁵²
- requiring decisions involving Aboriginal children to be healing focused and trauma-informed.²⁵³
- recognising kinships groups, ACCOs and communities of Aboriginal people are having a major role in promoting the wellbeing of Aboriginal children.²⁵⁴

4.135 Clause 6 seeks to replace existing section 12 with proposed section 12C, with a number of key amendments, including:

- removing the placement hierarchy for Aboriginal children and providing that proposed section 12C is subject to the universal placement hierarchy in proposed section 12B (proposed section 12C(4)).
- removing the 'right' for Aboriginal children to be brought up within the child's own family and community and on the child's own Country.
- replacing the 'right' for Aboriginal children to maintain a connection to family, community, culture, traditions, language and Country with a requirement for Aboriginal children to be 'supported' to do this (proposed section 12C(2)(3)(b)).
- removing the 'right' for Aboriginal children and families to identify specified persons to participate in decision-making and replacing with an 'opportunity' to identify 'any other person' if they are of significance to the child (proposed section 12C(2)(b)).
- replacing the 'right' for Aboriginal families to participate in administrative and judicial processes and to identify other persons to participate in decision-making with 'opportunities' that should be given (proposed section 12C(2)(a)).
- removing requirements for decisions involving Aboriginal children to be healing-focused and trauma-informed.
- removing references to ACCOs as having a major role in promoting the wellbeing of children (proposed section 12C(1)).

²⁵¹ *Care and Protection of Children Act 2007*, ss 12(2D), (3) and (4)

²⁵² *Care and Protection of Children Act 2007*, ss 12(2), (2B) and (2C).

²⁵³ *Care and Protection of Children Act 2007*, s 12(2A).

²⁵⁴ *Care and Protection of Children Act 2007*, s 12(1).

Removal of the placement hierarchy for Aboriginal children

4.136 Existing section 12(3) of the Care and Protection Act sets out a placement hierarchy for Aboriginal children. As far as practicable, an Aboriginal child should be placed with a person in the following order of priority:

- a member of the child's family
- an Aboriginal person in the child's community in accordance with local community practice
- any other Aboriginal person
- a person who is not an Aboriginal person but in the CEO's opinion is sensitive to the child's needs and capable of supporting the child to develop and maintain a connection with the child's family, community, culture, traditions, language and country.

4.137 Proposed section 12C has the effect of removing the existing placement hierarchy for Aboriginal children. The Explanatory Statement notes that:

New section 12C removes the provisions relating to the Aboriginal Child Placement, which is now provided for through the new placement of children principle at section 12B, which applies to all children.²⁵⁵

4.138 Proposed section 12C(4) further provides the principles set out in proposed section 12C are subject to the principles set out in proposed section 12B. The Explanatory Statement explains this is intended to 'reflect that permanency and stability extends to all children, and the underlying policy intent that the paramount concern for those administering the Act is the best interests of the child as prescribed in new section 8'.²⁵⁶

4.139 The Department explained the intended interaction between proposed sections 12B and 12C:

For the first time, it introduces a universal placement principle that applies to every child in the Northern Territory, establishing that, where safe and practicable, children should be placed first with a parent, then a family member or then another approved person. This is a new hierarchy of placement consideration which provides consistent guidance for courts, practitioners and department decision-makers.

The [ACPP] operates alongside this framework. It recognises kinship groups and self-determination; supports the participation of Aboriginal children and families in significant decisions; strengthens cultural connection requirements; and confirms that cultural principles apply alongside the child's best interests and permanency considerations. These two principles are complementary; they do not compete. The universal principle ensures all children are placed as close to family as possible. The [ACPP] provides the additional specific cultural

²⁵⁵ Explanatory Statement, Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (Serial 67), https://parliament.nt.gov.au/_data/assets/pdf_file/0015/1612500/Explanatory-Statement-Care-and-Protection-of-Children-Legislation-Amendment-Every-Child-Matters-Bill-2026-Serial-67.PDF, p. 4.

²⁵⁶ Explanatory Statement, Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (Serial 67), https://parliament.nt.gov.au/_data/assets/pdf_file/0015/1612500/Explanatory-Statement-Care-and-Protection-of-Children-Legislation-Amendment-Every-Child-Matters-Bill-2026-Serial-67.PDF, p. 4.

protections that Aboriginal children require and that this Bill explicitly preserves.²⁵⁷

4.140 Some submitters considered that the parts of existing section 12 that have been retained are sufficient safeguards for Aboriginal children.²⁵⁸ These submitters argued that safety and permanency are more important than cultural considerations when placing a child. For example, the NTPA submitted that:

cultural continuity remains important and that cultural identity should be preserved wherever safely possible; but that no child should remain exposed to violence, exploitation, or neglect because of rigid adherence to placement preferences... the Bill appropriately balances child safety, permanency, family connection, cultural identity, and practical child protection realities.²⁵⁹

4.141 However, many stakeholders raised concerns that the provisions as currently drafted have the effect of removing or substantially weakening the ACP. ²⁶⁰ Several submitters argued that proposed section 12B and the 'close proximity' requirement in proposed section 12C(3) are not an adequate substitution for the existing placement hierarchy in section 12.²⁶¹ The National Justice Project submitted that:

Non-Indigenous carers who live in 'close proximity' to a First Nations child's family and community, are not able to facilitate these connections in the same meaningful way, and will place these children at a disadvantage in seeking to build and maintain these connections, which are an essential part of their cultural, social and emotional wellbeing and development.²⁶²

4.142 Stakeholders stated the provisions as currently drafted could have significant implications for Aboriginal children, including:

- allowing decision-makers to exercise greater discretion to prioritise non-kin placements in pursuit of stability or permanency.²⁶³
- more Aboriginal children being removed from their homes and placed in non-kinship placements.²⁶⁴
- creating long-term harms for Aboriginal children through disconnection from culture, language, community and Country.²⁶⁵

²⁵⁷ Department of Children and Families, Committee Hansard, 5 June 2026, p. 2.

²⁵⁸ Senator Jacinta Nampijinpa Price, Submission No. 49; Northern Territory Police Association, Submission No. 108.

²⁵⁹ NT Police Association, Submission No. 108, p. 3.

²⁶⁰ Submissions. 9, 11, 16, 27, 42, 45, 52, 55, 56, 58, 60, 62, 63, 64, 65, 66, 67, 70, 71, 73, 75, 77, 78, 79, 80, 81, 83, 85, 87, 88, 90, 91, 92, 94, 96, 99, 100, 101, 102, 104, 109, 110, 111, 113, 114, 116, 117, 118, 120, 123, 124, 125, 130, 133, 134 and 137

²⁶¹ Bravehearts, Submission No. 39; National Justice Project, Submission No. 87; Aboriginal Housing Northern Territory, Submission No. 136.

²⁶² National Justice Project, Submission No. 87, p. 2.

²⁶³ Mikan Aboriginal Corporation, Submission No. 45, p. 4; Children's Ground, Submission No. 80, p. 8; CatholicCare NT, Submission No. 105, p. 22; Guardian for Children and Young People, South Australia, Submission No. 120, p. 6

²⁶⁴ Mikan Aboriginal Corporation, Submission No. 45, p. 4; Children's Ground, Submission No. 80, p. 8; CatholicCare NT, Submission No. 105, p. 22; Guardian for Children and Young People, South Australia, Submission No. 120, p. 6

²⁶⁵ SNAICC – Voice for Our Children, Submission No. 130, p. 5; Royal Australian and New Zealand College of Psychiatrists, Submission No. 50, p. 4; NT Mental Health Coalition, Submission No. 66, p. 4.

- entrenching systemic discrimination and intergenerational trauma.²⁶⁶

4.143 SNAICC highlighted the potential dangers associated with placing Aboriginal children in non-kinship placements without adequate connection to family and culture:

Extensive evidence demonstrates that separating Aboriginal children from family, culture, community and Country has adverse impacts on their safety and wellbeing. Loss of cultural identity and family connection is associated with poor outcomes across health, education, justice involvement and lifelong wellbeing, including increased rates of youth suicide.²⁶⁷

4.144 In contrast to these concerns, the Department advised that the Bill is not intended to remove the ACPP but 'restructures the way the placement principles operate in the legislation'.²⁶⁸ In this regard, the 'amendments to the ACPP are minor and do not change the priority placement specific to Aboriginal children'.²⁶⁹ The Department further clarified that:

Under the new child placement principle, placement with a family member remains the priority. Notwithstanding that "an Aboriginal person in the child's community in accordance with local community practice" is not explicitly mentioned, kinship carers are captured under section 78(1)(a)(iii) and section 12C(3)(a) has the effect of prioritising kinship carers in close proximity to the child's community for an Aboriginal child. Similarly, where an Aboriginal child is placed with a non-Aboriginal carer, section 12C(3)(b) prioritises carers that will support the child to develop and maintain a connection with the child's family, community, culture, traditions, language and country. The Bill proposes to remove "any Aboriginal person" from the [Care and Protection] Act as it is not appropriate to place a child in the care of "any person" based solely on the person identifying as belonging to a particular race group, and any person identified as a potential carer must be assessed as suitable. This is to avoid removing a child from a harmful environment, only to be subjected to further harm by their carer.²⁷⁰

4.145 The Department further advised that the ACPP 'will not be removed from the Placement Policy'. However, it will be 'updated to reflect the placement hierarchy in the Bill, should it pass'.²⁷¹

4.146 While opposing the proposed amendments in proposed sections 12B and 12C, many submitters argued that the principal difficulties experienced in the NT arise from poor implementation of the existing ACPP rather than deficiencies in the legislation itself.²⁷² The Committee heard that the NT already has the lowest rate (17.6%) of placing Aboriginal children in OOH with Aboriginal kin.²⁷³

²⁶⁶ Submissions 27, 46, 50, 55, 70, 77, 78, 83, 90, 105, 106, 124, 128, 130 and 133; Aboriginal Housing NT, Committee Transcript, 5 June 2026; North Australian Aboriginal Justice Agency, Committee Transcript, 4 June 2026.

²⁶⁷ SNAICC – Voice for Our Children, Submission No. 130, p. 5.

²⁶⁸ Department of Children and Families, Committee Hansard, 27 May 2026, p. 3.

²⁶⁹ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, pp. 9-10.

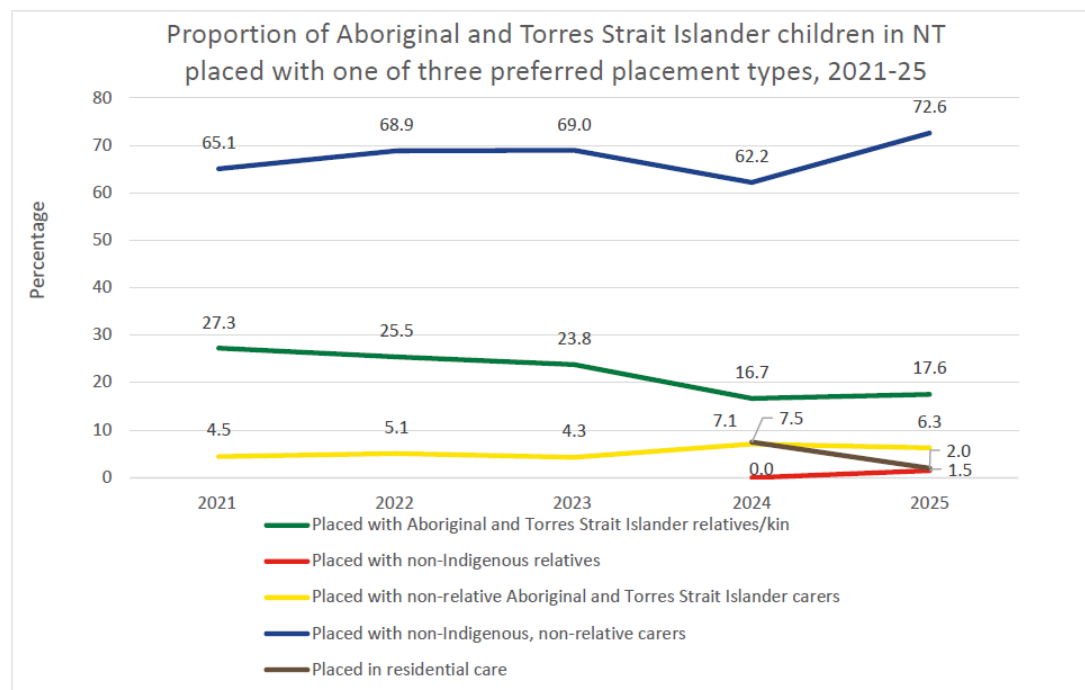
²⁷⁰ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, pp. 9-10.

²⁷¹ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, pp. 9-10.

²⁷² Office of the Children's Commissioner, Committee Transcript, 4 June 2026, p. 1.

²⁷³ SNAICC – Voice for Our Children, Submission No. 130, p. 12.

Figure 1: Proportion of Aboriginal and Torres Strait Islander child in NT placed in preferred placements, 2021-25²⁷⁴



4.147 Explaining ACPP implementation issues in detail, the Office of the Children’s Commissioner submitted that:

Poor outcomes for Aboriginal children in the NT reflect failures of implementation, investment and accountability. They are not failures of the current legislation.

The numbers speak plainly. Aboriginal children make up 43% of the NT’s child population but 89% of children in out-of-home care. The NT removes Aboriginal children at 12.1 times the rate of non-Aboriginal children. In 2024–25, just 16.7% of Aboriginal children in care were placed with Aboriginal relatives or kin — the lowest rate in Australia. As at 30 June 2022, 76.8% of Aboriginal children in out-of-home care who were required to have a cultural support plan did not have one. SNAICC’s 2021–23 review of the implementation of the [ACPP] in the Northern Territory found a “continued and widespread failure to ensure that OOHC care placements adhere to the Child Placement Principle placement hierarchy”, and concluded that the legislation “is not actively being applied in practice”.

The Department’s own investment pattern explains a great deal of that failure. In 2023–24 the Department spent \$34.9 million on Purchased Home Based Care — a high-cost, agency-staffed placement type that almost no Aboriginal carers provide — and \$4.1 million on kinship-care services. Of the Department’s \$223 million child and family services budget, only 7% was allocated to Aboriginal Community Controlled Organisations (ACCOs). Aboriginal carers provide 85% of family placements and 28% of foster placements, but 0% of Purchased Home Based Care placements.

The trend is moving in the wrong direction. SNAICC’s 2021–23 review records that the proportion of Aboriginal children in NT out-of-home care placed with Aboriginal relatives or kin fell from 27.3% in 2021 to 23.8% in 2023, and further to 16.7% in 2024–25 — Australia’s worst result, and worsening. The Productivity Commission’s Report on Government Services 2025 confirms the NT as the

²⁷⁴ SNAICC – National Voice for Our Children, Submission No. 130, p. 13.

worst-performing jurisdiction against Target 12 of the National Agreement on Closing the Gap.

None of these gaps require a single legislative change to fix. All of them require investment, workforce reform and partnership with Aboriginal organisations.²⁷⁵

4.148 Stakeholders identified a range of systemic barriers to implementing the ACPP in the NT which could not be addressed via legislative responses alone, including:

- inadequate investment in ACCOs.²⁷⁶
- limited financial support for kinship carers.²⁷⁷
- complex kinship carer approval processes.²⁷⁸
- insufficient cultural competency within the child protection system.²⁷⁹

4.149 At the public hearing, NAAJA told the Committee that there are inadequate supports and overly bureaucratic processes that prevent people from becoming kinship carers:

We see many families wanting to care for children, but are unable to get through the complex and bureaucratic kinship carer approval process. A potential kinship carer will be asked to complete up to 10 forms. Every adult in the house will have to complete five forms. Everyone must have 100 points of ID. That is only some of the requirements. For a family in an overcrowded Northern Territory Government house, where English may be the fourth or fifth language, that process can be almost impossible without support.

We categorically reject any suggestion that there are not families able and willing to care for these children. They are often out there and are not supported to navigate the process. That is only the paperwork; it is before we even get to the bigger barriers families face in being approved, which do not go to their suitability to care.²⁸⁰

4.150 NAAJA stated that these barriers are exacerbated in remote communities:

To take another example. If it is someone in a remote community where there is no on-the-ground presence of [the Department], which is really common, you cannot do this in a day. You might have to go away and apply for ID for people to be able to have them complete that form. They might not have ID, and that does not go whether or not they are a suitable carer; it goes to whether or not they have ID. You might fly out and give them the forms and say, 'We have done as much as we can do today'. Unless there are those proper follow-ups and engagement with families, you are not going to be able to navigate that process.²⁸¹

4.151 Following NAAJA's advice to the Committee, the Department agreed to work with NAAJA and other stakeholders to review and streamline the kinship carer assessment and approval processes. The Department advised the Committee that NAAJA:

²⁷⁵ Office of the Children's Commissioner, Submission No. 40, pp. 5-6.

²⁷⁶ For example, SNAICC – Voice for Our Children, Submission No. 130, p. 21.

²⁷⁷ Aboriginal Medial Services Alliance NT, Committee Transcript, 4 June 2026, p. 4; Australian Institute of Family Studies, *Review of payments for foster, kinship and permanent carers* (2025), https://cfc-sa.org.au/wp-content/uploads/2025/09/AIFS-Summary-Report_carer-payments.pdf.

²⁷⁸ North Australian Justice Agency, Committee Transcript, 4 June 2026, p. 5.

²⁷⁹ ARDS Aboriginal Corporation, Committee Transcript, 5 June 2026, p. 2.

²⁸⁰ North Australian Justice Agency, Committee Transcript, 4 June 2026, p. 2.

²⁸¹ North Australian Justice Agency, Committee Transcript, 4 June 2026, p. 5.

raised important concerns about the bureaucratic barriers that kinship carers face in getting approved—the complexity, the delays, the red tape—and made the point that these barriers are themselves a significant driver of low rates of kinship placement. We agree with many of the points that he made.

We know that children are best cared for within their own families and communities. For Aboriginal children kinship placement is not just a preference; it is a cultural imperative. The evidence is clear that it produces better outcomes. Today I commit that the department will work directly with NAAJA and other key stakeholders to review and streamline the kinship carer assessment and approval process. We want to reduce the red tape without compromising the safety checks that exist to protect children. A simpler, more culturally responsive process can also be a safe process. An increase in kinship carer rates is a genuine priority for this department; one we will progress as part of implementation of the new legislation.²⁸²

Removing the 'rights' of Aboriginal children

- 4.152 Proposed section 12C makes several changes to existing section 12 in relation to the 'rights' of Aboriginal children. The Committee notes that proposed section 12C interacts with proposed section 7(4)(a), with the Explanatory Statement explaining that explicit references to 'rights' have been removed to 'reflect the underlying policy intent that the [Care and Protection] Act's principles do not create or confer on any person any right or entitlement [enforceable] at law'.²⁸³
- 4.153 The changes to rights of Aboriginal children were a significant theme in submissions. Stakeholders raised concerns relating, not only to the drafting changes, but also to the broader shift away from rights-based protections towards more discretionary administrative obligations.
- 4.154 Several submitters drew the Committee's attention to the removal of the right for Aboriginal children to be brought up within the child's own family and community and on the child's own Country under existing section 12(2B).²⁸⁴ These submitters highlighted that family, community and Country are fundamental to an Aboriginal child's identity, wellbeing and long-term development.²⁸⁵
- 4.155 Several submissions contended that the amendment is inconsistent with the ACPP, the recommendations of the *Bringing Them Home* report, and Australia's obligations under the UNDRIP and the UNCRC.²⁸⁶ Submitters also considered the changes risk repeating practices that contributed to the Stolen Generation by making it easier for Aboriginal children to be permanently disconnected from their communities.²⁸⁷
- 4.156 The Committee similarly heard widespread criticism for replacing the 'right' to maintain connection with family, community, culture, traditions, language and Country, with a requirement that children be 'supported' to do so. Stakeholders

²⁸² Department of Children and Families, Committee Transcript, 5 June 2026, p. 3.

²⁸³ Explanatory Statement, Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (Serial 67), https://parliament.nt.gov.au/_data/assets/pdf_file/0015/1612500/Explanatory-Statement-Care-and-Protection-of-Children-Legislation-Amendment-Every-Child-Matters-Bill-2026-Serial-67.PDF, p. 5.

²⁸⁴ Submissions 30, 35, 37, 40, 47, 55, 59, 74, 79, 81, 87, 91, 94, 100, 101, 105, 109, 111, 115, 117, 118, 122, 130 and 133.

²⁸⁵ Submissions 35, 40, 47, 55, 87, 91 and 118.

²⁸⁶ Submissions 30, 40, 55, 87, 91, 109 and 118.

²⁸⁷ Submissions 35, 55, 74, 87, 100, 109 and 118.

argued the amendment has the effect of introducing a new discretion, which reduces accountability for maintaining children's cultural connections.²⁸⁸ For example, CatholicCare NT submitted that:

Connection to family, kin, community, language, culture and Country should not be treated as discretionary or secondary. These should be articulated as enduring rights that decision-makers must actively protect, not merely factors that may be taken into account.²⁸⁹

- 4.157 Submitters noted that the wording no longer requires decision-makers to actively preserve cultural identity once an Aboriginal child is placed outside their family or community.²⁹⁰ Many submitters argued that children placed with non-Aboriginal carers are particularly vulnerable to losing their language, culture, identity and family relationships if there is no strong legal obligation to maintain those connections.²⁹¹
- 4.158 Several submissions emphasised that connection to family, culture and Country should not depend upon the willingness or capacity of individual carers but should remain a statutory responsibility of the CEO and child protection system.²⁹² Submitters also consistently argued that maintaining connection is essential for identity formation, resilience, healing, belonging and long-term wellbeing, and should therefore remain a legal right rather than a matter of administrative practice.²⁹³

Participation in decision-making

- 4.159 Proposed section 12C(2) provides for 'an updated guiding principle for when a significant decision involving an Aboriginal child is made'.²⁹⁴ Proposed section 12C(2)(a) replaces existing section 12(2)(a) with amendments to replace the 'right' of a child's family members with an 'opportunity' to participate in administrative and judicial processes. The Explanatory Statement notes that:

Section 12C(2)(a) provides that a child and their family members will no longer have a right to participate and be enabled to participate in an administrative or judicial process for making a significant decision relating to an Aboriginal child. Rather the child and their family will be provided an opportunity to participate. This update ensures that children and their families have a voice in significant decisions that involves them and reflects the underlying policy intent that the Act's principles do not create or confer on any person any right or entitlement enforcement at law or affect the operation of any law in the Territory.²⁹⁵

- 4.160 Proposed section 12C(2)(b) replaces existing section 12(2)(b) to set out additional persons who can participate in decision-making for a child. The Explanatory Statement notes that these amendments 'ensure that only persons with sufficient

²⁸⁸ Submissions 35, 37, 40, 47, 55, 87, 91, 105, 109, 118 and 122.

²⁸⁹ CatholicCare NT, Submission No. 105, p. 3.

²⁹⁰ Submissions 35, 37, 55, 87, 118 and 122.

²⁹¹ Submissions 37, 47, 87, 105, 118 and 122.

²⁹² Submissions 35, 55, 91, 105 and 109.

²⁹³ Submissions 40, 47, 55, 87, 91 and 118.

²⁹⁴ Explanatory Statement, Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (Serial 67), https://parliament.nt.gov.au/_data/assets/pdf_file/0015/1612500/Explanatory-Statement-Care-and-Protection-of-Children-Legislation-Amendment-Every-Child-Matters-Bill-2026-Serial-67.PDF, p. 5.

²⁹⁵ Explanatory Statement, Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (Serial 67), https://parliament.nt.gov.au/_data/assets/pdf_file/0015/1612500/Explanatory-Statement-Care-and-Protection-of-Children-Legislation-Amendment-Every-Child-Matters-Bill-2026-Serial-67.PDF, p. 5.

interest and connection to the child can participate in significant decision making involving the child'.²⁹⁶ This issue is raised in relation to the section on 'Care Planning' later in this report.

4.161 The Department further advised that:

This amendment was informed by legal and policy analysis. In particular, it was recognised that the existing reference to a 'right' could give rise to ambiguity about whether the provision created an enforceable legal entitlement, rather than functioning as a guiding principle.

The change responds to this uncertainty by aligning the wording with the long-standing policy intent that the principles are not designed to create justiciable rights, but to guide decision-makers in exercising their functions.²⁹⁷

4.162 A number of submitters emphasised that decision-making for Aboriginal children extends beyond the immediate family and reflects broader kinship systems, cultural authority and collective responsibility within Aboriginal communities. In this regard, submitters recommended retaining enforceable participation rights.²⁹⁸

4.163 Many submitters argued the effect of proposed section 12C(2) creates a substantial reduction in procedural protections and participation for families.²⁹⁹ In particular, the Committee heard concerns that the term 'opportunity' is unclearly defined and interpretation may vary on a case-by-case basis. Stakeholders argued this could have the effect of weakening the ACPP.³⁰⁰ For example, Yourtown submitted that:

the Bill also makes clear that the underlying principles are intended to guide decision-making and do not create enforceable rights. In this context, changes that frame participation as an "opportunity to participate" risk weakening the practical influence of Aboriginal children, families and communities in significant decisions, particularly in complex statutory processes. If participation is not actively supported, there is a risk that, without clear practice expectations, accountability and monitoring, these principles will not translate into consistent practice across the system. This may result in unintended long-term outcomes for children and families, including disconnection from culture, instability in care arrangements, and reduced trust in child protection systems, which can undermine engagement and long-term wellbeing.³⁰¹

4.164 The Committee sought advice from the Department regarding concerns about the lack of clarity around the term 'opportunity'. With regard to the legal difference between a 'right' and an 'opportunity' the Department advised the terms are interchangeable:

The Macquarie Dictionary defines 'right' as an adjective meaning fitting or appropriate. Similarly, the Macquarie Dictionary also notes an opportunity as a noun which denotes an appropriate time or occasion. Both terms are

²⁹⁶ Explanatory Statement, Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (Serial 67), https://parliament.nt.gov.au/_data/assets/pdf_file/0015/1612500/Explanatory-Statement-Care-and-Protection-of-Children-Legislation-Amendment-Every-Child-Matters-Bill-2026-Serial-67.PDF, p. 5.

²⁹⁷ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 12.

²⁹⁸ Submissions 30, 55, 87, 109, 117 and 118.

²⁹⁹ Submissions 17, 19, 22, 23, 37, 39, 40, 45, 47, 55, 80, 85, 91, 92, 109, 112, 118, 120 and 122.

³⁰⁰ Submissions 55, 87, 91, 109 and 118.

³⁰¹ yourtown, Submission No. 47, p. 11.

interchangeable in this circumstance. The use of the word opportunity better denotes the paramount principle of child safety.³⁰²

4.165 The Committee sought further advice from the Department in relation to the intention of the proposed amendments. The Department advised that:

This amendment aligns with the broader legislative intent of the reforms to the principles, which is to clarify that the principles are intended to guide decision-making rather than create enforceable legal rights. While this has always been the underlying policy intent, the amendment makes this position explicit to ensure consistent understanding and application. In this context, the change of wording from 'right' to an 'opportunity' to participate reflects that parents should be given a meaningful opportunity to be involved in administrative or judicial processes concerning significant decisions about their child. This clarification provides greater legal certainty while preserving the existing practice of engaging families in decision making.³⁰³

4.166 The Committee heard the effect of proposed section 12C(2) could have significant impacts on Aboriginal families and perpetuate historical harms. The Royal Australian and New Zealand College of Psychiatrists highlighted the possible implications of removing participation rights for families:

Replacing rights with only opportunities to participate and identify others who should participate in these processes offers very significant risks of exclusion of Aboriginal and Torres Strait Islander families and communities from decision-making. It is unclear what such opportunities would look like. What are realistic and meaningful opportunities will vary widely across different contexts. Without further clarity and guidance on what these opportunities look like across a range of situations, there is significant potential for inconsistent and inappropriate decision-making on whether proper opportunities have been offered. Accordingly, rights to self-determination, as affirmed in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), could be undermined.

The exclusion or reduction of participation rights risks perpetuating the historical harms associated with forced child removal policies and may exacerbate:

- Trauma and psychological distress.
- Cultural dislocation.
- Loss of connection to language, Country, and community.
- Distrust of child protection and healthcare systems.
- Poor mental health outcomes.
- Intergeneration disadvantage³⁰⁴

4.167 Some stakeholders advised the amendments in section 12C(2) could undermine commitments to self-determination, including those set out in the National Agreement on Closing the Gap. First Nations NGO Alliance and Allies for Children submitted that:

³⁰² Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 12.

³⁰³ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 12.

³⁰⁴ Royal Australasian College of Physicians, Submission No. 91, p. 3.

The proposed reforms fail to reflect and respect what Elders, Aboriginal communities, leaders, and ACCOs have consistently identified as essential to improving outcomes for our babies —namely, systems of care that are culturally grounded, community-led, and adequately resourced.

The removal or weakening of existing safeguards and cultural principles represents a significant step backward and risks further entrenching the exclusion of Aboriginal voices from decisions that directly impact their (our) babies, children and families.

Such changes risk further entrenching the exclusion of both Aboriginal voices and significantly the voices of Aboriginal children from decisions that directly impact their lives, and undermine commitments to self-determination, including those articulated in the National Agreement on Closing the Gap.³⁰⁵

- 4.168 With regard to the impact of proposed section 12C(2)(a) on the NT Government's Closing the Gap commitments, the Department advised that:

This amendment provides parents with an opportunity to participate in significant decisions, where appropriate to the safety and best interests of a child. The amendment actively supports the NT's commitments to shared decision making through inviting parents to be involved.³⁰⁶

Role of Aboriginal community-controlled organisations

- 4.169 Proposed section 12C(1) provides for recognition of kinship groups and communities of Aboriginal people as having a major role, through self-determination, in promoting the wellbeing of Aboriginal children. It remakes existing section 12(1) in substantially the same form with an amendment to remove reference to ACCOs from being recognised.

- 4.170 Many submitters expressed concern that removing this express recognition diminished the role of ACCOs within the child protection system.³⁰⁷ Submitters consistently emphasised that ACCOs possess cultural authority, local knowledge and trusted relationships that enable them to provide culturally safe support to Aboriginal children and families. Several submitters argued these organisations are uniquely placed to strengthen family participation, maintain children's cultural connections, support early intervention and deliver services that reflect Aboriginal kinship systems and community decision-making.³⁰⁸

- 4.171 The Office of the Children's Commissioner submitted that reducing the legislative recognition afforded to ACCOs contributes to the broader dismantling of the ACP. ³⁰⁹ Similarly, the Mikan Aboriginal Corporation submitted proposed section 12C(1):

Retains the rhetorical language of Aboriginal self-determination while removing its operational substance — no role for [ACCOs] is created, despite the existence of organisations such as Mikan with the cultural authority and operational capability to play one.³¹⁰

³⁰⁵ First Nations NGO Alliance and Allies for Children, Submission No. 55, p. 2.

³⁰⁶ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 12.

³⁰⁷ Submissions 34, 40, 45, 47, 51, 54, 70, 99, 109 and 117.

³⁰⁸ Submissions 34, 40, 45, 47, 51, 54, 70, 99, 109 and 117.

³⁰⁹ Office of the Children's Commissioner, Submission No. 40, p. 7.

³¹⁰ Mikan Aboriginal Corporation, Submission No. 45, p. 4.

4.172 In a joint submission with other academics, Dr Haley Boxall highlighted the role of ACCOs:

This bill does not recognise or embed the role of the [ACCOs] 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.³¹¹

4.173 The Committee notes the Explanatory Statement does not explain the reason for removing recognition of ACCOs from proposed section 12C(1). Accordingly, the Committee sought advice from the Department. The Department advised that:

The wording in this section has been simplified to reflect modern drafting practices. The removal of the specific reference to Aboriginal community-controlled organisations reflects a drafting change rather than a substantive policy shift. The previous wording was considered to be largely declaratory in nature, providing recognition rather than creating a substantive legal provision containing any enforceable legal obligation or entitlement.³¹²

Healing focussed and trauma informed decision-making

4.174 Existing section 12(2A) provides that when a decision involving an Aboriginal child is made, the decision should be healing focussed and trauma informed. The amendments made in proposed section 12C have the effect of removing this requirement from the Care and Protection Act. Several submitters drew the

³¹¹ Dr Hayley Boxall et. al, Submission No. 99, p. 15.

³¹² Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, pp. 9-10.

Committee's attention to the removal of the requirement.³¹³ These submitters argued that, placed in the broader context of the Bill, the effect of the amendments would weaken the ACPP.³¹⁴

4.175 The Committee requested further information from the Department regarding the rationale for removing existing section 12(2A), whether the principle is enshrined elsewhere in departmental policy, and whether consideration was given to retaining trauma informed decision making for all children via proposed section 12B. The Department advised that:

Terms such as 'trauma-informed' and 'healing-focused' are not legally defined concepts and can be open to interpretation. Embedding them in legislation may create uncertainty in their application and limit flexibility in how they are understood and operationalised over time, particularly as best practice in this area continues to evolve.

The Department maintains an Aboriginal Cultural Security Framework which encourages healing and trauma informed practice in the work of the Department with Aboriginal children and young people.

These concepts are more appropriately reflected in Departmental policy, practice guidance and training frameworks, where they can be clearly articulated, regularly updated, and consistently applied by child protection practitioners. This approach allows the Department to ensure that decision-making is informed by contemporary, evidence-based practice in trauma and healing, without constraining the legislation with terms that may lack legal precision.³¹⁵

Consistency with other legal frameworks

4.176 As outlined above, many submitters raised concerns that the cumulative effect of the amendments introduced in proposed section 12C would weaken the ACPP. Additionally, stakeholders raised broad concerns about consistency of proposed section 12C with other legal frameworks, including:

- section 10 of the *Racial Discrimination Act 1975* (Cth).³¹⁶
- the *Discrimination Act 1992* (NT).³¹⁷
- the UNCRC and the UNDRIP.³¹⁸
- National Agreement on Closing the Gap.³¹⁹
- Australia's National Framework for Protecting Australia's Children.³²⁰

³¹³ Tiwi Land Council, Submission No. 35; Office of the Children's Commissioner, Submission No. 40; National Justice Project, Submission No. 87; Dr Ahmad Syahir Mohd Soffi, Submission No. 118.

³¹⁴ Office of the Children's Commissioner, Submission No. 40, p. 7; National Justice Project, Submission No. 87, p. 2; Dr Ahmad Syahir Mohd Soffi, Submission No. 118, p. 3.

³¹⁵ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 11.

³¹⁶ Justin Tutty, Submission No. 19; Office of the Children's Commissioner, Submission No. 40; Yinjiya Guyula MLA, Submission No. 97.

³¹⁷ Yinjiya Guyula MLA, Submission No. 97.

³¹⁸ Submissions 58, 88, 91, 97, 99, 101, 117 and 120.

³¹⁹ Yinjiya Guyula MLA, Submission No. 97.

³²⁰ Dr Steven Roche, Submission No. 58.

4.177 The Committee requested further information from the Department regarding whether the Department sought advice on whether removing race-based legal protections currently enjoyed by Aboriginal children constitutes a contravention of section 10 of the *Racial Discrimination Act 1975* (Cth). The Department advised that:

The Department does not consider that the Bill contravenes section 10 of the *Racial Discrimination Act 1975* (Cth) by removing race-based legal protections currently enjoyed by Aboriginal children and has not sought corresponding legal advice. The Bill favours equality for all children in contact with the child protection system by ensuring uniform decision making.³²¹

Committee comments

4.178 The Committee acknowledges the significant concerns raised by submitters regarding the cumulative effect of the amendments made by proposed section 12C. In particular, the Committee notes evidence that the amendments may be perceived as weakening the legislative expression of the ACPP.

4.179 The Committee also notes the Department's advice that the amendments are not intended to remove the ACPP, but rather restructure and modernise the existing provisions, clarify that the principles are intended to guide decision-making rather than create enforceable legal rights, and ensure the placement principles operate consistently for all children while retaining additional cultural protections for Aboriginal children.

4.180 The Committee welcomes the Department's commitment to review and streamline the kinship carer assessment and approval process in consultation with stakeholders, recognising the evidence that systemic barriers have contributed to poor rates of Aboriginal kinship placements.

4.181 Having regard to the evidence received, the majority of the Committee considers the provisions appropriate as currently drafted.

Proposed section 12D – Proactive efforts

4.182 Proposed section 12D seeks to insert a new principle for proactive efforts that the CEO must make to:

- address risks of harm to a child with the aim of preventing the child from needing to be removed from the parents (proposed section 12D(1)).
- reunify the child with their parents, or if reunification is not in the best interest of the child, to place the child with a family member within 2 years after removal (proposed section 12D(2)).

4.183 As outlined in the Explanatory Statement, proposed section 12D(3), requires that, for the first 6 months after removal, the proactive efforts under 12D(2) are intensive and must be aimed at:

³²¹ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, pp. 12-13.

- addressing the grounds on which the child was removed from their parents with the aim of reunifying the child with their parents; or
- placing the child with a family member if the CEO is not satisfied that reunification with the parents is in the child's best interests.³²²

4.184 Proposed section 12D(4) provides proactive efforts may include providing support services or other resources, considering alternative ways to address the needs of children and parents/families, activities directed at finding or contacting family or community, the use of family responsibility agreements or orders or a mediation conference, and any other activity or action considered appropriate by the CEO. The Committee notes these 'reflect existing functions and powers prescribed under the [Care and Protection] Act but section 12D(4) provides additional guidance by outlining a number of steps that may comprise proactive efforts'.³²³

4.185 The Minister outlined in her first reading speech that:

This reform shifts the focus for child practitioners and the chief executive officer of the department with responsibility for the Act from reacting to crises to providing stronger, earlier and more consistent support to children and families...

By formalising a framework for proactive efforts in the Act there is increased accountability and transparency for the Department of Children and Families supporting consistency in decision-making across the child protection system. Additionally, prescribing timeframes within the Act for the CEO to complete specified proactive efforts stabilises placements for children, increases transparency for families and holds the department to account.

Proactive efforts create a clear, contemporary framework reinforcing the Bill's focus on the safety, stability and best interests of all children interacting with the child protection system.³²⁴

4.186 In the Department's opening address at the public hearing, the CEO stated that:

We work to find solutions where we can, and where we cannot solve the underlying problem immediately we do not walk away. The Bill's proactive efforts framework legislates that approach. It creates legal obligations to do exactly this—help early before escalation is considered.³²⁵

4.187 Proposed section 12D was supported in full by some submitters. However, while supporting the intent of introducing proactive efforts requirements, the majority of submitters raised significant concerns with how the provision is drafted.

Timeframes for proactive efforts and reunification

4.188 As noted above, proposed section 12D(2) provides that the CEO must make all reasonable proactive efforts to reunify the child with their parents, or if reunification

³²² Explanatory Statement, Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (Serial 67), https://parliament.nt.gov.au/data/assets/pdf_file/0015/1612500/Explanatory-Statement-Care-and-Protection-of-Children-Legislation-Amendment-Every-Child-Matters-Bill-2026-Serial-67.PDF, p. 6.

³²³ ³²³ Explanatory Statement, Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (Serial 67), https://parliament.nt.gov.au/data/assets/pdf_file/0015/1612500/Explanatory-Statement-Care-and-Protection-of-Children-Legislation-Amendment-Every-Child-Matters-Bill-2026-Serial-67.PDF, p. 6.

³²⁴ Hon Robyn Cahill OAM MLA, Minister for Child Protection, Draft Daily Hansard – Wednesday 13 May 2026, <https://territorystories.nt.gov.au/10070/1036731>, p. 17.

³²⁵ Department of Children and Families, Committee Transcript, 5 June 2026, p. 2.

is not in the best interest of the child, to place the child with a family member within 2 years after removal.

4.189 The Committee notes the issues regarding the 2 year timeframe for proactive efforts and reunification relate closely to proposed sections 8,³²⁶ 12A,³²⁷ 12B,³²⁸ 123,³²⁹ and 128,³³⁰ and existing policy guidance on the content of short-term and long-term care plans.³³¹ Combined with these provisions, proposed section 12D establishes a 2 year reunification timeframe to support the Bill's broader policy objective of stability and permanency. The Minister stated in her first reading speech that the rationale for this change is to prioritise 'timely permanency planning for children in the child protection system'.³³²

4.190 Some submitters supported the 2 year reunification timeframe, finding that:

- implementation of permanency reforms prioritises timely and child-centred permanency decision-making.³³³
- the timeframes will provide clearer pathways to permanency.³³⁴
- the provisions appropriately recognise that permanency and stability are protective factors which will support long-term outcomes for vulnerable children.³³⁵

However, a majority of submissions did not support the timeframe noting that families are often not able to address the systemic social issues that contribute to a child being removed within 2 years.³³⁶

Structural barriers

4.191 The Aboriginal Medical Services Alliance Northern Territory (AMSANT) outlined that the social determinants of health, such as housing, nutrition and employment, are critical to addressing systemic social issues and reducing experiences of

³²⁶ Proposed section 8 places the child's need for stable and nurturing relationships and the child's need for permanency in their living arrangements as the third and fourth considerations in the hierarchy of factors used to determine the best interests of a child.

³²⁷ Proposed section 12A removes the current requirement that, as far as practicable and consistent with the best interest of the child, the child should eventually be returned to their family and, instead providing contact between the child and their family should be encouraged and supported.

³²⁸ Proposed section 12B introduces new principles for the placement of children, providing the factors that a decision should ensure, when a significant decision involving a child is made, including providing the child with a sense of permanence and long-term stability.

³²⁹ Proposed section 123(1) shortens the maximum duration for short-term parental responsibility directions and shortens the minimum duration for long-term parental responsibility directions from 2 years to one year.

³³⁰ Proposed section 128 seeks to limit the circumstances in which the Court may make short-term parental responsibility directions, only permitting a second direction to be made if there is a high probability of reunification and the child's long-term stability and security is not likely to be adversely affected

³³¹ Department of Children and Families, *Care Planning Policy* (2026), <https://families.nt.gov.au/media/documents/for-people-working-with-or-caring-for-children/child-protection-policies/care-planning-policy.pdf>, p. 4.

³³² Hon Robyn Cahill OAM MLA, Minister for Child Protection, Draft Daily Hansard – Wednesday 13 May 2026, <https://territorystories.nt.gov.au/10070/1036731>, p. 18.

³³³ Foster and Kinship Carers Association NT, Submission No. 24, p. 4.

³³⁴ Susan Bamberger, Submission No. 15, p. 3

³³⁵ Northern Territory Police Association, Submission No. 108, p. 3.

³³⁶ For example, submissions 22, 30, 45, 55, 64, 87, 115 and 126.

disadvantage, poverty and violence, which in turn lead to unsafe conditions for children:

Many Aboriginal families, particularly in remote communities, are struggling to deal with a range of environmental and social factors that seriously impact on their health and wellbeing. These factors are known as the social determinants of health. They include things like having an adequate income, employment, housing, nutrition and food security, education, social inclusion and the protective role of culture, language and country. Stemming from these social determinants the experience of disadvantage, poverty and exposure to domestic violence and alcohol abuse and the incarceration of family members are unacceptably common for Aboriginal families in the Northern Territory. Poor housing conditions and lack of stability in the child's home environment affect their physical and emotional safety, as can exposure to violence and abuse, and lead to poorer outcomes. Addressing these inequalities must be understood as a fundamental factor contributing to the involvement of Aboriginal children in the child protection system.

Comprehensive primary healthcare, the care provided by the sector [Aboriginal Medical Services Alliance Northern Territory] represents, defines its role not only in terms of the treatment of the illness but also includes health promotion and illness prevention, promotion of community and individual self-reliance and participation and intersectoral action to address the social determinants of health.³³⁷

Submitters noted that the complexity of these factors, combined with workforce and service shortages, result in deeply entrenched structural issues that are difficult and time consuming to address.³³⁸

Service shortages

4.192 Various stakeholders emphasised the substantial housing shortages that exist in the NT.³³⁹ At the public hearing, Catherine Liddle, CEO of SNAICC, highlighted this issue noting that:

Evidence shows that there are a lot of blockages for successful investing in child and family support. An example of that would be housing. That is often a reason children are removed from care. The housing delays at this moment in time—sometimes we hear reports of people being told they will have to wait 16 years.

Also in the [Bill] is that arbitrary two years. Again, if you are waiting more than two years for housing and that is why your child is being removed—and it is the case that many Aboriginal families will say, 'No worries. I know my baby is not safe here. If we have to do this and wait for a house, then that is what we will do'—they have missed that boat, so that child is removed forever into permanent care. This is really serious because those families often do get that house and they often do deal with these circumstances that brought them to the attention of authorities, and that child has permanently been disconnected from them and their siblings, grandparents and cousins and all those sorts of things.³⁴⁰

4.193 In their submission, the Australian Medical Association Northern Territory (AMA NT) noted that parents who are genuinely committed to recovery may not meet the 2 year reunification timeframe due to the long waitlists for drug and alcohol rehabilitation and mental health services in the NT:

³³⁷ AMSANT, Committee Transcript, Public Hearing, 4 June 2026, pp. 1-2

³³⁸ For example, submissions No. 22, 30, 39, 48, 55, 79, 83 and 117.

³³⁹ For example, submissions 22, 100, 101, 107 and 130.

³⁴⁰ SNAICC – National Voice for our Children, Committee Transcript, 4 June 2026, p. 5

While the overarching goal of minimising placement instability and "drift" in out-of-home care (OOHC) is a valid concern given that children in OOHC experience severe physical, cognitive, and mental health trauma, the imposition of an inflexible, two-year statutory clock is clinically unsound when applied to families facing profound, complex, and compounded trauma....Healing from severe psychiatric conditions, chronic substance dependence, and the deep neurological impacts of intergenerational trauma does not follow a linear, legislatively mandated schedule. Addiction recovery, for instance, frequently involves periods of relapse, which are clinically recognised by addiction medicine specialists and psychiatrists as an expected part of the chronic disease pathology, rather than a failure of moral character or parental love.³⁴¹

4.194 Further, in the public hearing, Dr John Zorbas, President of the AMA NT, highlighted the 'overwhelming amount of undiagnosed foetal alcohol spectrum disorder in the Territory' and told the Committee that 'In that context it should be noted that we only have eight detox beds in the Territory and zero government-supported rehab beds'.³⁴²

4.195 Brianna Bell, Acting Principal Legal Officer at the Katherine Women's Information and Legal Service (KWILS), noted that the Department will face the same challenges as parents in accessing services for children; particularly children with complex needs associated with a disability. Accordingly, it was their view that families should be better supported to access these services rather than having a child removed:

What is concerning—I hope this has come through in some of the submissions from the medical professionals—is that paediatrics in Katherine is on an outreach basis. We do not have a paediatrician, let alone in remote communities. They might visit maybe once—I do not even know if they visit remote communities, to be honest, or whether children need to be brought into Katherine. For disability support services, to get access to an allied health professional under the NDIS there is a huge waitlist.

Even if a child is removed from their family and put into care because of challenging behaviours that might be connected with a disability, the department will not be able to get them assessed within six months anyway. The department will have the same access problems as the families do. Why not support the families to do it themselves? That is the concern.

To wrap that all up, yes, I 100% agree with you. One of the biggest concerns we have in Katherine and the Big Rivers region is that the availability of these services cannot meet the objectives of what this Bill is trying to do.³⁴³

4.196 The Department was unable to provide data in response to the Committee's question regarding the number of parents currently in the child protection system on public housing waitlists, rehabilitation waitlists, or awaiting other services that cannot be accessed within a 2 year timeframe. The Department advised the Committee that:

Persons on waitlists for public housing, rehabilitation waitlists or other services are not identified as being connected to the child protection system. This recognises that parents may have been referred pre or post a child protection intervention and may have been referred by other services. Waitlists for social housing in the NT can be found online through the NT Government website.

³⁴¹ Australian Medical Association NT, Submission No. 32, p. 11.

³⁴² Australian Medical Association NT, Committee Transcript, 4 June 2026, p. 2

³⁴³ Katherine Women's Information & Legal Service, Committee Transcript, 4 June 2026, p. 3.

Further information regarding timeframes for social housing, or alcohol and other drug services will need to be sourced from agencies that deliver those services.³⁴⁴

Remoteness as a compounding factor

4.197 Submissions noted that remoteness is a compounding factor which would make it difficult for families to meet the 2-year reunification timeframe due to:

- the nonexistence or limited amount of local or culturally appropriate services
- travel costs
- access issues due to seasonal road closures
- language barriers
- high mobility of families.³⁴⁵

4.198 At the public hearing, Brianna Bell, Acting Principal Legal Officer at KWILS, provided information on the 'practical limitations' remote residents face:

Lastly, I wish to touch upon the critical nature of local context to the feasibility of the proposed legislation. If you were to consider the practicalities of a family responsibility agreement or reunification for a family in Beswick community over the last six months, a few practical limitations you would need to know include there are few people who own motor vehicles and have drivers' licences; the regular bus service to town has not been operating; taxis cost \$300 to \$400 each way; the road into community is often closed in the Wet Season when the river goes over the bridge, and it was closed for 27 days this year; there is no police station in the community and limited medical staff, and response times are frequently impacted by shift rostering and fatigue leave; the Bagala men's program operates on an outreach basis from Darwin for half a week each month; and the closest residential AOD facility is an hour away with a lengthy waitlist.³⁴⁶

4.199 The Committee asked the Department whether they had given consideration to section 12D potentially having a disproportionate impact on families in remote areas due to the lack of local services or housing. The Department advised that:

A child will not be removed from their family due to a lack of housing or services alone, a holistic assessment is always conducted. Furthermore, as part of the proactive efforts framework, the Department will ensure that local services are provided to address underlying concerns.³⁴⁷

Department workforce capacity

4.200 Many submitters also noted the workforce shortages that exist within the Department itself and the impact this can have on reunification efforts.³⁴⁸ Submitters expressed concern that workforce constraints will result in proactive efforts not being

³⁴⁴ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 13.

³⁴⁵ For example, submissions 79, 100, 107 and 110.

³⁴⁶ Katherine Women's Information & Legal Service, Committee Transcript, 4 June 2026, p. 2.

³⁴⁷ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 14

³⁴⁸ For example, submissions 30, 38, 42, 53, 64 and 110; Committee Transcript, 5 June 2026; NTCOSS, Anglicare and Catholic Care, Committee Transcript, 5 June 2026; Katherine Women's Information & Legal Service, Committee Transcript, 4 June 2026.

meaningful, but, rather, used as a ‘check-box’ tool.³⁴⁹ The Katherine West Health Board Aboriginal Corporation stated that:

There is a real risk that legislative obligations relating to proactive efforts will become procedural compliance exercises in the absence of sufficient workforce and service investment.³⁵⁰

4.201 KWILS highlighted the workforce shortages and high caseloads that existed in 2024-25 in the Big Rivers region, raising concerns about whether staff would be able to comply with the new proactive efforts provisions in such circumstances:

In the Big Rivers region, the Department itself, and the service system supporting it (including legal, health and social services), is under enormous strain. A recent inquest into the death of a child in care in Katherine (Didbala) highlighted that [Department’s] Case Managers in the Big Rivers Region carry a “simply unachievable” caseload of 36 children, compared to around 12 in Darwin and Central regions. It highlighted that there were longstanding professional vacancies, at that time with 10 out of 38 professional positions unfilled. This is consistent with what we have observed and been told over time of an almost 40% vacancy rate in the [Department’s] Katherine office. The Coroner found that:

To be clear, when we are discussing unmanageable caseloads what we are actually talking about are highly vulnerable children in care (and their families) not getting the consistent support and attention that their situations deserve. The real impact of this is children missing out. ...

The consequence of staff vacancies and excessive caseloads in the Big River’s Region is that vulnerable children in the CEO’s care do not receive the case work they need or deserve. The child protection system in the Big Rivers Region is suffering a chronic crisis of Case Management neglect.

Where this is the starting point for the system, we are genuinely concerned about the ability of the Department to properly comply with the proposed expectations of “proactive efforts”. More importantly, we worry about the capacity of these overstretched workers to be able to take the steps required to support reunification of children and families within the rigid timeframes (an initial 6-month reunification-focussed period, and a maximum 2-year period overall) established by the Bill.³⁵¹

4.202 At the public hearing, the Department outlined that their overall vacancy rates had improved recently:

We have had a lot of success in the last 12 months increasing the size of our workforce. I do not mean growing the agency’s budget; I mean recruiting more people in and holding them in the agency. I heard a number of people state figures of previous years’ vacancy rates; we are sitting at about 25% at the moment which is the best that we have been in a long time. We are still attracting people to our job adverts, so I have a great deal of confidence that we will be able to keep growing the workforce at base level.³⁵²

³⁴⁹ Jumbunna Institute for Indigenous Education and Research, UTS, Submission No. 123; Katherine West Health Board Aboriginal Corporation, Submission No. 22.

³⁵⁰ Katherine West Health Board Aboriginal Corporation, Submission No. 22, p. 7.

³⁵¹ Katherine Women’s Legal Service, Submission No. 79, p. 4.

³⁵² Department of Children and Families, Committee Transcript, 5 June 2026, pp. 6-7.

4.203 In response to a question taken on notice, the Department provided the following vacancy rate breakdown by region. Overall vacancy rates were 46% as at November 2024, 44.5% as at May 2025 and 32.8% as at November 2025.³⁵³

Figure 2: Department of Children and Families Vacancy Rates 2024-25³⁵⁴

Vacancy Rate	as at 01/11/2024			as at 01/05/2025			as at 5/11/2025		
Region	Total Positions	Actual Vacant	Vacancy %	Total Positions	Actual Vacant	Vacancy %	Total Positions	Actual Vacant	Vacancy %
Barkly	30	15	50%	30	11	37%	30	10	33%
Big Rivers	91	40	44%	91	40	44%	101	28	28%
Central Australia	135	59	44%	134	53	40%	139	36	26%
Greater Darwin	180	85	47%	180	76	42%	159	53	33%
Arnhem	42	17	40%	41	24	59%	-	-	-
Top End	65	33	51%	65	29	45%	-	-	-
Top End and ¹ Arnhem	-	-	-	-	-	-	105	46	44%

¹Top End and Arnhem teams were joined under one region for the 5/11/2025 reporting period.

4.204 In response to a question from the Committee regarding the Bill's implementation on the ground, the Department stated that:

To start, I would say that it is important the committee understands that we are talking about a large agency. We are not a bespoke small agency; we are a large agency with a large workforce...For me, the front end of this programmatic change is about recognising what resources we have, making sure they are arrayed on the field correctly and—as I have just talked through—making sure the streams of workers are correct. It is about us sustaining our recruitment drive... There is always an element of estimate with the changes that we are talking about. If we identify a surge in need or requirement, we will do our work internally to see if we need to remove resources around inside the department. If there was a need for more, we would go through the usual government process.

I want to be clear today: we have a lot more work to do in the department to get the workers in the right spot in our structure to keep this recruitment drive that we have been doing underway and to prove the model through getting out in the field and doing this preventive and early intervention work. I think we have shown with the Circuit Breaker workforce that we can build and deliver that. I am seeing it as a great analogy for what we will be doing with connecting with families around parental family responsibility orders and with the early requirements for kids who might be at risk of coming into care.³⁵⁵

³⁵³ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 29.

³⁵⁴ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 29.

³⁵⁵ Department of Children and Families, Committee Transcript, 5 June 2026, pp. 6-7.

4.205 In response to a written question from the Committee, the Department also noted that the Bill will be implemented in stages 'to ensure adequate resources for operationalisation of the reforms', and outlined how the Circuit Breaker Program will be leveraged by the Department and used as the referral pathway for families subject to family responsibility agreements and family responsibility orders:

Families subject of [family responsibility agreements] and [family responsibility orders] will be referred to providers currently used in the circuit breaker program including DFV, health, education, intensive family support, youth engagement and employment support services.

The Department has opened 9 Child and Family Centres (CFCs) in remote communities across the NT, including Alice Springs, Papanya, Katherine, Kalkarindji, Borroloola, Tennant Creek, Arlpara, Wadeye, and Wurrumiyanga.

At these CFCs, service providers and non-government organisations deliver support programs in a culturally safe space as part of children and family intensive support and circuit breaker programs. Funding under the NT Remote Aboriginal Investment (NTRAI) agreement to has been allocated for additional CFCs to be opened in further remote locations across the Territory.

In most remote communities, the NT and Federal Governments have invested millions of dollars towards Aboriginal corporations providing support services to vulnerable children and families in the areas of social inclusion, emotional wellbeing, training and mentoring, behavioural change, mental health, alcohol and other drugs, youth diversion and family support.

In the bigger centres, the Circuit Breaker program incorporates structured brief interventions for young people, particularly those identified as an emerging risk.

Interventions include group-based and one-to-one educational sessions focused on:

- respectful relationships and consent
- emotional regulation and decision-making
- safe use of technology and social media
- help-seeking behaviour and connection to supports.³⁵⁶

Disproportionate impact on Aboriginal people

4.206 Submitters also found that the proposed proactive efforts section would have a disproportionate impact on Aboriginal people.³⁵⁷ For example, the First Nations NGO Alliance and Allies for Children stated that:

Imposing strict timelines on reunification after removal of a child has been shown to be unfair for Aboriginal parents, as:

- Aboriginal parents are less likely to be able to access supports needed to address protective concerns within strict timeframes;
- time limits are inflexible and cannot be overridden by a court; and

³⁵⁶ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, pp. 13 and 21.

³⁵⁷ First Nations NGO Alliance and Allies for Children, Submission No. 55, p. 8; Families Australia, Submission No. 70, p. 16; National Justice Project, No. 87, p. 3.

- as a result, Aboriginal children are denied opportunities to enjoy their human rights to identity, family and culture.³⁵⁸

4.207 Further, a number of submissions expressed their concern that, when taken together, these strict timeframes are likely to result in more children, particularly Aboriginal children, entering long term or permanent care.³⁵⁹ NPY Women's Council stated:

The combined effect of shorter reunification timeframes and limited support will therefore increase the likelihood of long-term separation of Anangu and Yarnangu children from family, community and culture. Reducing timeframes means less time to address structural issues and service gaps, increasing the likelihood that a parent or family are unable to meet expected requirements within allocated timeframes. This part of the Bill also increases the likelihood of permanent removal. Permanency timelines should not override the obligations to provide genuine adequately resourced reunification efforts.³⁶⁰

4.208 In response to the Committee's written question regarding what safeguards will ensure reunification decisions are rigorous, culturally informed, and free from bias, rather than shaped by workforce pressure or administrative timelines, the Department advised that:

The Best Interests principle and the Universal Child Placement Principle will inform all decisions relating to a child's reunification. They ensure that reunification decisions are rigorous, culturally informed, and free from bias.³⁶¹

Pathway for children to enter OOHC and potential harm

4.209 Submitters concluded that the amendments are likely to create a pathway for more children to be placed in long-term care, finding that this would have negative consequences for both children and their families.³⁶² Submissions also highlighted the psychological trauma that children in long term and permanent care can experience.³⁶³

4.210 The Office of the Children's Commissioner outlined data that showed that one in three children in out-of-home care were the subject of at least one alleged harm notification in 2024–25 and that a low number of investigations triggered by these notifications were conducted within the required timeframe, highlighting that workforce shortages may result in children being left in unsafe care:

That report, Monitoring Harm in Care, looked at notifications, investigations and substantiations of harm to children who were in out-of-home care for a two-year period, from 2023 to 2025. The report identified persistent and serious systemic failings in the Northern Territory child protection system's response to harm experience by children in out-of-home care.

Across the reporting period, a significant number of children experienced alleged and substantiated harm whilst in the care of the CEO, including repeated exposure to harm. In addition, there were significant delays in investigation

³⁵⁸ First Nations NGO Alliance and Allies for Children, Submission No. 55, p. 8.

³⁵⁹ Submissions 55, 58, 59, 70, 87, 101 and 111; NT Office of the Children's Commissioner, Committee Transcript, 4 June 2026.

³⁶⁰ Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council, Submission No. 100, p. 6.

³⁶¹ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF p. 14.

³⁶² For example, submissions 23, 33, 38, 65, 87 and 118.

³⁶³ For example, submissions 16, 48, 56 and 62.

responses and failures to adequately record, monitor and act on safety and wellbeing concerns.

Data that was verified from the department and actually came from the department was that nearly one in three children in out-of-home care, 29% or 292 individual children, were the subject of at least one alleged harm notification in 2024–25, more than double the previous reporting year. Concerningly, 23% of children in care, 243 individual children, in that year had multiple notifications.

Across the two reporting years, only one of the 75 substantiated harm in care investigations that my office reviewed, and I myself reviewed, was completed within the 42-day requirement. Just one of 10 priority 1 investigations, the most urgent cases involving physical and sexual harm, were commenced within 24 hours. The report describes it as near universal noncompliance with the department's own response timeframes, meaning children at times remained in unsafe placements for extended periods. From our review, in more than one in four substantiated cases for that year, 28%—and also 35% in the last year—the person responsible was identified as the person who was their carer.

It shows, and we did include reference to the Productivity Commission looking at other jurisdictions, that the Northern Territory had significantly higher rates of substantiated harm in care in that 2024–25 period. It speaks for itself that there are serious issues in terms of the department's ability to monitor and track what is happening to children in care, deal with allegations in a timely way and ensure the safety of children.

This Bill will actually contribute to more and more kids coming into care in situations that they may not be safe, and the department is overworked, under-resourced and there are staffing issues, so I have real concerns.³⁶⁴

- 4.211 Clara Mills, Principal Lawyer at the North Australian Aboriginal Family Legal Service (NAAFLS), who appeared before the Committee as a representative of NTLAF, raised in the public hearing that almost 50% of children in care are in purchased or residential care, noting that a child can have permanency and still lack the connection and supports they need:

The 2025 Family Matters Report found that almost half of the children in out-of-home care in the Northern Territory are living in purchased or residential care arrangements rather than in family-based care, and a roster is not a family. A child can have legal permanency and still lack the relationships, connections, supports and sense of belonging that create real stability. Inquests into the deaths of children in care have shown that children in long-term care can often lack the connection to family and community that they need to be properly supported, leading to devastating results.

These examples are important because they demonstrate that safety is not achieved simply by removing the child, and stability is not created simply by making an order.³⁶⁵

- 4.212 While giving evidence to the Committee at the public hearing, Geoff Radford, CEO of the NT Mental Health Coalition, noted that children in out of home care have an increased risk of hospitalisation due to mental health issues:

Linked administrative data shows that out-of-home care is associated with the highest risk of mental health hospitalisation among Territory adolescents, with Aboriginal and Torres Strait Islander young people disproportionately represented in that data.³⁶⁶

³⁶⁴ NT Office of the Children's Commissioner, Committee Transcript, 4 June 2026, p. 4.

³⁶⁵ Northern Territory Legal Assistance Forum, Committee Transcript, 4 June 2026, p. 2.

³⁶⁶ Northern Territory Mental Health Coalition, Committee Transcript, 4 June 2026, p. 1.

4.213 Brianna Bell, Acting Principal Legal Officer at the KWILS, also highlighted the impact that taking a child into care can have on their mental health, referencing the *Inquest into the death of Didbala Anzac [2025] NTLC 12*:

We like to think that removing children from difficult environments and putting them into safe foster care homes will fix the problems. The reality is that does not always happen....Again, when you read the inquest decision for Didbala, one of the things discussed is the fact that if that young girl had a greater degree of connection with her family, it was probably the strongest factor in her mental health support. That was never facilitated by the department... It is, in my view, an oversimplification to say that because a child has been removed into care they will have better outcomes.³⁶⁷

4.214 At the public hearing, the Department outlined its view that the Bill will not necessarily lead to more children being removed from their families:

SNAICC appeared before this committee as one of the pre-eminent voices opposing this Bill, arguing that the reforms will increase removals and cause lasting harm to Aboriginal children and communities. The department takes those concerns seriously and does not dismiss them. The department's view is that a stronger legislative framework will not inevitably produce more removals. It will produce a clearer obligation to act earlier, support families proactively and document that work with accountability where it does not happen.³⁶⁸

4.215 The Department also emphasised the negative impact that uncertain and short-term placements can have on children:

Children who experience prolonged uncertainty about where they will live suffer real developmental harm. Research consistently shows that repeated short-term placements contribute to complex trauma, attachment disruption, and poor long-term outcomes. For young children in particular, permanency uncertainty beyond six to twenty-four months can cause significant developmental harm - a point reinforced by the AMA's evidence. The Bill's stronger emphasis on earlier permanency decision-making is something carers have been asking for because they see its consequences daily.

Reunification data

4.216 The National Commission for Aboriginal and Torres Strait Islander Children and Young People outlined data from 2024,³⁶⁹ showing that, at the time, a 2 year reunification timeframe was not met in a majority of cases:

The most recent available data shows that, as at 30 June 2024, 73.7% of Aboriginal and Torres Strait Islander children in out-of-home care in the Northern Territory had been continuously in care for 2 years or more, with 54.8% having been in care for 5 years or more. Meaning that under the proposed framework, most Aboriginal and Torres Strait Islander children currently in out-of-home care in the Northern Territory would already exceed the effective timeframe for reunification. They would likely be permanently removed from their families and communities.³⁷⁰

³⁶⁷ Katherine Women's Information & Legal Service, Committee Transcript, 4 June 2026, p. 3.

³⁶⁸ Department of Children and Families, Committee Transcript, 5 June 2026, p. 2.

³⁶⁹ Australian Institute of Health and Welfare, 'Child Protection in Australia 2023-2024', *Data tables: Child protection Australia 2023-24: Insights*, supplementary data Table S5.14 ('Children in out-of-home care, by length of time continuously in care, Indigenous Status and state or territory, 30 June 2024'), <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2023-24/data>.

³⁷⁰ National Commission for Aboriginal and Torres Strait Islander Children and Young People, Submission No. 38, p. 3.

4.217 In response to concerns raised by submitters, the Committee asked the Department how the 2 year time limit had been determined and what evidence was used in this assessment. The Department cited the Australian Institute of Health and Welfare,³⁷¹ stating that:

Most children are successfully reunified within a year of entering out-of-home care. Where reunification does not occur within the first 2 years, the likelihood of reunification significantly decreases.³⁷²

4.218 The Committee notes that this data is in reference to children in out of home care across the whole of Australia, with Aboriginal children being reunified within one year at a rate of 53.5% and all children reunified within one year at a rate of 58.4%. This data is not available in the cited report for the NT specifically.³⁷³

Victoria's experience of a 2 year reunification timeframe

4.219 Various submissions referred to Victoria's implementation of a rigid 2 year reunification timeframe that was recently found to be ineffective and contributed to permanent family separation.³⁷⁴ Dr Steven Roche, Senior Research Fellow, Institute of Child Protection Studies at the Australian Catholic University advised that:

This approach has been implemented and now abandoned in other Australian jurisdictions. For example, Victoria has recently removed strict 24-month time limits for family reunification orders, to prevent unwarranted disruption to family units, and to focus on flexible decision making in the best-interests of children as well as placement stability over permanency.³⁷⁵

4.220 The Department stated that the Victorian experience was considered but referred again to the Australian Institute of Health and Welfare reunification data as the evidence base for the proposed 2 year proactive efforts timeframe.³⁷⁶

Submitter recommendations

4.221 Stakeholders recommended that the Bill be amended to:

- remove the timeframes for reunification.³⁷⁷

³⁷¹ Australian Institute of Health and Welfare, 'Child Protection in Australia 2023-2024', Australian Institute of Health and Welfare, <https://www.aihw.gov.au/reports/child-protection/childprotection-australia-2023-24/contents/about>.

³⁷² Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 13.

³⁷³ Australian Institute of Health and Welfare, 'Child Protection in Australia 2023-2024', Australian Institute of Health and Welfare, Figure 3: Children who exited out-of-home care to reunification, by time from admission, <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2023-24/contents/pathways-from-out-of-home-care>; and Australian Institute of Health and Welfare, 'Child Protection in Australia 2023-2024', Australian Institute of Health and Welfare, Figure 8: Aboriginal and Torres Strait Islander children who were reunified, by time from admission, <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2023-24/contents/aboriginal-and-torres-strait-islander-children/pathways-from-out-of-home-care>.

³⁷⁴ For example, submissions 55, 58, 65 and 73.

³⁷⁵ Dr Steven Roche, Submission No. p. 2.

³⁷⁶ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 13.

³⁷⁷ Families Australia, Submission No. 70, p. 6.

- provide that families are not prejudiced where reunification is delayed by structural barriers.³⁷⁸
- provide mandatory steps the CEO must take when attempting reunification with a family so that circumstances where the CEO has failed to support reunification 'where it was practically difficult to do so due to resourcing constraints and/or geographic isolation' does not result in the Court making a long-term protection order based on a family's non-engagement with the proactive efforts under section 12D.³⁷⁹
- ensure parents are supported throughout this process, including understanding their rights and obligations.³⁸⁰

4.222 Submitters also recommended that:

- adequate resourcing for support services to ensure families can engage with proactive efforts, including locally-based and culturally safe services.³⁸¹
- substantial investment in early intervention services, local ACCO family service supports, local therapeutic and healing services and multidisciplinary care coordination.³⁸²
- long-term workforce development in remote communities, with a strong focus on developing the local Aboriginal workforce.³⁸³

Meaning of 'reasonable proactive efforts', discretionary nature of provisions and enforceability

4.223 A number of submissions raised concerns about a lack of clarity and specificity of the proactive efforts framework and how this intersects with the discretionary nature of the provision and its enforceability. The Committee notes that these issues relate to the interaction between proposed section 12D and proposed section 7(4), which provides the underlying principles do not create, or confer on any person, any right or entitlement enforceable at law. Additionally, the Committee notes proposed sections 12E and 12F set out responsibilities of the NT Government and public authorities.

4.224 The Law Society NT submitted that proposed section 12D will create uncertainty for the Department and for families due to a lack of clarity about how it will be measured, applied and enforced:

the term 'proactive efforts' is nonspecific and unclear, introducing further uncertainty into the [Care and Protection] Act, particularly considering how this nonspecific requirement could be measured and enforced. It creates uncertainty both for the Department (as to what efforts are required to meet the threshold) and for families (as to what must be tried before their child is removed).

³⁷⁸ Anglicare NT, Submission No. 59, p. 2.

³⁷⁹ Law Society Northern Territory, Submission No. 137, p. 8 and 10.

³⁸⁰ Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council, Submission No. 100, p. 4.

³⁸¹ For example, submissions 6, 19, 38, 55, 58 and 136.

³⁸² For example, Katherine West Health Board, Submission No. 22, p. 7; Larrakia Nation Aboriginal Corporation, Submission No. 62, p. 6.

³⁸³ Katherine West Health Board, Submission No. 22, p. 7.

The Society is concerned that the effect of these amendments is that without proper measurable and enforceable effort a discretionary determination can be made in relation to a child that reunification is not achievable and efforts can be directed elsewhere without ever supporting that child being returned to their family, particularly when efforts may be resource demanding.³⁸⁴

4.225 A number of other submissions also raised their concern that there are no enforcement mechanisms to ensure adequate services are provided, and their view that this enables the CEO and Department to exercise an undesirable level of discretion in considering what services are required to meet the proactive efforts requirement.³⁸⁵

4.226 In response to these concerns, the Committee asked the Department to explain the rationale for enabling the CEO to exercise discretion under proposed section 12D(4)(e), and what the CEO may consider to be appropriate 'proactive efforts'. The Department advised that:

Proposed section 12D(4) sets out a non-exhaustive list of activities that may constitute 'proactive efforts'...In addition to these specified activities, proposed section 12D(4)(e) provides a broad, discretionary provision that allows the CEO to consider any other activity or action that is appropriate in the circumstances.

This structure is intentional...Families have diverse and often complex needs, and the supports required to address underlying issues and achieve safe outcomes for children will vary significantly from case to case.

The inclusion of a broad, flexible provision ensures that decision-makers are not constrained by a fixed legislative list and can respond to the individual circumstances, strengths and support needs of each family, as well as evolving best practice. It enables the CEO to adopt tailored, culturally appropriate, and innovative approaches where necessary, beyond those expressly listed in the legislation.

In practice, this means that the listed activities operate as a foundation or baseline expectation, while proposed section 12D(4)(e) ensures that proactive efforts can extend to any additional actions reasonably required to support the child and their family toward safe and sustainable outcomes... From time-to-time activities or actions may promote reunification that are outside the proactive efforts framework. This enables such positive activities/actions to be assessed in line with the reunification timeline.³⁸⁶

4.227 Anglicare NT stated that the lack of duties placed on the Department could result in the Department facing no penalty if they fail to make genuine proactive efforts:

The Bill...fails to impose any real consequence where [the Department] does not make proper proactive efforts. Instead, it leaves [the Department] to define the content of those efforts, creating a real risk that they will be minimal, inconsistent, or not directed towards reunification from the outset. In that context, the inclusion of proactive efforts risks being more symbolic than substantive.³⁸⁷

4.228 In addition, the Jumbunna Institute for Indigenous Education and Research raised concern that the requirement in section 12D(2) for the CEO to make all reasonable proactive efforts to reunify the child with the child's parents, or if reunification is not

³⁸⁴ Law Society Northern Territory, Submission No. 137, p. 6.

³⁸⁵ For example, submissions 34, 59, 80, 105, 114, 117 and 137.

³⁸⁶ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, pp. 14-15.

³⁸⁷ Anglicare NT, Submission No. 59, p. 2.

in the best interest of the child, with a family member of the child, within 2 years after the removal, gives significant discretionary power to the CEO as it:

...enables the CEO, based on their own assessment, to skip efforts towards restoration with parents, in favour of placement with a family member.³⁸⁸

- 4.229 NPY Women's Council highlighted that there are no clear next steps if the Court finds that the proactive efforts were not sufficient or appropriate:

The Court must consider whether [the Department] took appropriate "proactive efforts" to support the child and family, yet does not clearly outline what the court can do if those efforts were not good enough, especially because it also limits when a child can stay on a short-term order.³⁸⁹

- 4.230 Clara Mills, principal lawyer with NAAFLS who appeared before the Committee as a representative of NTLAF, echoed this sentiment stating that the court should have mechanisms to hold the Department accountable for meeting the proactive efforts framework:

If the government was serious about improving child protection systems, it would implement clear powers and functions for the court to hold the department to the standard set in the legislation. Instead, this Bill imposes an active efforts framework without real accountability mechanisms like those which exist in other jurisdictions, and it creates principles which expressly do not create legal rights.³⁹⁰

Accordingly, submitters recommended that the Bill be amended so that proactive efforts are enforceable.³⁹¹

- 4.231 The Committee asked the Department what mechanisms exist for a family to seek compliance if the Department does not fulfil their obligation to make proactive efforts. The Department advised that:

The CEO is obligated to demonstrate pursuit and conduct of proactive efforts in an application for a protection order for a child and address why proactive efforts have been unsuccessful.³⁹²

Lack of clarity on interaction with proposed section 12A – Role of Family

- 4.232 The Law Society NT and the joint submission by Dr Hayley Boxall et. al. stated that it is unclear how proposed section 12D interacts with the requirements of proposed section 12A, which provides that a child must be removed from their family if there is a significant and likely risk of harm. In particular, the Law Society NT noted that:

The Society understands that the intent of the amendment introducing the proposed s 12D requiring the CEO of the Department to take proactive efforts to address risks to a child is to ensure an effort is made to allow a child to remain with family. However, the drafting of ss 12A(3) (mandating removal in the case of significant and likely risk) and 12D (mandating efforts to address risk to prevent removal) results in an unclear operation of the provisions, noting that 12A

³⁸⁸ Jumbunna Institute for Indigenous Education and Research, UTS, Submission No. 123, p. 10.

³⁸⁹ Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council, Submission No. 100, p. 6.

³⁹⁰ Northern Territory Legal Assistance Forum, Committee Transcript, 4 June 2026, p. 2.

³⁹¹ Andrew Dawes, Submission No. 34, p. 7; CatholicCare NT, Submission No. 105, p. 7.

³⁹² Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 14.

includes significant risk which is likely but 12D appears to refer to risk which has materialised.³⁹³

4.233 Further, Dr Hayley Boxall et. al. submitted that:

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.³⁹⁴

List of possible proactive efforts

4.234 Proposed section 12D(4) provides that proactive efforts may include:

- (a) providing, facilitating or assisting with access to support services and other resources for the child and the child's parents or family;
- (b) considering alternative ways of addressing the needs of the child and the child's parents or family;
- (c) activities directed at finding and contacting the family or community of the child;
- (d) the use of any of the following:
 - (i) a family responsibility agreement;
 - (ii) a family responsibility order;
 - (iii) a mediation conference;
- (e) another activity or action considered appropriate by the CEO.

4.235 The Jumbunna Institute for Indigenous Education and Research raised concerns that this section, which in their view only restates basic practice, will result in the list being ineffectively used as a 'check-box' tool:

we remain concerned, based on our experience in NSW, that the list provided at 12D(4) of the Bill, while intended to offer indicative 'proactive efforts', can become the focus of practice, operating as an ineffective check-box under the heading of 'proactive efforts'. In particular, we note that many of the listed actions come to be understood and operationalised in ways that rather than stretching practice to consider the grounds for removal and act strategically and with to address those circumstances, merely restate basic practice with the new terminology of 'proactive efforts'. In our experience, practices represented as being undertaken in compliance with such provisions lack a coherent, evidence-informed 'theory of change', that ultimately leave them disconnected from the intent noted in 12D(1) and (2) of the Bill.³⁹⁵

4.236 The Department noted in their written responses that:

While the inclusion of specified examples provides guidance and clarity about the types of actions expected, the provision is not intended to be prescriptive or limit the scope of proactive efforts.³⁹⁶

Additionally, the Department stated that the CEO's discretionary power at proposed section 12D(4)(e) provides flexibility to:

³⁹³ Law Society Northern Territory, Submission No. 137, p. 5.

³⁹⁴ Dr Hayley Boxall and others, Submission No. 99, p. 6.

³⁹⁵ Jumbunna Institute for Indigenous Education and Research, UTS, Submission No. 123, p. 16

³⁹⁶ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 14.

ensure decision-makers are not constrained by a fixed legislative list and can respond to the individual circumstances, strengths and support needs of each family, as well as evolving best practice.³⁹⁷

4.237 Submitters argued that proactive efforts should be culturally grounded and actively involve ACCOs.³⁹⁸ For example, Children's Ground provided suggestions for how the list of proactive efforts could be amended and strengthened, including additional emphasise on the involvement of Aboriginal groups in support and intervention processes:

Children's Ground supports the inclusion of proactive efforts as a concept. Proposed section 12D may improve accountability by requiring efforts to address risks before removal, reunify children after removal, or place children with family members where reunification is not in the child's best interests.

However, the provision requires strengthening. Proactive efforts must be more than a discretionary list of possible actions. They should require active, documented, culturally grounded and reviewable efforts to:

- prevent removal through practical support, family safety planning, housing, healing, family violence responses, disability support and early childhood services;
- identify, assess and support kinship carers, rather than excluding them because of poverty, housing conditions or remoteness without providing support;
- involve Aboriginal community-controlled organisations, Elders, cultural authorities and kinship networks at the earliest possible point;
- support reunification wherever safe and possible; and
- explain to the Court what active efforts were undertaken and why further efforts would not protect the child.³⁹⁹

4.238 The Committee notes that existing section 42(4) of the current Care and Protection Act applies to the CEO's actions under proposed section 12D. Section 42(4) provides:

The CEO must take reasonable steps to ensure that services provided to families under the Act, where appropriate:

- (a) involve meaningful engagement with families in a language and manner they understand (for example, by providing the use of an interpreter); and
- (b) are culturally responsive; and
- (c) involve a holistic assessment of children and families to ascertain risk factors in order to enable tailored supports and services to be provided; and
- (d) promote decision-making processes that:
 - (ii) seek to empower and strengthen families to make decisions for their families; and
 - (ii) actively involve:

³⁹⁷ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 14.

³⁹⁸ Mikan Aboriginal Corporation, Submission No. 45, p. 10; Children's Ground, Submission No. 80, p. 8.

³⁹⁹ Children's Ground, Submission No. 80, p. 8.

- (A) children; and
- (B) parents, family members and members of the relevant kinship group; and
- (iii) are developed with regard to the age, maturity, health, cognitive ability and cultural background of the children involved.⁴⁰⁰

4.239 The Committee observes that proposed section 65D, which outlines the CEO's obligations and responsibilities to parents when entering into a family responsibility agreement, includes an explicit note that provides 'Section 42(4) relates to the CEO's responsibilities when providing services to, and interacting with, families'. However, proposed section 12D does not include a similar note.

4.240 The Committee also notes that current section 130(ca) which requires the Court, before making a protection order, to consider 'the steps taken by the Territory to provide the services necessary to address any likely risks of harm to the child and to ensure the services were provided in accordance with section 42(4)' is proposed to be replaced with a requirement for the Court to consider 'whether the efforts made under section 12D in relation to the child were sufficient and appropriate in the circumstances'. This issue is discussed below in relation to 'Applications for Protection Orders'.

Documentation and reporting of proactive efforts

4.241 Multiple submissions suggested that proactive efforts undertaken by the CEO should be documented and reported.⁴⁰¹ Submissions provided the following recommendations:

- A requirement be introduced for evidence of genuine reunification efforts be documented before long-term permanency decisions are made.⁴⁰²
- New provisions be introduced to include accountability and reporting requirements for NT government departments, agencies and public authorities to take timely and tangible action and deliver and/or engage ACCOs to deliver culturally safe effective services to address protective concerns and the drivers of child protection system engagement prior to and, where applicable, post removal of a child.⁴⁰³

4.242 The Committee notes that documentation will be needed to meet the requirements of amended section 122(1)(b) which requires the CEO to specify and provide evidence of the efforts that were made under section 12D in relation to the child when applying for a protection order and why those efforts were unsuccessful in preventing the need for a protection order application. Amended section 130(1)(ca) then requires

⁴⁰⁰ The Bill proposes to make a minor amendment to section 42(4) so that it will state: 'The CEO must take reasonable steps to ensure that services provided to, and interactions with, families under this Act, where appropriate:...'.

⁴⁰¹ OzChild, Submission No. 41, p. 3; Anglicare NT, Submission No. 59, p. 2; Larrakia Nation Aboriginal Corporation, Submission No. 62, p. 9; Children's Ground, Submission No. 80, p. 5.

⁴⁰² Larrakia Nation Aboriginal Corporation, Submission No. 62, p. 9

⁴⁰³ OzChild, Submission No. 41, p. 3.

the Court to consider whether the efforts made under section 12D in relation to the child were sufficient and appropriate in the circumstances as one of the factors to determine if a protection order must be made.

4.243 In reference to these provisions, at the public hearing the Department advised that:

Critically, [the proactive efforts framework] requires the department to well document those efforts. This point about documentation was raised in submissions and these hearings, that one of the persistent failures identified in practice has been the inadequate reporting of the steps taken by the department to work with families, leaving no clearly documented account of what was done to try to keep children with their families. The proactive efforts provisions in this Bill directly address that failure. They do not simply require the work to be done; they require it to be recorded, tracked and demonstrated.⁴⁰⁴

'Active efforts' vs 'proactive efforts'

4.244 The Minister stated in her first reading speech that by legislating proactive efforts, the Bill 'establishes a clear duty for child protection workers to take proactive, timely efforts' and 'brings the Northern Territory into line with jurisdictions such as Queensland and New South Wales'.⁴⁰⁵

4.245 In Queensland, section 5F of the *Child Protection Act 1999* (QLD), provides that 'active efforts' refer to how the Aboriginal Child Placement Principle should be applied, namely that it is applied in a purposeful, thorough and timely manner:

5F(2) When making a significant decision about an Aboriginal or Torres Strait Islander child, a relevant authority must—

- (a) make active efforts to apply the Aboriginal and Torres Strait Islander child placement principle in relation to the child; and
- (b) in consultation with the child and the child's family, arrange for an independent Aboriginal or Torres Strait Islander entity for the child to facilitate the participation of the child and the child's family in the decision-making process. ...

5F(6) In this section — active efforts, to apply the Aboriginal and Torres Strait Islander child placement principle, means purposeful, thorough and timely efforts to apply the principle.

4.246 In NSW, the *Children and Young Persons (Care and Protection) Act 1998* (NSW) the 'active efforts' provisions outline:

- the principle that removal should be avoided and reunification achieved if possible
- how the reunification principle should be applied including requiring that active efforts are purposeful, thorough, timely, and

⁴⁰⁴ Department of Children and Families, Committee Transcript, 5 June 2026, p. 2.

⁴⁰⁵ Hon Robyn Cahill OAM MLA, Minister for Child Protection, Draft Daily Hansard – Wednesday 13 May 2026, <https://territorystories.nt.gov.au/10070/1036731>, p. 17.

- the activities that are considered active efforts, including provision of access to support services and the use of family responsibility contracts.

4.247 The principle of active efforts in section 9A of the NSW Act states that:

- (1) The Secretary must act in accordance with the principle of active efforts in exercising functions under this Act.
- (2) The principle of active efforts means—
 - (a) in taking action to safeguard or promote the safety, welfare and well-being of a child or young person—making active efforts to prevent the child or young person from entering out-of-home care, and
 - (b) for a child and young person who has been removed from the child's or young person's parents or family—
 - (i) making active efforts to restore the child or young person to the child's or young person's parents, or
 - (ii) for a child or young person for whom it is not practicable or in the child's or young person's best interests to be restored to the child's or young person's parents—to place the child or young person with family, kin or community.

Note—

See the permanent placement principles in section 10A and the placement principles for Aboriginal and Torres Strait Islander children and young persons in section 13.

- (3) Under the principle of active efforts, the Secretary must also ensure active efforts are—
 - (a) timely, and
 - (b) practicable, thorough and purposeful, and
 - (c) aimed at addressing the grounds on which the child or young person is considered to be in need of care and protection, and
 - (d) conducted, to the greatest extent possible, in partnership with the child or young person and the family, kin and community of the child or young person, and
 - (e) culturally appropriate, and
 - (f) otherwise in accordance with any requirements prescribed by the regulations.
- (4) Without limiting subsections (1)–(3), active efforts include—
 - (a) providing, facilitating or assisting with access to support services and other resources, and
 - (b) if appropriate services or resources do not exist or are not available—considering alternative ways of addressing the relevant

needs of the child or young person and the family, kin or community of the child or young person, and

- (c) activities directed at finding and contacting the family, kin and community of the child or young person, and
- (d) the use of any of the following—
 - (i) a parent responsibility contract,
 - (ii) a parent capacity order,
 - (iii) a temporary care arrangement under Chapter 8, Part 3, Division 1,
 - (iv) alternative dispute resolution under section 37, and
 - (e) another matter, activity or action prescribed by the regulations.
- (5) To avoid doubt, this section is subject to the requirement under section 9(1) that this Act is to be administered under the principle that, in any action or decision concerning a particular child or young person, the safety, welfare and well-being of the child or young person are paramount.

4.248 The active efforts principle in NSW is a universal principle, and applies more broadly than to their implementation of the ACPP. In contrast to the Minister's first reading speech, many submissions expressed the view that the NT's proposed proactive efforts provisions do not substantively reflect NSW's and Queensland's 'active efforts' provisions.⁴⁰⁶

4.249 The CREATE Foundation and the Office of the Children's Commissioner noted that the 'active efforts' frameworks in NSW and Queensland were designed to strengthen and measure compliance with the ACPP, which many stakeholders have argued the Bill either removes from the Care and Protection Act or substantially weakens.⁴⁰⁷ The NT Office of the Children's Commissioner noted that:

active efforts elsewhere have not been introduced as a substitute for the [ACPP]. They have been introduced precisely to ensure that the ACPP is properly implemented in practice... The active efforts initiatives in New South Wales (s9A of the *Children and Young Persons (Care and Protection) Act 1998* (NSW)) and Queensland (s5F of the *Child Protection Act 1999* (Qld)) were inserted to support the ACPP. As the OCC put it in its submission to the initial [Care and Protection of Children Act] Review: "*For Aboriginal children, active efforts cannot be seen separate from the ACPP. Active efforts underpin and support the ACPP by providing a framework to effectively measure compliance with all five elements*".⁴⁰⁸

4.250 Submissions also noted that, unlike the NSW and Queensland legislation, the proposed provision in the Bill does not reflect SNAICC's definition of active efforts.⁴⁰⁹ SNAICC's definition provides that:

⁴⁰⁶ For example, submissions 19, 23, 45, 92, 117 and 130.

⁴⁰⁷ CREATE Foundation, Submission No. 23, p. 12; Office of the Children's Commissioner, Submission No. 40, p. 10.

⁴⁰⁸ Office of the Children's Commissioner, Submission No. 40, p. 10.

⁴⁰⁹ Submissions 19, 23, 45, 49, 92, 117, 123 and 130.

Active efforts are 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.⁴¹⁰

4.251 The Mikan Aboriginal Corporation expressed the view that the proactive efforts framework proposed by the Bill does not meet national and international standards:

This appears positive. But the standard adopted is materially weaker than the “active efforts” standard required by SNAICC’s national framework and embedded in the Commonwealth’s Safe and Supported: National Framework for Protecting Australia’s Children 2021–2031, to which the Northern Territory is a signatory. The differences matter:

- “Active efforts” is a defined legal standard, derived from international and comparative practice, requiring intensive, culturally-grounded, and time-bound efforts to keep families together, including the active involvement of Aboriginal community-controlled organisations.
- “Proactive efforts” as defined in the Bill is undefined to that standard. Section 12D(4) lists examples (counselling, finding family, family responsibility agreements and orders) but does not require the active involvement of Aboriginal Community Controlled Organisations. The framework is administered by the CEO of the Department, without external accountability....Mikan submits that the section 12D framework should be replaced with an explicit “active efforts” framework, defined to the standard articulated by SNAICC and operationalised through formal partnership with Aboriginal Community Controlled Organisations.⁴¹¹

4.252 The NTLAF also argued that it is unclear whether the distinction between ‘proactive efforts’ and ‘active efforts’ is intended to depart from established national and international jurisprudence, arguing that this could create confusion and ‘protracted litigation’.⁴¹² The Jumbunna Institute for Indigenous Education and Research additionally noted there is no reference to requirements for a partnership approach with families or cultural supports as there is in NSW:

Active or proactive efforts provisions seek to balance the responsibility often placed solely on families by placing an explicit, positive obligation on child protection authorities to actively support families to provide safe and nurturing care to their children. Often, including in [the Indian Child Welfare Act] and the NSW provisions, ‘active efforts’ are defined in terms of timely, practicable, thorough, and purposeful – aspects that are absent from the NT Bill.

Compared with similar provision in NSW, the current bill also fails to include reference to the importance of partnering with children and young people, their families and communities, and the provision of culturally appropriate supports. These types of references are important, particularly given the continued absence and underinvestment in evidence-based programs for Aboriginal children and families, and instead an inappropriate reliance on non-Indigenous programs that regularly are shown to under-serve and under-deliver for Aboriginal children, families and communities.⁴¹³

⁴¹⁰ SNAICC – National Voice for our Children, *The Aboriginal and Torres Strait Islander Child Placement Principle: A Guide to Support Implementation*, https://www.snaicc.org.au/wp-content/uploads/2019/06/928_SNAICC-ATSICPP-resource-June2019.pdf, p. 4.

⁴¹¹ Mikan Aboriginal Corporation, Submission No. 45, p. 10.

⁴¹² Northern Territory Legal Assistance Forum, Submission No. 117, p. 9.

⁴¹³ Jumbunna Institute for Indigenous Education and Research, UTS, Submission No. 124, p. 156.

4.253 SNAICC expressed concerns regarding the use of the term ‘reasonable proactive efforts’, referencing the reforms following the Yoorrook Justice Commission in Victoria and the Family is Culture reform process in NSW:

The Explanatory Statement states that the purpose of the proactive efforts framework is to promote “timely actions”, permanency and stability for children and requires the CEO to undertake “reasonable proactive efforts” toward reunification. SNAICC submits that the wording “reasonable proactive efforts” establishes a lower procedural threshold than stronger approaches identified in reform processes in other jurisdictions. In Victoria, reforms following the Yoorrook Justice Commission and earlier Aboriginal child welfare reforms have emphasised self-determination, family preservation and Aboriginal authority in decision-making, while reform processes in New South Wales, including Family is Culture, have highlighted the importance of stronger prevention, family-led decision-making and implementation of the Child Placement Principle (Yoorrook for Justice 2023; Davis, M., 2019). By contrast, the proposed “reasonable proactive efforts” framework does not clearly require demonstrable, culturally safe and intensive efforts before removal or throughout reunification processes.⁴¹⁴

4.254 Some submissions raised concerns that the proactive efforts provision does not reflect the intention of the Coronial *Inquest into the death of Baby G* [2024] NTLC 16 recommendation,⁴¹⁵ which proposed that the Attorney-General should consider a reform of the Care and Protection Act to include a principle of active efforts similar to the NSW provisions.⁴¹⁶ Submitters recommended that the Bill should be amended to incorporate ‘active efforts’ provisions consistent with the Queensland and NSW legislative models, defined as purposeful, thorough and timely.⁴¹⁷

4.255 The Committee asked the Department whether consideration was given to requiring efforts to be purposeful, thorough and timely, as in NSW and QLD. The Department stated that the inclusion of timeframes in the Bill (per section 12D(2) and 12D(3)) is an accountability mechanism which ensures the Department’s efforts are purposeful, thorough and timely.⁴¹⁸

Committee comments

4.256 The majority of the Committee finds that the 2 year timeframe contained in section 12D aligns with the objective of the Bill to prioritise permanency and stability for children in the child protection system.

4.257 The Committee notes the Department’s advice that the CEO is required to demonstrate pursuit and conduct of proactive efforts in an application for a protection order. The majority of the Committee agrees that this is an adequate safeguard to ensure the CEO has meaningfully undertaken proactive efforts.

⁴¹⁴ SNAICC – National Voice for our Children, Submission No. 130, p. 17.

⁴¹⁵ CREATE Foundation, Submission No. 23, p. 12; Northern Territory Legal Assistance Forum, Submission No. 117, p. 12.

⁴¹⁶ Inquest into the death of Baby G [2024] NTLC 16, <https://agd.nt.gov.au/media/docs/inquest-finding-publications/2024/D00682023-Baby-G.pdf>, p. 46.

⁴¹⁷ Submissions 19, 23, 45, 55, 92 and 117.

⁴¹⁸ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 15.

- 4.258 The majority of the Committee accepts the Department's advice that the list of proactive efforts at section 12D(4) provides the CEO with guidance but enables flexibility to ensure efforts can be tailored to each individual's circumstances. The Committee considers the provision is appropriate as drafted.
- 4.259 The majority of the Committee considers the requirements for proactive efforts to be documented per amended section 122(1)(b) are appropriate as drafted.
- 4.260 The Committee notes the Department's advice that the inclusion of timeframes in the Bill per section 12D(2) and 12D(3) effectively requires the efforts to be purposeful, thorough and timely. The majority of the Committee considers the provisions are appropriate as drafted.
- 4.261 The Committee acknowledges concerns from some submitters about uncertainty regarding the implementation and operation of the proactive efforts provisions in the legislation. The Committee therefore recommends that the Department implement measures to enable families to understand their rights and obligations regarding proactive efforts made by the CEO. In addition, for clarity and consistency, the Committee considers that a note pointing to existing section 42(4) would assist individuals in understanding their rights and obligations under section 12D. The Committee notes this would be consistent with proposed section 65D.

Recommendation 4

The Committee recommends that, consistent with proposed section 65D, the Bill be amended to include a note to section 12D that provides 'Section 42(4) relates to the CEO's responsibilities when providing services to, and interacting with, families'.

Recommendation 5

The Committee recommends that the Department implement measures to enable families to understand their rights and obligations regarding proactive efforts made by the CEO.

Proposed sections 12E and 12F – Responsibility of Territory Government and public authorities

- 4.262 Proposed sections 12E and 12F seek to remake existing sections 7 and 8A which prescribe responsibility of the NT Government and public authorities under the Care and Protection Act. The provisions seek to update the responsibilities to promote and safeguard the safety, long-term stability and security of children.
- 4.263 The Committee notes that under existing section 6(1), existing section 7 and 8A are prescribed as 'underlying principles' of the Care and Protection Act. However, as currently drafted, proposed sections 12E and 12F would no longer be underlying principles due to the operation of proposed section 7(2), which provides the underlying principles are set out in proposed sections 8 to 12D.
- 4.264 As currently drafted, proposed sections 12E and 12F would also not be subject to proposed section 7(3), which requires persons exercising powers or performing functions under the Care and Protection Act to have regard to the underlying

principles, or proposed section 7(4)(a), which provides the underlying principles do not confer a right or entitlement. The Committee notes that the Explanatory Statement does not explain the rationale for this change or whether it is intended to alter the legal effect of the provisions.

- 4.265 The Committee received limited comments in relation to proposed sections 12E and 12F. However, submitters raised concerns regarding the accountability of government agencies for complying with the responsibilities and suggested that the provisions should impose broader obligations in relation to systemic racism and the wellbeing of children in OOHC. Some submitters questioned whether the proposed sections create meaningful obligations in the absence of an express compliance or accountability mechanism. Sally Sievers AO submitted that, while proposed section 12E identifies actions expected of NT Government agencies, it ‘provides no mechanism to ensure compliance, accountability or consequences if these actions are not carried out’.⁴¹⁹
- 4.266 The Committee heard calls for the responsibilities of the NT Government and public authorities to be expanded. Referring to previous work published by SNAICC, the CREATE Foundation recommended that proposed section 12F should be amended to include explicit responsibilities for public authorities to ‘address systemic and personal racism in the delivery of child protection services’.⁴²⁰
- 4.267 Families Australia also submitted that the Bill should impose a broader statutory responsibility on the NT Government to improve the safety, health and wellbeing of children in OOHC:

Families Australia recommends the Bill is amended to introduce a legislative responsibility and accountability on the Northern Territory Government to improve the safety, health and wellbeing of children in out-of-home care. This legislative responsibility should provide for all government departments and agencies to be responsible and accountable for providing children in out-of-home care with:

- with the recommended assessments and coordinated treatment plans recommended in the National Clinical Assessment Framework for Children and Young People in Out-of-Home Care;
- treatment and support to heal from the impacts of abuse and neglect prior to their entry into out-of-home care;
- assessments, treatment and supports to address multiple and complex health needs, poor physical health, developmental delays and compromised mental health;
- continuity of care to support health, wellbeing, meeting developmental milestones, and meaningfully engaging in education.⁴²¹

Committee comments

- 4.268 The Committee notes that proposed sections 12E and 12F largely remake existing sections 7 and 8A. However, the Committee observes that, unlike the existing

⁴¹⁹ Sally Seivers AO, Submission No. 114, p. 3.

⁴²⁰ CREATE Foundation, Submission No. 23, p. 4.

⁴²¹ Families Australia, Submission No. 70, p. 15.

provisions, proposed sections 12E and 12F would no longer form part of the underlying principles of the Care and Protection Act.

- 4.269 Given the proposed sections continue to prescribe responsibilities of the NT Government and public authorities, the Committee considers that greater clarity should be provided as to whether they are intended to create or confer any right, obligation or entitlement enforceable at law.
- 4.270 While the Committee notes the broader recommendations made by submitters regarding accountability mechanisms and additional statutory responsibilities, it considers that these issues are matters of policy. The Committee's principal concern is that the intended legal operation of proposed sections 12E and 12F should be made clear.

Recommendation 6

The Committee recommends that a supplementary explanatory statement be tabled outlining the rationale for removing the content of proposed sections 12E and 12F from being underlying principles of the *Care and Protection of Children Act 2007* and whether it is intended for sections 12E and 12F to create or confer any right or entitlement enforceable at law.

Family Responsibility Arrangements

- 4.271 Clauses 11 and 16 of the Bill seek to insert family responsibility arrangements, previously set out in the Youth Justice Act, into the Care and Protection Act.
- 4.272 Some issues raised in submissions relate specifically and distinctly to either the family responsibility agreement or family responsibility order provisions. However, the majority of submission raised broader issues that are applicable to the family responsibility arrangements framework as a whole.

Proposed Chapter 2, Part 2.1A – Family Responsibility Agreements

- 4.273 Clause 11 seeks to remake existing requirements relating to family responsibility agreements that are currently set out in Division 2 of Part 6A of the Youth Justice Act. The Youth Justice Act provisions have been either inserted in the same or effectively the same format, or amended and inserted into, proposed section 65A to 65F of the Bill.
- 4.274 In her first reading speech, the Minister outlined that the purpose of these amendments is to '[strengthen] family responsibility agreements with clear escalation pathways to maximise parental involvement', '[reintroduce] family responsibility orders to support compliance and fortify parental accountability' and 'broaden and refocus the children and young persons captured by the scheme'.⁴²²

⁴²² Hon Robyn Cahill OAM MLA, Minister for Child Protection, Draft Daily Hansard – Wednesday 13 May 2026, <https://territorystories.nt.gov.au/10070/1036731>, p. 16.

'Event of concern' trigger

4.275 Proposed section 65D(1) sets out circumstances in which the CEO must invite a parent to enter into a family responsibility agreement. The new circumstances are where the CEO reasonably believes:

- (a) that an 'event of concern' has occurred or is at risk of occurring in relation to the child; and
- (b) the child's family circumstances have caused or contributed to the event of concern or the risk of the event of concern; and
- (c) the child's family circumstances may be improved by the agreement.

4.276 Proposed section 65D(6) defines an 'event of concern' as a child exhibiting criminal or anti-social behaviour, a school-age child not attending school, or an event that adversely affects a child's wellbeing.

4.277 Proposed section 65D(1) and 65D(6) effectively replace section 140D of the Youth Justice Act which currently provides that an agreement may be entered into with a parent, or parents, of a youth if:

- (a) the youth has demonstrated behavioural problems; and

Examples

1 Criminal behaviour.

2 Persistent truancy.

3 Anti-social behaviour.

- (b) the youth's family circumstances may have caused, or contributed to, the behavioural problems; and
- (c) the Agency is of the opinion that the agreement may assist to resolve the problems.

4.278 The new section 65D(6) provides a new trigger for when the CEO may invite a parent to enter into an agreement by replacing 'persistent truancy' with 'a school-age child not attending school', and including an additional 'event that adversely affects a child's wellbeing'.

4.279 Regarding the changes to existing requirements of section 140D of the Youth Justice Act, the Minister explained that:

The current provisions in the Youth Justice Act only allow family responsibility agreements to be proposed where the youth has demonstrated behavioural problems which does not allow for parental behaviours or child wellbeing concerns to serve as triggers for support.

This Bill will replace that requirement with a broader event-of-concern trigger, enabling earlier intervention that extends beyond youth justice concerns. Events of concern include the child exhibiting criminal or antisocial behaviour, the child not attending school and in the presence of other wellbeing risk factors such as parents neglecting the child's basic needs or children found wandering

unsupervised at night. These agreements will also connect families with support services with the goal of achieving lasting sustainable change.⁴²³

4.280 The use of this event of concern to trigger a requirement for the CEO to enter into a family responsibility agreement with a parent was not supported by a majority of submissions. Various submitters raised concerns with the broadness of the event of concern definition, particularly the broadness of an event that 'adversely affects a child's wellbeing', and the 'at risk of occurring' threshold, finding that these provisions effectively reduce the threshold for intervention by child protection services in family life to an unacceptable degree.⁴²⁴ Dr Hayley Boxall et. al. stated that:

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.⁴²⁵

4.281 Submitters also argued that the proposed measures do not sufficiently account for the prevalence of unmet developmental, cognitive, disability or mental health related needs that might intersect with these issues.⁴²⁶ The effect of this is that the provisions may disproportionately affect children with complex needs, place additional pressures on families through fear and shame, and contribute to caregiver burnout, family stress and disengagement from services.⁴²⁷ For example, Palm OT stated that:

In practice, we are already seeing families of children experience increasing pressure related to school attendance, despite children presenting with significant anxiety, sensory overwhelm, trauma responses, autistic burnout or disability-related distress. Some children are physically unable to tolerate the cognitive, sensory and social demands of the school environment for sustained periods of time, even when families are implementing recommended supports and engaging with multiple professionals. For these families, the proposed reforms may increase fear, shame and scrutiny at a time when they are already overwhelmed and actively seeking help. We are concerned that families caring for children with invisible disabilities or complex behavioural presentations may increasingly be viewed through a lens of non-compliance or risk, rather than being recognised as families requiring support, flexibility and therapeutic intervention. We have worked with families who:

- spend hours each morning attempting to support a distressed child to attend school safely, often resulting in emotional exhaustion for both parent and child;

⁴²³ Hon Robyn Cahill OAM MLA, Minister for Child Protection, Draft Daily Hansard – Wednesday 13 May 2026, <https://territorystories.nt.gov.au/10070/1036731>, p. 18.

⁴²⁴ For example, submissions 17, 48, 71, 94, 99, 102, 107 and 136.

⁴²⁵ Dr Hayley Boxall and others, Submission No. 99, p. 7.

⁴²⁶ Submissions 18, 22, 65, 92, and 99.

⁴²⁷ Palm Tree OT, Submission No. 18, p. 5; Hon Chansey Paech MLA, Submission No. 42, p. 8; Katherine Women's Legal Service, Submission No. 79, p. 7.

- are attending multiple medical and therapy appointments each week while also managing financial stress, employment instability and caregiving responsibilities;
- have been advised to seek therapy supports but are unable to access services due to extensive waitlists, workforce shortages or affordability barriers;
- report feeling blamed or judged for their child's behaviours despite consistently engaging with schools, therapists and medical professionals;
- fear that being honest about their struggles may lead to increased monitoring or child protection involvement.⁴²⁸

4.282 In response to the Committee's request to outline what may constitute 'an event that adversely affects a child's wellbeing', the Department advised that:

Events that may adversely affect a child's wellbeing can be described as any action or inaction that has a negative effect on the wellbeing of a child such as missed medical appointments, untreated health issues, inadequate care or supervision. These events do not meet the threshold for child protection intervention but are indicators that the child and family may benefit from additional services and supports.⁴²⁹

4.283 Aboriginal Housing Northern Territory expressed concern that these provisions could result in housing stress and poverty being linked to increased rate of children being removed from families.⁴³⁰ In response to the Committee's question regarding whether housing stress would be an event that adversely affects a child's wellbeing, the Department stated that:

Where lack of stable housing or overcrowding exists, the Department works with housing providers, including the Department of Housing, Local Government and Community Development, to assist families in resolving housing concerns. The Department assesses the situation first to consider the best course of action involving parents before considering next steps. Instances of poverty, housing stress or remote service exclusion will be identified through referral and follow-up enquiries. A family responsibility agreement may be a good tool for a family to leverage the Department's influence where a situation is adversely affecting their child's wellbeing.⁴³¹

4.284 The Department also advised that the CEO would use their inquiry function under amended section 32 to determine whether an event of concern is 'at risk of occurring':

The Bill amends section 32 to allow the CEO to make enquiries regarding a child's wellbeing, or to assess the effectiveness of, or compliance with a family responsibility agreement. Through these enquiries authorised officers can determine if an event of concern has occurred or is at risk of occurring based on

⁴²⁸ Palm Tree OT, Submission No. 18, p. 5

⁴²⁹ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 17

⁴³⁰ Aboriginal Housing Northern Territory, Submission No. 136, p. 2.

⁴³¹ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 17.

the child and family's particular circumstances and emerging patterns of behaviour.⁴³²

4.285 Some submissions expressed their concern that the anti-social behaviour and school attendance measures do not sufficiently account for complex and interconnected factors that cause these issues to arise, noting that these issues do not necessarily indicate parental neglect.⁴³³ For example, school non-attendance may indicate school-based bullying.⁴³⁴

4.286 In response to the Committee's query about the rationale for specifying 'a school age child not attending school' as an event of concern and how the provision is intended to operate in practice, the Department advised that:

It is envisaged that a child would be referred by the Department of Education when their internal response to persistent truancy has been unsuccessful. The event of concern trigger is not intended to prompt a response in unreasonable circumstances, such as a child missing one day of school.⁴³⁵

4.287 The Department also outlined how the new provisions depart from existing thresholds for family responsibility agreements made under section 140D of the Youth Justice Act:

An 'event of concern' is expected to be a lower threshold for people to report concerns regarding children before matters give rise to a child protection complaint. The intention behind introducing an 'event of concern' is for Family Responsibility Agreements (FRAs) to be an early intervention measure. The Parental and Family Responsibility (PFR) provisions promote the wellbeing of children by:

- increasing parental involvement and accountability
- addressing the needs of parents and improving parenting capacity and capability
- preventing an escalation to a statutory child protection or youth justice response.⁴³⁶

4.288 Some submissions raised concerns about the potential increase in mandatory reports and investigations expected from the broadened 'event of concern' trigger.⁴³⁷ Tangentyere Council Aboriginal Corporation noted that 'the Bill expands powers for investigations and intervention based on broad "wellbeing" concerns' and expressed concerns about the consequences of a high number of mandatory reports:

Mandatory reporting systems can generate high volumes of referrals that overwhelm an already overstretched child protection workforce. This can lead to:

⁴³² Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 16.

⁴³³ Submissions 18, 79, 120, 124 and 126.

⁴³⁴ Dr Matthew Jennings, Submission No. 17, p. 4.

⁴³⁵ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 16.

⁴³⁶ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 17.

⁴³⁷ Unions NT, Submission No. 53, p. 3; Tangentyere Family Violence Prevention Division, Submission No. 103, p. 11; Central Australian Women's Legal Service, Submission No. 115, p. 3.

- unnecessary investigations;
- poor-quality assessments;
- rushed decision-making;
- increased removals without adequate evidence.⁴³⁸

4.289 CAWLS highlighted how the event of concern trigger could negatively impact DFSV victim-survivors:

Section 65D(6) defines an 'event of concern' to include 'an event that adversely affects a child's wellbeing'. This is a broad definition that is likely to capture all reports of DFSV between parents or family members of a child. Under this definition, the CEO must invite the parents of a child to enter [a family responsibility agreement] as soon as they have received a notification of DFSV pursuant to s 65D(1) of the Bill. Within the context of DFSV and child protection mandatory reporting obligations in the NT, this will inevitably lead to a significant increase in the Department of Children and Families' intervention in the lives of Territorian families who are otherwise engaged with other forms of support services. CAWLS is concerned that this requirement amplifies an already significant barrier for victim-survivors to report DFSV and seek help. The fear of police involvement and potential child removal can discourage DFSV disclosure, particularly among Aboriginal women with historical experiences of child separation.⁴³⁹

4.290 In response to the Committee's question regarding whether modelling has been done on the increase in mandatory reports and investigations expected from the broadened 'event of concern' trigger, the Department stated that:

The mandatory reporting provisions contained in section 26 of the [Care and Protection] Act require a person to make a report to the Department when they believe on reasonable grounds that a child has suffered or is likely to suffer, harm or exploitation. This is a higher threshold than what is contemplated as an event of concern to trigger early intervention. Accordingly, the Bill does not require mandatory reports for events of concern or corresponding modelling that predicts an increase in child protection investigations. However, where a report for a child does not meet the threshold for a child protection investigation, but indicates there are events of concern, the child and family may be referred to the relevant division for family engagement.⁴⁴⁰

4.291 Due to these various concerns, submissions recommended that the Bill be amended to:

- define 'event of concern' more precisely.⁴⁴¹
- require the CEO to identify the specific risk to the child, the family circumstances said to contribute to that risk, the services offered, and why a voluntary support plan is insufficient before moving to an agreement or order.⁴⁴²

⁴³⁸ Tangentyere Family Violence Prevention Division, Submission No. 103, p. 11.

⁴³⁹ Central Australian Women's Legal Service, Submission No. 115, p. 3.

⁴⁴⁰ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 16.

⁴⁴¹ Dr Matthew Jennings, Submission No. 17, p. 4; Law Society Northern Territory, Submission No. 137, p. 11.

⁴⁴² Dr Matthew Jennings, Submission No. 17, p. 4.

Discretionary powers

4.292 Proposed section 65D and amended section 32 confer discretionary powers on the CEO. The NTPA generally supported the discretionary powers conferred upon the CEO, as well as police officers, authorised officers, and the Court by the Bill, stating they are:

appropriate having regard to the nature of child protection decision-making. The Bill appropriately provides operational agencies with sufficient flexibility to respond effectively to rapidly evolving situations involving:

- vulnerable children;
- urgent safety risks;
- anti-social behaviour;
- youth offending; and
- family dysfunction.⁴⁴³

4.293 However, various other submissions did not support these powers.

Proposed section 65D

4.294 A number of submitters highlighted concerns about the discretion afforded to the CEO by proposed sections 65D(1)(a)-(c) and (5).⁴⁴⁴ As discussed above, proposed section 65D(1) sets out the circumstances where CEO must invite a parent to enter into a family responsibility agreement.⁴⁴⁵

4.295 The submission from Dr Hayley Boxall et. al. found that section 65D(1)(a), which outlines that the CEO must invite a parent to enter into a family responsibility agreement if the CEO reasonably believes that an event of concern has occurred, or is at risk of occurring, provides an undefined discretionary power. They argue that this enables a lower 'threshold' for inviting a family into a family responsibility agreement and consequently, when read in combination with the other provisions of the Bill, also enables a lower threshold for child removal:

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.⁴⁴⁶

⁴⁴³ Northern Territory Police Association, Submission No. 108, pp. 5-6.

⁴⁴⁴ Children's Ground, Submission No. 80; Dr Hayley Boxall and others, Submission No. 99; Law Society Northern Territory, Submission No. 137.

⁴⁴⁵ Section 65D(1) of the Bill provides: The CEO must invite a parent of a child to enter into a family responsibility agreement if the CEO reasonably believes that: (a) an 'event of concern' has occurred or is at risk of occurring in relation to the child; and (b) the child's family circumstances have caused or contributed to the event of concern or the risk of the event of concern; and (c) the child's family circumstances may be improved by the agreement.

⁴⁴⁶ Dr Hayley Boxall and others, Submission No. 99, p. 7.

4.296 Dr Boxall further submitted section 65D(1)(b) and (c) requires that the CEO must believe that family circumstances caused or contributed to the event of concern and that circumstances may be improved by the agreement, however, conditions such as 'contributed to' and 'may be improved' are 'extremely low bars' and open to discretion.⁴⁴⁷

4.297 Section 65D(5) provides that, before entering into a family responsibility agreement, the CEO must:

- (a) ensure that any facilities or services reasonably required by a party to the agreement in order to comply with the agreement are reasonably available to the party; and
- (b) ensure that procedures are in place for the agreement to be regularly reviewed to assess the parties' compliance and capacity to comply with the agreement; and
- (c) be satisfied that the terms of the agreement are appropriate having regard to the following:
 - (i) the circumstances of the child's family and the likely effect of the agreement on the family, including any potential escalation of risks to the child's wellbeing or other safety risks;
 - (ii) whether the child, or a parent of the child, lives with a disability;
 - (iii) whether there are any existing agreements, orders or programs imposing requirements on the parent in relation to their child.

4.298 Proposed sections 65D(5)(a) and (b) replaces as sections 140E(3)(a) and (c) of the Youth Justice Act in substantially the same form. Proposed section 65D(5)(c)(i)-(iii) make some amendments to the Youth Justice Act provisions including:

- Specifying that one of the circumstances of the child's family, and the likely effect of the agreement on the family that must be considered, is any potential escalation of risks to the child's wellbeing or other safety risks.
- Not requiring the parent's or child's disability to be considered to cause or contribute to the youth's behavioural problems.
- Requiring consideration of whether there are any existing agreements, orders or programs imposing requirements on the parent in relation to their child, to determine whether the terms of the family responsibility agreement are appropriate. This the requirement to consider the outcome of an inquiry under 'Division 3' of Youth Justice Act which outlines when the Court may inquire into family circumstances and the matters it may consider.

4.299 Dr Hayley Boxall et. al. highlighted that proposed section 65D(5) enables the CEO to exercise discretion to ensure facilities and services are 'reasonably available' prior to entering a family responsibility agreement, however, 'reasonably available' is undefined, raising concerns that remote families who do not have access to required

⁴⁴⁷ Dr Hayley Boxall and others, Submission No. 99, p. 7.

services due to their non-existence or long waitlists could be seen as non-compliant by the CEO:

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.⁴⁴⁸

4.300 Because of these concerns, submitters recommended the Bill be amended to ensure:

- the mandatory obligation on the CEO to invite a parent to enter a family responsibility agreement where the only basis is a risk of an event of concern occurring should be removed from the Bill.⁴⁴⁹
- family responsibility measures are not imposed where non-compliance is caused by a lack of service availability, remoteness, disability, language barriers, trauma or poverty.⁴⁵⁰
- family responsibility measures do not escalate to removal or permanent orders without proof that reasonable, culturally grounded support services were available and provided.⁴⁵¹
- CEO powers and responsibilities are defined with greater precision and require evidence of assessment scope, Aboriginal-led decision-making, family-led care planning, cultural authority, assessment of structural and service access and responsibilities, standards and practice of child protection authorities and staff involved in the child and/or families referral order.⁴⁵²

Amended section 32

4.301 Clause 8 of the Bill seeks to amend section 32 of the Care and Protection Act. As such, the amended section:

⁴⁴⁸ Dr Hayley Boxall and others, Submission No. 99, p. 13.

⁴⁴⁹ Law Society Northern Territory, Submission No. 137, p. 11.

⁴⁵⁰ Children’s Ground, Submission No. 80, p. 12.

⁴⁵¹ Children’s Ground, Submission No. 80, p. 12.

⁴⁵² Children’s Ground, Submission No. 80, p. 12.

- retains the wording from existing section 32(1)(a) which enables the CEO to make inquiries about a child if the CEO receives information that raises concerns about the child's wellbeing.
- adds new subsection 32(1)(b) which enables the CEO to make inquiries about a child for the purpose of assessing the effectiveness of, or compliance with, a family responsibility agreement or family responsibility order relating to the child
- amends section 32(2) to provide that, on completing an inquiry, the CEO may decide whether any further action should be undertaken under new Part 2.1A, in addition to existing parts 2.1 (General obligations and powers) and 2.3 (Court's powers for children).

4.302 Various stakeholders expressed concerns that the amended provision lowers the threshold at which child protection services become involved in people's lives and will unacceptably expand surveillance on families.⁴⁵³ For example, SNAICC found that:

The new requirements outlined in the Bill lower the threshold for child protection investigation. This includes new powers to initiate an investigation where a 'family responsibility agreement' is put in place, which must be done when vaguely defined 'events of concern' occur such as an 'event that adversely impacts a child's wellbeing'. This would extend investigatory powers beyond well-established and evidence-based thresholds of concern regarding child abuse and neglect, increasing surveillance, and driving increased intervention in family and community life.⁴⁵⁴

4.303 The NTLAF raised concerns that, when section 32 is read in combination with sections 4, 6, 8, 9, 32, 35, 65D(6) and 65E, it threatens a 'core principle in democratic societies that families should generally be able to raise their children without unnecessary government interference, unless there are serious concerns about a child's safety'.⁴⁵⁵

Need for legal and interpreter services to ensure adequate understanding of measures

4.304 A number of submissions noted their concerns that there are no requirements for families to have access to legal or independent advice prior to signing a family responsibility agreement to ensure the signatories genuinely understand the terms of the agreement.⁴⁵⁶ For example, the NTLAF suggested that:

The Committee should also carefully consider the participation framework within Part 2.1A. While the Bill contemplates family involvement in agreement-making, there appear to be limited safeguards to ensure families have access to independent advocacy, legal advice, disability support, culturally safe processes or genuine capacity to negotiate the terms of agreements on an equal footing with the Department. There is a risk that families may formally "agree" to extensive

⁴⁵³ Australian Medical Association NT, Submission No. 92, p. 13; Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council, Submission No. 100, p. 5; Northern Territory Legal Assistance Forum, Submission No. 117, p. 17; SNAICC – National Voice for our Children, Submission No. 130, p. 6

⁴⁵⁴ SNAICC – National Voice for our Children, Submission No. 130, p. 6.

⁴⁵⁵ Northern Territory Legal Assistance Forum, Submission No. 117, p. 17.

⁴⁵⁶ Submissions 66, 105, 114, 117, 131, and 137

intervention measures in circumstances where the practical imbalance of power means participation is not fully free or informed.⁴⁵⁷

4.305 CAWLS noted that it is a requirement in NSW and the ACT for parents to be able to access legal services when invited to enter into the equivalent of a family responsibility agreement.⁴⁵⁸ Based on this, submissions recommended that the Bill be amended to:

- guarantee access to independent legal and advocacy assistance before and during the family responsibility agreement process.⁴⁵⁹
- require the concurrent provision of culturally appropriate, trauma-informed therapeutic support.⁴⁶⁰
- require the CEO to be satisfied that parties to a family responsibility agreement understand its nature and effect before entering into it.⁴⁶¹
- to require the CEO to ensure adequate and culturally appropriate services are reasonably available to the family before entering into a family responsibility agreement, including access to interpreters independent of the family.⁴⁶²

The Committee observes that there is a note to proposed section 65D that clarifies that 'Section 42(4) relates to the CEO's responsibilities when providing services to, and interacting with, families'.⁴⁶³

Committee comments

4.306 The majority of the Committee finds that the broadness of the event of concern is necessary to trigger earlier intervention in circumstances beyond youth justice concerns and therefore is necessary to achieve the policy objectives of the Bill.

4.307 The majority of the Committee agrees that the discretionary powers conferred upon the CEO and police officers by the Bill are appropriate.

4.308 The majority of the Committee finds that section 42(4) of the Care and Protection Act is a sufficient safeguard to ensure that the CEO is assured that families have an adequate understanding of the family responsibility agreement measures.

⁴⁵⁷ Northern Territory Legal Assistance Forum, Submission No. 117, p. 15.

⁴⁵⁸ Central Australian Women's Legal Service, Submission No. 115, pp. 2-3.

See section 38A(4) of the Children and Young Persons (Care and Protection) Act 1998 (NSW) and ACT guidance '[Deciding if your child needs care and protection](#)' which provides a right for a parent to have support and advocacy, including the right to seek legal advice.

⁴⁵⁹ Northern Territory Mental Health Coalition, Submission No. 66, p. 6.

⁴⁶⁰ Northern Territory Mental Health Coalition, Submission No. 66, p. 6.

⁴⁶¹ Law Society Northern Territory, Submission No. 137, p. 11.

⁴⁶² Law Society Northern Territory, Submission No. 137, p. 11.

⁴⁶³ Section 42(4) requires the CEO to take reasonable steps to ensure that services provided to families under the Care and Protection Act, where appropriate: (a) involve meaningful engagement with families in a language and manner they understand (for example, by providing the use of an interpreter); and (b) are culturally responsive; and (c) involve a holistic assessment of children and families to ascertain risk factors in order to enable tailored supports and services to be provided; and (d) promote decision-making processes that: (i) seek to empower and strengthen families to make decisions for their families; and (ii) actively involve: (A) children; and (B) parents, family members and members of the relevant kinship group; and (iii) are developed with regard to the age, maturity, health, cognitive ability and cultural background of the children involved.

Proposed Part 2.3, Division 4, Subdivision 1A – Family Responsibility Orders

4.309 Clause 16 seeks to insert new sections 102A to 102T into the Care and Protection Act to provide for family responsibility orders that may be made by the Local Court. This is intended to ‘provide a clear escalation pathway to support compliance and accountability for parents’.⁴⁶⁴ The provisions include:

- the circumstances when family responsibility orders may be made (proposed sections 102B and 102C), varied, revoked or replaced (proposed section 102M) and the content required for applications (proposed sections 102D and 102N)
- content of family responsibility orders, including directions to the parents of a child or the CEO for up to 12 months (proposed section 102E)
- when the court may make, vary, revoke or replace an order (proposed section 102J and 102S)
- notice requirements for the application and order (proposed 102G and 102T)
- notice requirements for application for orders, or the variation, revocation or replacement of orders (proposed sections 102K, 102K, 102Q)
- prescribing persons who are parties to court proceedings for hearings and providing for hearings in the absence of parents (proposed sections 102F, 102H, 102P, 102R)
- consequences of significant contraventions of a family responsibility order proposed (section 102L).

4.310 The Committee notes these provisions have been remade after being removed from the Youth Justice Act in 2021. In the Minister’s first reading speech she explained the rationale for their reintroduction:

Family responsibility orders provide an escalation mechanism to be used where parents fail to take necessary steps to care for their children despite this support. Family responsibility agreements and orders will not replace child protection orders or statutory youth justice interventions, rather they are another tool for child protection practitioners to support families and their children...

This Bill reintroduces family responsibility orders which were removed from the *Youth Justice Act 2005* in 2021 to address antisocial behaviours among children and youth. It provides a clear escalation pathway to support compliance and accountability for parents.

Where a parent has refused to engage or has not complied with the family responsibility agreement or in other circumstances where entering or attempting to enter an agreement is unsuccessful or inappropriate, child protection practitioners will be empowered to make an application to the Local Court for a family responsibility order. Police will also be empowered to make referrals to the Department of Children and Families where they are of the view that a family responsibility order may assist in addressing a youth’s repeated engagement in antisocial behaviour.

⁴⁶⁴ Hon Robyn Cahill OAM MLA, Minister for Child Protection, Draft Daily Hansard – Wednesday 13 May 2026, <https://territorystories.nt.gov.au/10070/1036731>, p. 18.

Family responsibility orders can include directions similar to family responsibility agreements such as requiring a parent to attend counselling or ensuring the child remains at their premises at night. However, these directions will carry the weight of a court order. Additional accountability measures may also be included in a family responsibility order such as referrals to income management or application to the Banned Drinker Register.

This allows the order to be tailored to address an individual family's circumstances with mechanisms to hold parents accountable and support them in addressing their child's wellbeing concerns. Where a parent has not complied with an order, the order may be varied or replaced to include additional and escalating accountability mechanisms to support compliance and address relevant behaviours with further non-compliance ultimately resulting in a child protection investigation or inquiry.⁴⁶⁵

4.311 The NTPA supported these clauses, finding that it would provide an escalation pathway and ensure there is judicial oversight to ensure executive powers are appropriately supervised, procedural fairness is maintained and significant interventions have independent scrutiny.⁴⁶⁶ However, a majority of submissions did not support these clauses, with various submissions raising concerns that provisions give rise to procedural fairness issues.⁴⁶⁷

4.312 Some stakeholders raised concerns about the effect of proposed section 102G.⁴⁶⁸ For example, Alexander Mulligan noted that there may be procedural fairness implications for those whose first language is not English:

Consideration should be given to requiring access to interpreter services for families who need assistance to understand an application for a Family Responsibility Order. Without appropriate language support, there is a risk that affected individuals may not fully comprehend the nature, implications, or legal consequences of the application, which undermines procedural fairness and informed participation.⁴⁶⁹

4.313 Similarly, the Committee received comments regarding proposed sections 102H and 102R, which enable family responsibility order applications and applications to vary, revoke or replace a family responsibility order to be heard in a parent's absence. CatholicCare NT and the Law Society NT also noted that these provisions may impact on procedural fairness.⁴⁷⁰ The Law Society NT stated that:

Noting the significant obligations the terms of these orders place on parents, the hearing of an application in their absence or the making of and continuation of orders without notice on parents creates a situation in which a Court can determine parents must comply with specific obligations without the parents

⁴⁶⁵ Hon Robyn Cahill OAM MLA, Minister for Child Protection, Draft Daily Hansard – Wednesday 13 May 2026, <https://territorystories.nt.gov.au/10070/1036731>, p. 17-18.

⁴⁶⁶ Northern Territory Police Association, Submission No. 108, p. 6.

⁴⁶⁷ For example, submissions 38, 99, 105, 117, and 137.

⁴⁶⁸ Proposed section 102G outlines how the CEO must give each parent who is a party to the proceedings a notice of an application for a family responsibility order. The process requires the CEO to provide:

(a) a copy of the application; and

(b) a written notice:

(i) stating when and where the application is to be heard; and

(ii) providing a list of contact details for local legal service providers; and

(iii) stating that the application may be heard and decided in the absence of the parent.

⁴⁶⁹ Alexander Mulligan, Submission No. 6, p. 3.

⁴⁷⁰ CatholicCare NT, Submission No. 105, p. 5; Law Society Northern Territory, Submission No. 137, p. 8.

having an opportunity to be heard, nor even being aware, that they are subject to those obligations.⁴⁷¹

4.314 Submitters further noted that proposed section 102K presents significant risks for procedural fairness, finding that there is a risk that parents experiencing homelessness or housing instability, or parents who are highly mobile, 'may not receive notice of a family responsibility order and may unknowingly be placed in breach'.⁴⁷² Additionally, submitter raised that families who live in remote communities may have limited literacy or face language barriers, finding that these factors raise serious questions about whether notice requirements are meaningful in practice.⁴⁷³

4.315 Accordingly, submitters recommended that:

- if hearings in the absence of parents are introduced, section 102K be amended to require personal service of a family responsibility order on a parent, rather than allowing for service at a last known address.⁴⁷⁴
- to require access to interpreter services for families under section 102G.⁴⁷⁵

4.316 The Department addressed concerns regarding sections 102H, 102R and 102K in their written response to the Committee's questions, noting that:

The Department will seek to ensure service is effected on relevant parties when they can be found. The proposed provisions allow for matters to proceed in situations where there is a need for action to be taken, and parents cannot be reasonably found. The Department understands parents may experience housing instability or their families may be mobile and will seek to work with them to ensure that service can be met.⁴⁷⁶

Committee comments

4.317 The majority of the Committee acknowledges the Department's advice that enabling family responsibility order applications to be heard in a parent's absence and the Bill's notice procedures are necessary to enable matters to proceed in situations where there is a need for action to be taken and parents cannot be reasonably found. The Committee also notes that the Department will seek to ensure services are provided to relevant parties when they can be found. Therefore, the majority of the Committee finds these provisions appropriate.

⁴⁷¹ Law Society Northern Territory, Submission No. 137, p. 8.

⁴⁷² National Commission for Aboriginal and Torres Strait Islander Children and Young People, Submission No. 38, p. 5; CatholicCare NT, Submission No. 105, p. 5; Northern Territory Legal Assistance Forum, Submission No. 117, p. 16.

⁴⁷³ Dr Hayley Boxall and others, Submission No. 99, p. 15; Northern Territory Legal Assistance Forum, Submission No. 117, p. 16.

⁴⁷⁴ Law Society Northern Territory, Submission No. 137, p. 8.

⁴⁷⁵ Alexander Mulligan, Submission No. 6, p. 3.

⁴⁷⁶ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 22.

Issues applying to both family responsibility agreements and family responsibility orders

4.318 Much of the discussion by submitters concerning the family responsibility arrangement framework established by the Bill applied equally to the family responsibility agreement and family responsibility order provisions.

4.319 Some submitters supported the arrangements as drafted, including the NTPA who stated that:

The NTPA acknowledges that, Family Responsibility Agreements, Family Responsibility Orders, and related intervention mechanisms may affect parental autonomy and decision-making. However, the NTPA submits that the effect that the intervention framework is proportionate and justified because:

- those interventions are directed towards child wellbeing and safety;
- the intervention framework begins with voluntary engagement;
- compulsory intervention occurs only after escalation;
- court oversight exists for Family Responsibility Orders; and
- the intervention framework is a preventative rather than punitive measure designed to achieve child wellbeing and safety.

The NTPA submits that the Bill's proposed amendments to the Act promotes earlier intervention than is currently the case and that earlier intervention is required to reduce the risk youth offending, child exploitation, family breakdown, and the need for later coercive child protection intervention.⁴⁷⁷

However, a majority of stakeholders did not support introduction of family responsibility arrangements as proposed by the Bill.

Characterisation of family responsibility agreements and family responsibility order as early intervention mechanisms

4.320 In her first reading speech, the Minister outlined that the purpose of the family responsibility agreements and family responsibility orders is to strengthen the government's early intervention measures:

The Every Child Matters Bill strengthens the government's early intervention approach to supporting families by placing responsibility back on parents through improved family responsibility agreements and the reintroduction of family responsibility orders. These tools support parents early and promote accountability.⁴⁷⁸

4.321 This was supported by the NTPA who stated that early intervention 'is preferable to delayed intervention after serious offending by the child or victimisation of the child has already occurred',⁴⁷⁹ and 'is required to reduce the risk youth offending, child exploitation, family breakdown, and the need for later coercive child protection intervention'.⁴⁸⁰

⁴⁷⁷ Northern Territory Police Association, Submission No. 108, p. 5.

⁴⁷⁸ Hon Robyn Cahill OAM MLA, Minister for Child Protection, Draft Daily Hansard – Wednesday 13 May 2026, <https://territorystories.nt.gov.au/10070/1036731>, p. 17.

⁴⁷⁹ Northern Territory Police Association, Submission No. 108, p. 4.

⁴⁸⁰ Northern Territory Police Association, Submission No. 108, p. 5.

4.322 However, other submissions did not agree that the amendments made to the Act should be characterised as early interventions.⁴⁸¹ Danila Dilba Health Service stated that:

The Bill characterises Part 2.1A and s 12D as an ‘early intervention’ framework aimed at preventing children entering the child protection or justice systems by requiring proactive support once a child is identified as at risk of harm. However, these measures occur only after the child has already come to the attention of the Department and entered the statutory system, meaning they cannot properly be understood as early intervention.

The Royal Commission into the Protection and Detention of Children in the Northern Territory makes clear that early intervention is preventative and pre-statutory, involving support provided before problems escalate to the point of formal involvement. By contrast, mechanisms such as Family Responsibility Agreements, Orders and mediation arise at a much later stage, when risk has already crystallised and compliance mechanisms are engaged. Mischaracterising these responses as early intervention risks obscuring the distinction between genuine prevention and statutory intervention, and undermines the Royal Commission’s finding that the absence of meaningful early support is a key driver of system failure.

Evidence from the Northern Territory further reinforces this point, demonstrating strong links between cumulative disadvantage, exposure to violence, prior child protection involvement and subsequent youth justice contact—particularly for Aboriginal children, who remain significantly overrepresented across both systems. This body of research supports a shift toward a public health approach that prioritises culturally responsive, trauma-informed, family-strengthening initiatives before statutory thresholds are reached. Programs such as Early Steps Together¹⁰ illustrate this approach in practice, delivering place-based, [Aboriginal community controlled organisation]-led early support that address underlying drivers of harm, strengthens families and communities, and contributes to reducing overrepresentation in out-of-home care and family violence, in line with *Closing the Gap* targets and broader reform frameworks.⁴⁸²

4.323 Similarly, Anglicare NT stated that:

The Explanatory Statement presents the Bill as an early intervention and support-focused reform, yet the drafting establishes a far more coercive framework through family responsibility agreements, family responsibility orders, expanded intervention triggers and a stronger emphasis on permanency. In our view, the explanatory material does not adequately explain how these powers will operate where the underlying issues are housing insecurity, poverty, disability, family violence, school disengagement, remoteness or the absence of services. Nor does it provide sufficient assurance that families will have access to legal advice, culturally safe decision-making and practical support before consequences attach. These gaps should be addressed to ensure the legislation strengthens families rather than widening the reach through punitive intervention.⁴⁸³

4.324 Further, Dr John Zorbas, President of AMANT, raised concern that the measures in the Bill are primarily tertiary interventions rather than primary preventative interventions:

We come from a place of public health. That is where doctors work and indeed that is where we treat our patients. The difference between most of the amendments in this legislation and how we look at things through a public health

⁴⁸¹ Submissions 58, 59, 117, and 145.

⁴⁸² Danila Dilba on behalf of Darwin Aboriginal Working Group, Submission No. 145, p. 4.

⁴⁸³ Anglicare NT, Submission No. 59, pp. 1-2.

lens is where we sit on a spectrum from primary intervention to tertiary intervention. Much of the emphasis in this Bill is on tertiary intervention such as court orders, family responsibility orders and arrangements, whereas primary prevention sits in the space of childhood health or access to child health resourcing, safe housing, perinatal health resources et cetera. Through the lens of public health, tertiary prevention is the last resort for a system that is at risk of absolute immediate harm...

In terms of coercive control, again there is a lot of emphasis on tertiary measures, and we have moved directly to tertiary measures in a lot of areas within this Bill without paying the same attention to primary preventive measures...

Our overarching fork in the road is the lack of emphasis on primary prevention measures. It is far more expensive and harmful to deal with these issues at the end of the road rather than at the start of them, leading children to enter a system in which they come to repeat subsequent harm. It is not single episodes of harm; it is multiple, predictable repeat episodes of harm. The best victory and outcome would be to prevent entering the system at the very start. To think that we can do that in every case is not realistic and is unachievable.

To answer your question, we would want to see a greater emphasis on primary prevention of children needing to enter care systems rather than tertiary prevention.⁴⁸⁴

Committee comments

4.325 The majority of the Committee finds that the broadened reach of the family responsibility agreements and the reintroduction of the family responsibility orders strengthen the Department's capacity to intervene earlier, where necessary, to support families before concerns escalate within the child protection system.

Punitive and coercive elements of family responsibility agreements and family responsibility orders

4.326 Submitters raised concerns that the family responsibility agreements and orders are punitive and coercive in nature.

Proposed section 65E

4.327 Proposed section 65E(1) enables police officers to make referrals to the CEO if:

- (a) a court makes a finding as a result of section 38A or 43AQ of the Criminal Code that a child cannot be held criminally responsible for an offence; or
- (b) a child in relation to whom a finding mentioned in paragraph (a) has been made is involved in subsequent police interactions or exhibits criminal or anti-social behaviour.

The referral enables the CEO to consider whether a family responsibility agreement should be entered into or an application for a family responsibility order be made per proposed section 65E(2).

4.328 The Explanatory Statement outlines the intention of this provision noting that:

This intends to capture a cohort of children and families who cannot ordinarily be engaged under the *Youth Justice Act 2005*, as they cannot be held criminally responsible for their actions, but who also do not reach the threshold to compel

⁴⁸⁴ Australian Medical Association NT, Committee Transcript, 4 June 2026, pp. 1-2.

statutory child protection intervention to offer early intervention services and support.⁴⁸⁵

4.329 The Department further outlined the purpose of proposed section 65E(1)(a):

Currently, there is no legislative mechanism for these children and families to come to the attention of the Department for early intervention, meaning they often fall through the gaps. The referral process works to identify these children and families to the Department for consideration of whether [a family responsibility agreement] or [family responsibility order] might improve the child's family circumstances.

4.330 The NTPA supported this proposed section, stating that:

Earlier coordinated intervention is preferable to delayed intervention after serious offending by the child or victimisation of the child has already occurred.⁴⁸⁶

4.331 However, other submitters raised concern with the police being given this discretionary power, given their views that it would result in children coming into contact with 'coercive' government systems before they have reached the age of criminal responsibility.⁴⁸⁷ Change the Record argued against the widened scope for child protection intervention based on the discretionary power, framing it as a forceful mechanism:

the Bill, through Part 2.1A and section 65(e) in particular, expands police discretion to increase surveillance of Aboriginal children and families through referrals that will trigger family responsibility agreements. Change the Record is deeply concerned about the use of these agreements to capture children who are too young or cannot be engaged under the Youth Justice Act 2005. This is a clear case of net widening, effectively creating an alternate mechanism to force children and families into contact with the Department...For these reasons, we deplore the tabling of this Bill, request the Scrutiny Committee recommend it is struck down, and that the Aboriginal Child Placement Principle be restored, prioritised, resourced and properly implemented and operationalised, effective immediately.⁴⁸⁸

4.332 The National Commission for Aboriginal and Torres Strait Islander Children and Young People raised concerns that this section enables intervention where child protection and youth justice systems thresholds have not been met:

This provision repurposes a protective legal finding into a trigger for coercive intervention, extending state control into circumstances where neither criminal nor child protection thresholds are otherwise met. This is neither early intervention nor support, it circumvents the established limits of both the child protection and youth justice systems.⁴⁸⁹

4.333 The Justice Reform Initiative similarly expressed concern regarding a potential 'criminalising effect':

this will prematurely draw children into contact with the police and the criminal justice system, even before they have reached the age of criminal responsibility.

⁴⁸⁵ Explanatory Statement, Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (Serial 67), https://parliament.nt.gov.au/_data/assets/pdf_file/0015/1612500/Explanatory-Statement-Care-and-Protection-of-Children-Legislation-Amendment-Every-Child-Matters-Bill-2026-Serial-67.PDF, pp. 8-9.

⁴⁸⁶ Northern Territory Police Association, Submission No. 108, p. 4.

⁴⁸⁷ Submissions 16, 38, 67, 75 and 92.

⁴⁸⁸ Change the Record, Submission No. 67, p. 3.

⁴⁸⁹ National Commission for Aboriginal and Torres Strait Islander Children and Young People, Submission No. 38, p. 5.

This will have a criminalising effect on children even before they have attained the age of criminal responsibility or are capable of criminal responsibility.⁴⁹⁰

4.334 AMA NT highlighted the impact these measures, described in the submission as 'an extension of the penal system', could have on 'crossover kids' who are defined as 'vulnerable children who transition directly from the child protection/out-of-home care system into the youth justice system', stating that:

When these traumatised children exhibit behavioural dysregulation (a clinical, neurobiological symptom of complex trauma) the Bill's framework categorises this as an "event of concern" or "anti-social behaviour," triggering coercive [family responsibility agreements] or [family responsibility orders] for their parents.

Because the NT has lowered the age of criminal responsibility to 10, a prepubescent child experiencing extreme distress due to family dysfunction or systemic neglect is now highly vulnerable to both police intervention and child protection coercion. The AMA asserts that criminalising the behaviour of young, traumatised children creates a vicious cycle of disadvantage, increasing the likelihood of lifelong interaction with the penal system.²⁹ Expanding the purview of child protection authorities to act as an extension of the penal system, through police referrals for children deemed *doli incapax*, further criminalises social vulnerability.⁴⁹¹

4.335 The Committee asked the Department why family responsibility orders are proposed to be able to be made for children under the age of 10 years, given that prior to the repeal of the relevant provisions of the Youth Justice Act in 2021 which have been remade in the Bill, family responsibility orders could not be made for children under 10 years. The Department advised the Committee that:

The Family Responsibility Framework in the *Youth Justice Act 2005* (YJA) was drafted to apply to youth who were exhibiting criminal or anti-social behaviour (ASB) or were before the court charged with a criminal offence. Given that the age of criminal responsibility is 10 years old, family responsibility orders under the YJA were not applicable to children who could not be charged with an offence. For example, repealed section 140G stated that a court inquiry could be commenced on application by the agency or by the police where the youth has been charged with an offence or has breached bail.

Comparatively, the revised family responsibility orders target a broader range of wellbeing concerns and are intended to operate as an early intervention mechanism to assist children and families before circumstances escalate to crisis point and require youth justice or child protection intervention.⁴⁹²

Proposed section 102C

4.336 Proposed section 102C(a) and (b) enables the CEO to apply for a family responsibility orders if the CEO believes on reasonable grounds that a parent has refused to enter into a family responsibility agreement or has not complied with a family responsibility agreement.

⁴⁹⁰ Justice Reform Initiative, Submission No. 75, p. 3.

⁴⁹¹ Australian Medical Association NT, Submission No. 92, p. 12.

⁴⁹² Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 20.

4.337 A number of submissions expressed the view that this is effectively a punitive provision that is coercive in nature, despite the family responsibility agreements being voluntary.⁴⁹³ The NTLAF argued that this creates a coercive system:

While the agreements are framed as voluntary, they exist within the context of a coercive statutory system where families may reasonably perceive that refusal to participate could increase the likelihood of further child protection involvement.⁴⁹⁴

4.338 The Department outlined in their written response to Committee questions that families subject to family responsibility agreements and family responsibility orders will be referred to providers currently used in the Circuit Break Program and highlighted the proportion of Circuit Break Program cases closed due to non-consent as an evidence basis for the inclusion of section 102C(a):

Departmental data for the Circuit Breaker evidence that in 2025-26, 64% of Circuit Breaker cases were closed due to consent not being gained or refused, or other reasons including the family terminating services.

The introduction of [family responsibility orders] is a way to encourage families to work with the Department and services via staged escalation of accountability mechanisms. This will ensure that where parents and families withhold consent, they will still be held accountable for the care and supervision of their children and receive the help they need to change harmful behaviours before escalating to the point of requiring statutory child protection intervention. This does not make the voluntary aspect of FRAs redundant, as the Department will attempt to engage with a family and work in partnership to gain an understanding of their circumstances and the outcomes they want to achieve, where possible.⁴⁹⁵

4.339 The Committee observes that there is an existing provision under section 140F(2) of the Youth Justice Act for non-compliance with a family responsibility agreement to trigger further intervention under section 32 of the Care and Protection Act.

Proposed section 102E

4.340 Various submitters also framed the family responsibility order directions under proposed section 102E as punitive and coercive law enforcement and public order measures that are not focused on child protection.⁴⁹⁶ Proposed section 102E(1)(c) provides that a family responsibility order may contain a direction for the CEO to:

- (i) give a written notice to the Secretary under the *Social Security (Administration) Act 1999* (Cth) requiring that a parent of the child be subject to the enhanced income management regime under section 123SCA of that Act;
- (ii) make an application for a banned drinker order for a parent of the child under section 18(1) of the *Alcohol Harm Reduction Act 2017*;
- (iii) provide information about antisocial behaviour of a parent of the child to the Chief Executive Officer (Housing), established under section 6 of the *Housing Act 1982*, for the purpose of considering whether to require the parent or

⁴⁹³ For example, submissions 18, 30, 40, 42, 45, 56, 64, 67, 70, 78, 80, 81, 88, 89, 99, 101, 103, 105, 107, 111, 114, 117, 118, 120, 123, 130 and 131.

⁴⁹⁴ Northern Territory Legal Assistance Forum, Submission No. 117, p. 14.

⁴⁹⁵ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 18.

⁴⁹⁶ Submissions 40, 42, 45, 56, 64, 67, 70, 78, 80, 81, 88, 89, 92, 105, 117, 118, 123 and 130.

another person to enter into an acceptable behaviour agreement under section 28C(1) of that Act;

- (iv) provide information about conduct engaged in, or permitted to be engaged in, by a parent of the child to an officer mentioned in section 28E(1) of the *Housing Act 1982*, for the purpose of considering whether to give a direction under section 28E(2) or (3) of that Act;
- (v) apply to the Director, as defined in section 4(1) of the *Liquor Act 2019*, for premises where the child resides to be declared restricted premises under section 188 of that Act;
- (vi) initiate an investigation under section 35(1) about the child;
- (vii) apply for a protection order under section 121(1) for the child.

4.341 Submitters raised concern that there is a lack of evidence that these measures improve safety and wellbeing outcomes.⁴⁹⁷ AMA NT, in particular, raised concerns with the inclusion of the income management in proposed section 102E(1)(i), based on the efficacy and the potential negative effects of such measures:

The integration of compulsory income management into child protection orders runs counter to a vast body of public health evidence. Income management policies quarantine a significant portion of a recipient's welfare payments, restricting their use to specific essential goods and services, ostensibly to ensure funds are spent on child welfare rather than alcohol, gambling, or illicit substances.

However, the AMA has consistently highlighted that substance dependence and behavioural addictions are chronic brain diseases, not moral failings that can be cured by punitive financial restriction. Compulsory income management has operated in the Northern Territory since 2007, and extensive, peer-reviewed evaluations have failed to demonstrate any systematic, community-level improvements in health, education, crime reduction, or child wellbeing that can be attributed to the policy.

Crucially, empirical studies assessing the causal impact of income management on specific child health metrics have revealed negative outcomes. Research evaluating birth outcomes in the Northern Territory found that exposure to income management did not improve infant health, and by extension, failed to produce the desired positive changes in household consumption patterns. More concerning, the data indicated that exposure to income management, particularly in the first or second trimester of pregnancy, was associated with lower average birth weights and a significantly higher probability of low birth weight (less than 2500g). This is a critical, universally recognised predictor of lifelong chronic illness, impaired cognitive development, and premature mortality.

The financial anxiety, loss of autonomy, and abrupt "income shock" associated with compulsory income management generate psychological distress, which translates physiologically into adverse perinatal and paediatric health outcomes. Subjecting a vulnerable parent to income management via a Family Responsibility Order 1 is therefore likely to deteriorate, rather than safeguard, the physiological health and safety of the child.⁴⁹⁸

4.342 AMA NT also noted concerns with the banned drinking register (BDR) provision (102E(1)(ii)). They noted that the BDR is an evidence-based tool but one that is best

⁴⁹⁷ National Commission for Aboriginal and Torres Strait Islander Children and Young People, Submission No. 38, Submission No. 38, p. 5; Australian Medical Association NT, Submission No. 92, pp. 8-9; SNAICC – National Voice for our Children, Submission No. 130, p. 9.

⁴⁹⁸ Australian Medical Association NT, Submission No. 92, pp. 8-9.

used as on a voluntary basis alongside complementary alcohol reduction strategies rather than in connection with the child protection system, as this may discourage parents from seeking medical help:

The AMA NT supports evidence-based alcohol supply reduction measures to combat the Territory's uniquely high rates of alcohol-related morbidity and mortality. The AMA NT has supported the Banned Drinker Register (BDR) as a necessary population-level supply reduction tool. However, the efficacy of the BDR is severely compromised without complementary demand-reduction strategies, such as the Minimum Unit Price (MUP) for alcohol, a vital public health policy that the current NT Government recently scrapped, against the strong advice of the AMA NT and the Menzies School of Health Research.

Utilising a Banned Drinker Order as a punitive, coercive mechanism within a statutory child protection framework fundamentally misunderstands the clinical pathology of addiction. Substance dependence involves complex, long-term neurobiological adaptations. Directing a parent onto the BDR or forcing them into mandatory counselling via a court-mandated [family responsibility order] constitutes coercive medical treatment.

A comprehensive review of international and Australian literature indicates that compulsory or coercive addiction treatment is broadly ineffective. Coercive methods are generally less successful than voluntary methods at promoting long-term abstinence and reducing criminal recidivism, and can, in some instances, actively increase post-treatment drug use and harm....

By entangling statutory child protection with punitive substance control mechanisms, the legislation actively discourages parents from seeking medical help for their addictions. The fear of statutory repercussions acts as a massive deterrent to healthcare access, driving highly vulnerable populations into the shadows and away from the medical support they desperately require.⁴⁹⁹

- 4.343 Raising similar health concerns in regard to a different element of the Bill, at the public hearing, Geoff Radford, CEO of the NT Mental Health Coalition, highlighted their view that the family responsibility agreement framework supports punitive measures over therapeutic mental health supports:

The second issue is the family responsibility agreement framework. Untreated parental mental illness is one of the most consistent predictors of child protection involvement in the evidence base. Addressing it through accessible funded therapeutic support is the most evidence-based route to reducing child protection responses. The Bill's expanded family responsibility agreement framework does the opposite; it strengthens punitive compliance obligations without providing a mechanism to ensure parents in psychological crisis receive therapeutic referral.

There is no requirement for independent legal or advocacy support before an agreement is entered into and no recognition that the diagnostic and therapeutic infrastructure that compliance would require simply does not exist. This is not a description of wilful noncompliance; it is a description of structural failure that the Bill will formalise.⁵⁰⁰

- 4.344 In a written question, the Committee asked the Department what research informed the inclusion of income management and banned drinker orders as available directions under a family responsibility order, and what the Department's justification for using these public-order measures was. The Department advised that:

⁴⁹⁹ Australian Medical Association NT, Submission No. 92, pp. 8-9.

⁵⁰⁰ Northern Territory Mental Health Coalition, Committee Transcript, 4 June 2026, pp. 1-2.

Authoritative studies across Australia have confirmed that children with harmful parental alcohol use are more likely to progress through the child protection system, with higher odds of investigation, substantiation and protective interventions based on a multivariable logistic regression analysis of 352,800 children in Victoria, Australia. Another study of 38,487 child protection cases in Victoria found that caregiver alcohol abuse is a significant predictor of more intensive child protection interventions.

A study in Western Australia demonstrated that children of mothers with an alcohol-use diagnosis are at significantly increased risk of child protection interventions. Another authoritative study demonstrates how parental alcohol use is linked to increased child protection interventions in Australia with over 10,000 children in the system due to carers' drinking.

Child Protection Enhanced Income Management (CPEIM) is a form of enhanced Income Management already available to the Department as an additional tool to support carers, children and young people. Under the Social Security (Administration) Act 1999 (Cth) and the Care and Protection of Children Act 2007 (NT), child welfare staff can refer individuals to CPEIM. As of 3 April, there were 96 participants in the NT on the enhanced CPEIM program. It also supports Strategic Initiatives under Priority 3 of the Reducing Crime Strategy – Holding parents and families to account.

The Department views CPEIM as a tool that works best with other interventions to be effective; it is part of a holistic approach that provides individuals with the ability to plan, set limits and prioritise. It recognises that CPEIM alone does not resolve complex issues such as substance misuse and that additional support is necessary to address underlying challenges.

The Bill incorporates CPEIM into early intervention practice as one of the methods to proactively address child wellbeing concerns without involving the statutory child protection or youth justice systems.

Finally, the use of public-order measures as child protection tools is reflective of the Bill's approach to put children's safety first in all decisions related to the child and consistent with its aspiration to intervene early and prevent unnecessary interactions of the child with the statutory child protection and youth justice systems.⁵⁰¹

Overall impact of provisions

4.345 Overall submitters found that punitive child protection intervention can create ongoing harms for children and families, including entrenching existing structural issues such as poverty and housing shortages rather than addressing them.⁵⁰² For example, the Jumbunna Institute for Indigenous Education and Research stated that:

While formal agreements with families, supported by highly skilled and effective engagement and practice, may be helpful in some circumstances, the broader framing of these provisions may be counterproductive for many families. Consistent with the models of supporting improved outcomes for children and families, such as those presented by the Centre on the Developing Child at Harvard University, increasing the stress experienced by parents through such measures is likely to compound the impacts of chronic and toxic stress that they are experiencing, and in doing so undermine their capacity to develop and implement new skills, engage in effective planning, or other help-seeking

⁵⁰¹ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, pp. 18-19.

⁵⁰² Submissions 40, 42, 45, 56, 64, 67, 70, 78, 80, 81, 88, 89, 99, 101, 103, 105, 111, 114, 117, 118, 120, 123, 130 and 131.

behaviours. That is, to make the changes expected of them to prevent the need for removal, or achieve the safe restoration of their children.⁵⁰³

4.346 Further, submitters told the Committee that increased surveillance and punitive intervention may harm the trust between families and support services,⁵⁰⁴ as well as lead to increased disengagement.⁵⁰⁵ Palm Tree OT told the Committee that:

We are particularly concerned about the impact these reforms may have on trust between families and support services. Families are more likely to engage openly and early when they feel safe, respected and understood. Approaches that increase surveillance or punitive intervention risk creating fear and disengagement, particularly for families who have previously experienced stigma, discrimination or traumatic interactions with systems.⁵⁰⁶

4.347 Submitters also expressed the view that use of family responsibility agreements and family responsibility orders in a coercive manner will have a disproportionate impact on Aboriginal families, and particularly Aboriginal women, due to the intersections with remoteness, poverty, homelessness, and DFSV.⁵⁰⁷ The Australian Human Rights Commission stated that:

These measures can unfairly blame families for problems that are often rooted in broader structural factors such as poverty, trauma and limited access to services, particularly in remote areas where support programs may not be readily available.

Punitive approaches disproportionately affect Aboriginal and Torres Strait Islander families, reinforcing existing inequalities and undermining cultural practices and community structures. Focusing on punitive measures rather than on support does little to address the underlying causes of social disadvantage and may instead worsen outcomes by pushing families deeper into crisis and increasing the likelihood of child removal. The use of these measures is often at the expense of long-term child wellbeing and family stability.

Punitive accountability measures on parents are inconsistent with Articles 18 and 27 of the CRC, which emphasise supporting families and addressing living conditions, rather than punishing disadvantage.

Punitive accountability measures also conflict with Article 21 (right to improvement of social and economic conditions) of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) which emphasises addressing disadvantage and supporting families, not punishing them.⁵⁰⁸

4.348 In response to these issues, submitters recommended that the Bill be amended to:

- prioritise voluntary, relational and targeted family support over coercive mechanisms.⁵⁰⁹
- provide that the Local Court must be satisfied that each proposed direction for the CEO under proposed section 102E(c) is necessary, proportionate,

⁵⁰³ Jumbunna Institute for Indigenous Education and Research, UTS, Submission No. 123, p. 16.

⁵⁰⁴ Submissions 18, 30, 105, 107, 115, 116, 131, 28 and 107.

⁵⁰⁵ Catholic Church of the Diocese of Darwin, Submission No. 28, p. 2; Wangatunga Strong Women, Submission No. 107, p. 2.

⁵⁰⁶ Palm Tree OT, Submission No. 18, p. 5.

⁵⁰⁷ Submissions 34, 88, 101 and 109.

⁵⁰⁸ Australian Human Rights Commission, Submission No. 88, p. 8.

⁵⁰⁹ CatholicCare NT, Submission No. 105, p. 6.

connected to an identified child-safety need, and the least intrusive available means.⁵¹⁰

- provide that directions concerning income management, alcohol restrictions, housing information or restricted premises require specific findings that they will reduce, and not increase, risk to the child or family.⁵¹¹
- provide that the Court must seek and consider advice from an Aboriginal Community Controlled Organisation.⁵¹²

Committee comments

4.349 The majority of the Committee notes that section 65E aligns with the objective of the Bill to broaden the scope of early intervention enabled under the Care and Protection Act and therefore finds the provision appropriate.

4.350 The majority of the Committee notes that section 102C, which enables the CEO to apply for a family responsibility order if the CEO believes on reasonable grounds that a parent has refused to enter into a family responsibility agreement or has not complied with a family responsibility agreement, aligns with the objective of the Bill to implement a staged accountability pathway approach.

4.351 The majority of the Committee finds that the directions for the CEO under section 102E are aligned with the objective of the Bill to introduce mechanisms that support compliance and accountability of parents.

Domestic, family and sexual violence related risks within the family responsibility agreement and family responsibility order frameworks

4.352 Proposed section 65B(1) requires that domestic and family violence risks encountered when exercising the powers or performing the functions under Part 2.1A, must be managed in a way that is consistent with the family violence framework.

4.353 Proposed section 65B(2) specifies that the framework referred to is the framework for family violence risk assessment and family violence risk management approved under section 124Q of the *Domestic and Family Violence 25 Act 2007*. The framework is currently the Northern Territory Domestic and Family Violence Risk Assessment and Management Framework (RAMF).⁵¹³ The Committee notes similar provisions do not exist in the Youth Justice Act.

4.354 The Explanatory Statement notes that the purpose of section 65B:

ensures domestic and family violence risks are managed appropriately in relation to family responsibility agreements...This section emphasises that domestic and family violence risks cannot be appropriately managed using family responsibility

⁵¹⁰ Dr Matthew Jennings, Submission No. 17, p. 5.

⁵¹¹ Dr Matthew Jennings, Submission No. 17, p. 5.

⁵¹² Andrew Dawes, Submission No. 34, pp. 4-5.

⁵¹³ NT Government, Department of Children and Families, *Northern Territory Domestic and Family Violence Risk Assessment and Management Framework*, <https://families.nt.gov.au/media/documents/domestic-violence/risk-assessment-management-framework.pdf>.

agreements and could potentially escalate domestic and family violence risks against the child or other family members if used incorrectly.⁵¹⁴

4.355 However, various submitters expressed the view that these provisions do not provide adequate protections for DFSV victim-survivors. For example, CAWLS stated that sole reliance on the RAMF is insufficient and its application is unclear:

Sole reliance on the RAMF is inappropriate in managing DFSV in this context as it was not drafted with these amendments in mind. It is not clear what the practical impact of applying the RAMF might be in the context of government intervention in the family lives of Territorians under the Bill, given the tailoring of the RAMF to a non-child protection context.⁵¹⁵

4.356 Legal Aid NT expanded on this point in their submission:

The RAMF includes a process for managing domestic and family violence ("DFV") risk in Practice Guide 3. It is a guide for workers in how to respond to DFV risks and sets out the specific steps that workers should take. It is not designed to be followed by individuals and families and does not include guidance for parents to assess and manage their own risk.

The Practice Guide also states that:

The fundamental aim of risk management is to increase the safety of victim survivors. If risk is not managed, or not managed adequately, the safety of victim survivors may be compromised. This could result in serious injury or death.

This fundamental aim as stipulated in the RAMF may not necessarily align with the Object of Part 2.1A and may result in parental accountability and parenting capacity being prioritised above improving the safety of victim survivors, contrary to the RAMF.⁵¹⁶

4.357 The Department outlined in its written response to Committee questions that other DFSV response mechanisms will be used by the Department as appropriate, so that it is not relying only on the RAMF:

Where the Department assess there are indicators of DV within a family, a [family responsibility agreement] is not the only available response mechanism. The Department has alternative frameworks to assist the victim-survivor and children that can also be utilised in these situations, such as safety planning, engaging in the Family Safety Framework and addressing immediate safety risks.⁵¹⁷

4.358 Grace and Grit Consulting and Training found that this section does not adequately account for coercive control as a form of family violence and raised concerns that family responsibility orders may be directed against victim-survivors who were unable to comply with family responsibility agreements due to perpetrator behaviour:

The Bill contains no recognition of coercive control as a distinct form of family violence. This is particularly significant because:

- Coercive control is characteristically invisible in incident-based risk assessment frameworks

⁵¹⁴ Explanatory Statement, Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (Serial 67), https://parliament.nt.gov.au/_data/assets/pdf_file/0015/1612500/Explanatory-Statement-Care-and-Protection-of-Children-Legislation-Amendment-Every-Child-Matters-Bill-2026-Serial-67.PDF, pp. 7-8.

⁵¹⁵ Central Australian Women's Legal Service, Submission No. 115, p. 2.

⁵¹⁶ Legal Aid NT, Submission No. 131, pp. 3-4.

⁵¹⁷ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 18.

- [Family responsibility agreements] require the non-offending parent to 'comply' — a requirement that is itself coercive when the perpetrator controls her access to children, finances, housing or transport
- Section 65D(5)(c)(iii) requires the CEO to check for existing agreements or orders before entering a [family responsibility agreement], but does not require identification of coercive control patterns
- A victim-survivor's apparent failure to comply with a [family responsibility agreement] — caused by perpetrator interference — becomes the basis for escalation to a court-ordered [family responsibility order].⁵¹⁸

4.359 In response to the Committee's question on how the Department intends to manage the risk that family responsibility orders will be used as tools of coercive control by perpetrators of domestic violence against non-offending parents, the Department stated that:

The Department will manage risks related to Domestic and Family Violence (DFV) consistent with the NT DFV Risk Assessment and Management Framework (DFV RAMF). While the Department has responsibility for making applications for Family Responsibility Orders (FROs) and will carry out this responsibility [having] regard to the DFV RAMF, FROs are court orders, and as such the Local Court has its own processes to manage risks associated with DFV in relation to court processes.⁵¹⁹

4.360 Dr Hayley Boxall et. al. and Australia's National Research Organisation for Women's Safety highlighted that there is no equivalent requirement in the family responsibility order provisions for domestic violence risks to be managed consistently with the RAMF.⁵²⁰ In response to the Committee's question on why this was the case, the Department advised that:

RAMF is not a legislative framework...The Department can only pursue a [family responsibility order] as a staged escalation mechanism where DV risks are mitigated. All enquiries for the purpose of Family Responsibility intervention will incorporate RAMF assessment as part of policy and procedures by the Department.⁵²¹

4.361 CAWLS highlighted that there is no review mechanism to enable victim-survivors to refuse to enter into a family responsibility agreement due to DFSV or to enable consideration of circumstances in which a person fails to engage with a family responsibility agreement due to DFSV. CAWLS outlined the potential impact of not including such a review mechanism:

For instance, the CEO may reasonably believe that an event of concern is at risk of occurring on the basis of incomplete or incorrect information. However, parents have no way to dispute that belief without being deemed as refusing to engage with a [family responsibility agreement] and therefore, opening themselves up to a [family responsibility order] and court proceedings. CAWLS cannot support the introduction of [family responsibility agreements] or [family responsibility orders]

⁵¹⁸ Grace & Grit Consulting and Training, Submission No. 65, p. 5.

⁵¹⁹ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 17.

⁵²⁰ Dr Hayley Boxall and others, Submission No. 99, p. 15; Australia's National Research Organisation for Women's Safety, Submission No. 116, p. 4.

⁵²¹ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 18.

in circumstances where they are likely to be used to further the use of coercive I against victim survivors of DFSV and exacerbate its harmful impacts on the whole family.⁵²²

4.362 Further, multiple submissions found that the Bill fails to distinguish between victim-survivors and perpetrators of violence by subjecting both parents to the same requirements under the family responsibility agreement which can place DFSV victim-survivors at risk.⁵²³ FNAAFV noted that:

Expanded coercive [family responsibility agreement] mechanisms increase the risk that victim-survivors will be penalised for circumstances created by their perpetrators; for example, where compliance with a family plan requires ongoing engagement with a violent partner, attendance at unsafe locations or participation in systems that place women and children at further risk.⁵²⁴

4.363 Finally, various submissions highlighted the issue of DFSV perpetrator misidentification which disproportionately impacts Aboriginal women.⁵²⁵ FNAAFV stated that:

[Family Violence Prevention and Legal Services] organisations regularly support Aboriginal and Torres Strait Islander women who have been misidentified by policy and child protection authorities as primary aggressors while attempting to protect themselves and their children from violence. This is a well-documented and systemic issue across family, domestic and sexual violence and child protection system. Expanded coercive [family responsibility agreement] mechanisms increase the risk that victim-survivors will be penalised for circumstances created by their perpetrators; for example, where compliance with a family plan requires ongoing engagement with a violent partner, attendance at unsafe locations or participation in systems that place women and children at further risk.⁵²⁶

4.364 Noting that the RAMF does not account for the issue of misidentification, Grace and Grit Consulting and Training stated that:

Meeting the RAMF threshold does not ensure perpetrator-pattern documentation, does not prevent misidentification, and does not guarantee that a [family responsibility agreement] is offered to the right person.⁵²⁷

4.365 Recommendations from submitters included that:

- Clause 16 be amended to require DFSV to be managed consistently with the family violence framework as in family responsibility agreement contexts.⁵²⁸
- Proposed section 65B be amended to require perpetrator-pattern documentation and require coercive control identification before any family responsibility order is offered or escalated.⁵²⁹
- The Bill be strengthened through culturally informed, trauma-informed and Aboriginal-led approaches.⁵³⁰

⁵²² Central Australian Women's Legal Service, Submission No. 115, p. 2.

⁵²³ Submissions 65, 71, 100, 101, 102, 103, 115, 116, 131, 135 and 137.

⁵²⁴ First Nations Advocates Against Family Violence, Submission No. 101, p. 15.

⁵²⁵ Submissions 101, 102, 103, 116 and 126.

⁵²⁶ First Nations Advocates Against Family Violence, Submission No. 101, pp. 14-15.

⁵²⁷ Grace & Grit Consulting and Training, Submission No. 65, p. 5.

⁵²⁸ Dr Hayley Boxall and others, Submission No. 99, p. 15.

⁵²⁹ Grace & Grit Consulting and Training, Submission No. 65, p. 7.

⁵³⁰ Children's Ground, Submission No. 80, p. 5.

- Directions from use against non-offending parents in the context of DFSV are removed or restricted.⁵³¹
- The Bill's expanded family responsibility agreement provisions be reviewed to ensure these provisions do not create coercive compliance mechanisms that disproportionately impact Aboriginal women, victim-survivors of DFSV, and families experiencing poverty, trauma and housing insecurity, and to and incorporate specific safeguards to prevent misidentification of victim-survivors as primary aggressors.⁵³²

4.366 With regards to these concerns, the Committee notes that proposed section 65D(5)(c)(i) requires that before entering into a family responsibility agreement, the CEO must be satisfied that the terms of the agreement are appropriate having regard to the circumstances of the child's family and the likely effect of the agreement on the family, including any potential escalation of risks to the child's wellbeing or other safety risks.

Committee comments

4.367 The Committee notes the Department's advice that the RAMF will not be used in isolation, but alongside other DFSV frameworks and assessment tools. The Committee also notes the Department's clarification that a family responsibility order may only be pursued as a staged escalation measure where DFSV risks have been appropriately mitigated.

4.368 In light of these factors, and the requirements imposed by section 65D(5)(c)(i), the majority of the Committee considers that the Bill provides sufficient safeguards to ensure DFSV risks are appropriately managed by the Department in the family responsibility agreement and family responsibility order processes.

Workforce and service shortages, and impact of remoteness on operation of family responsibility agreements and family responsibility orders

4.369 Proposed section 65F remakes section 140E of the Youth Justice Act in substantially the same form. It sets out the matters that may be included in a family responsibility agreement, including, for example, undertaking counselling or exercising proper care and supervision of the child, and outlines that a family responsibility agreement remains in force for the term specified in the family responsibility agreement but may not exceed 12 months or beyond the day a child turns 18.

4.370 Submitters expressed concerns about workforce and social services shortages impacting the ability of parents to comply with the family responsibility agreement and family responsibility order provisions, noting these shortages are more prevalent in remote areas.⁵³³ CAWLS stated that:

[Family responsibility agreements] and [family responsibility orders] will require parents to engage with services, such as specialist counselling or residential programs, which are not meaningfully available to people living in remote

⁵³¹ Grace & Grit Consulting and Training, Submission No. 65, p. 7.

⁵³² First Nations Advocates Against Family Violence, Submission No. 101, p. 9.

⁵³³ Submissions 79, 100, 101 and 115.

communities or even people living in urban areas outside of Darwin. This creates another barrier for Aboriginal women living in remote communities to comply with the terms of a [family responsibility agreement] and/or a [family responsibility order].⁵³⁴

4.371 The NPY Women's Council noted the various factors that would make it difficult for remote families to meet the family responsibility agreement and family responsibility order requirements, highlighting that families may unfairly be found to be non-compliant with a family responsibility agreement or family responsibility order:

For Anangu and Yarnangu families these expectations are often unfair and unrealistic and do not take into account the reality of living in a remote community in the NPY region. Across the region the availability and accessibility of services varies dramatically. NPYWC has supported families in the past who have been required to engage in services or supports that are not available or accessible in their community to progress reunification processes. The ability to meet these requirements can be impacted by; long waits for appointments, limited phone and internet access, literacy and language barriers, access to interpreters and the high mobility of families between communities (often across borders). The unintended consequence of not consulting widely on the introduction of these agreements and order may be that more parents are found to be unfairly non-compliant.⁵³⁵

4.372 The Committee sought clarification from the Department regarding how section 65F(1), which outlines what a family responsibility agreement may contain, will apply if a service is not available, appropriate or accessible for a family to engage in. The Department advised that:

Families subject of [family responsibility agreements] and [family responsibility orders] will be referred to providers currently used in the circuit breaker program including DFV, health, education, intensive family support, youth engagement and employment support services.

The Department has opened 9 Child and Family Centres (CFCs) in remote communities across the NT, including Alice Springs, Papanya, Katherine, Kalkarindji, Borroloola, Tennant Creek, Arlpara Wadeye, and Wurrumiyanga.

At these CFCs, service providers and non-government organisations deliver support programs in a culturally safe space as part of children and family intensive support and circuit breaker programs. Funding under the NT Remote Aboriginal Investment (NTRAI) agreement to has been allocated for additional CFCs to be opened in further remote locations across the Territory.

In most remote communities, the NT and Federal Governments have invested millions of dollars towards Aboriginal corporations providing support services to vulnerable children and families in the areas of social inclusion, emotional wellbeing, training and mentoring, behavioural change, mental health, alcohol and other drugs, youth diversion and family support.

In the bigger centres, the Circuit Breaker program incorporates structured brief interventions for young people, particularly those identified as an emerging risk.

Interventions include group-based and one-to-one educational sessions focused on:

- respectful relationships and consent
- emotional regulation and decision-making

⁵³⁴ Central Australian Women's Legal Service, Submission No. 115, p. 3.

⁵³⁵ Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council, Submission No. 100, p. 5.

- safe use of technology and social media o help-seeking behaviour and connection to supports.

If appropriate services cannot be made available due to remote location, the Department will work with families and service providers to consideration of alternative options depending on the family circumstances.⁵³⁶

4.373 Further, in response to the Committee's question regarding how the Department will distinguish between refusal to engage versus an inability to engage due to the non-existence of services, the Department referred back to proposed section 65D(5) of the Bill:

Early intervention through [family responsibility agreements] is intended to support and assist families, not set them up to fail. Section [65D(5)(a)] ensures this by obligating the CEO to ensure that any facilities or services reasonably required by a party to comply with the agreement are reasonably available to the party, before entering into [a family responsibility agreement]. Section [65D(5)(b)] also requires the CEO to ensure that procedures are in place for the agreement to be regularly reviewed to assess the parties' compliance and capacity to comply with the agreement.⁵³⁷

4.374 The Committee notes that the Court is responsible for making a family responsibility order, and in doing so, is able to either make the order as proposed by the CEO (section 102J(1)(a)(i)), make the order specifying other directions mentioned in section 102E as the Court considers appropriate 102J(1)(a)(ii), or dismiss the application (102J(2)). This leaves the Court with the discretion to judge the appropriateness of the family responsibility order application.

4.375 Submitters recommended that:

- Resourcing for adequate services accompany the proposed amendments, including culturally safe, flexible and accessible services.⁵³⁸
- Clause 11 be amended to provide that non-compliance with a family responsibility agreement cannot be escalated unless the Local Court is satisfied that the required services were available.⁵³⁹

Committee comments

4.376 The Committee notes the Department's advice that, where appropriate services cannot be accessed due to remoteness, the Department will work with families and service providers to consider alternative options.

4.377 The majority of the Committee finds that proposed sections 65D(5)(a) and (b) provide appropriate and adequate safeguards to ensure that a lack of services will not result in a person being found noncompliant with a family responsibility agreement. Further,

⁵³⁶ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 21.

⁵³⁷ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF p. 18.

⁵³⁸ Submissions 30, 47, 59, 64, 67, 70, 71, 81, 94, 101, 111, 116, 117, 120, 130 and 133.

⁵³⁹ Dr Matthew Jennings, Submission No. 17, p. 4.

the Committee considers the Court is best placed to determine the suitability of a family responsibility order in each case.

Mechanisms to challenge a family responsibility agreement or family responsibility order

4.378 Some submissions expressed the view that there are limited pathways to challenge the making of a family responsibility agreement or family responsibility order.⁵⁴⁰ For example, Dr Matthew Jennings noted that ‘The Bill makes substantial consequences depend[ent] on administrative assessments by the CEO’ including whether services are reasonably available, whether a family responsibility agreement is appropriate, and whether non-compliance should lead to variation or replacement of an order or to protection proceedings. Dr Jennings argued that ‘Those powers require clearer thresholds, documented reasons, and review pathways’.⁵⁴¹

4.379 Justin Tutty highlighted that there may be confusion over appeal processes for family responsibility orders that include a direction for the CEO to give a written notice to the Secretary under the *Social Security (Administration) Act 1999* (Cth) requiring a parent be subject to enhanced income management, per proposed section 102E(1)(c)(i), as:

The Bill does not itself impose income management. The Northern Territory cannot directly control Commonwealth social security payments. Instead, the Bill creates a referral pathway

- the Local Court makes an order;
- the CEO gives notice to the Commonwealth Secretary;
- Services Australia applies enhanced income management.

This structure has several important consequences that deserve deeper consideration. It creates a court-linked pathway into a Commonwealth income management regime that is otherwise administrative in character. In doing so, review rights become fragmented, which in turn fragments procedural protection. A family challenging the outcome may need to deal with:

- NT court appeal processes regarding the Family Responsibility Order; and
- Commonwealth review processes regarding the income management decision.

This is a severe procedural defect, denying families a single cohesive forum from which to seek remedy. It is a cost on dissent that bears no relationship to the merits of the underlying decision. This obviously makes review significantly more difficult in practice, especially for vulnerable families already dealing with multiple systems. This flaw raises significant questions about procedural fairness...⁵⁴²

Children’s Ground recommended that the Bill be amended ‘to ensure that family responsibility measures are subject to clear review and appeal rights’.⁵⁴³

⁵⁴⁰ Submissions 22, 17, 19 and 80.

⁵⁴¹ Dr Matthew Jennings, Submission No. 17, p. 6.

⁵⁴² Justin Tutty, Submission No. 19, p. 4.

⁵⁴³ Children’s Ground, Submission No. 80, p. 12.

4.380 The Committee asked the Department to clarify at what point and by what mechanism a family can independently challenge a family responsibility agreement or family responsibility order, and what judicial or administrative remedy is available if the Department fails to provide promised services due to waitlists or workforce shortages. The Department responded that:

[A family responsibility agreement] is not legally binding, and should the CEO apply for a [family responsibility order] claiming a breach of the agreement, the Court may dismiss it should that application not meet the requirements in section 102C.

Upon application for a [family responsibility order], the CEO is required to give a copy of the application and a written notice to the parents and provide a list of contact details for local legal service providers so that the parents can be represented in court and challenge the application should they wish to.⁵⁴⁴

4.381 The Committee notes that section 140 of the Care and Protection Act outlines that decisions of the Court may be appealed to the Supreme Court:

- (1) A party to any Court proceedings may appeal to the Supreme Court against any order or decision of the Court (the original decision), other than a temporary protection order.
- (2) The appellant must do so by filing a notice of appeal with the Registrar of the Supreme Court within 28 days after the original decision is made.

Committee comments

4.382 The majority of the Committee considers that the nature of the family responsibility agreements as non-binding, in combination with the ability of parents to contest the family responsibility order application in Court, provide sufficient pathways for parents to challenge the family responsibility agreement and family responsibility order processes. On balance, the majority of the Committee considers the provisions appropriate as currently drafted.

Care plans

4.383 Division 2 of Part 2.2 of the Care and Protection Act sets out requirements for the preparation of care plans for children who are in the CEO's care if a protection order is in place, or the CEO has daily care and control of the child under a court order prescribed by regulation.

4.384 Existing sections 72A(a) and 74(4)(a) set out who the CEO may encourage and facilitate to participate in the preparation, modification or review of a care plan if they consider it appropriate, including:

- the child
- each parent of the child
- an appropriate member of the child's family

⁵⁴⁴ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, pp. 19-20.

- for an Aboriginal child - a person from the kinship group of the child or an ACCO nominated by the child or the child's family
- for a non-Aboriginal child - a person nominated by the child or the child's family who represents the cultural group to which the child belongs.

4.385 Clauses 12 and 13 seek to amend sections 72A(a) and 74(4)(a) to provide that, for an Aboriginal child, a person prescribed under proposed section 12C(2)(b) may participate in the preparation, modification or review of a care plan. This has the effect of enabling a person 'of significance to the child' to participate and removing explicit references to kinship groups and ACCOs. The Committee notes the Department's *Care Planning Policy* currently sets out guidance on the preparation of care plans.⁵⁴⁵

Cultural care planning

4.386 Some submitters critiqued the removal of explicit references to ACCOs. Submitters argued that cultural care planning should be strengthened rather than reduced, particularly given the high proportion of Aboriginal children in OOHC.⁵⁴⁶ The current framing of the sections gives the CEO a discretion to determine when it is 'appropriate' to encourage and facilitate participation.

4.387 The CREATE Foundation submitted that the existing provisions already provide the CEO with broad discretion to determine whether ACCO participation is 'appropriate', which it argued is inconsistent with the principles of shared decision-making under the National Agreement on Closing the Gap. CREATE recommended that ACCO involvement in care planning be made mandatory, stating that:

Section 72A currently gives the Department discretion to determine whether ACCO involvement in care planning is 'appropriate'...Section 72A must be amended to make ACCO involvement mandatory.⁵⁴⁷

4.388 Submitters also emphasised the importance of culturally informed care planning more broadly. The CREATE Foundation submitted that cultural connection is associated with stronger identity, improved mental health and resilience for Aboriginal children,⁵⁴⁸ while Dr Steven Roche noted that deficiencies in cultural care planning can diminish important protective factors for children placed in OOHC.⁵⁴⁹

4.389 Children's Ground similarly submitted that the Bill does not provide sufficient recognition of Aboriginal cultural authority in decision-making, arguing that it:

does not require Aboriginal-led decision-making, family-led care planning, cultural authority panels, or binding active efforts to support kinship placement. This is insufficient for a jurisdiction where almost nine in ten children in care are Aboriginal.⁵⁵⁰

⁵⁴⁵ Department of Children and Families, *Care Planning Policy* (2026), <https://families.nt.gov.au/media/documents/for-people-working-with-or-caring-for-children/child-protection-policies/care-planning-policy.pdf>.

⁵⁴⁶ Dr Marcia Langton AO and Professor Fiona Stanley, Submission No. 54, p.12.

⁵⁴⁷ CREATE Foundation, Submission No. 23, p. 17.

⁵⁴⁸ CREATE Foundation, Submission No. 23, p. 17.

⁵⁴⁹ Dr Steven Roche, Submission Np. 58, p. 4

⁵⁵⁰ Children's Ground, Submission No. 80, p. 9.

4.390 Some submitters raised concerns regarding the practical implementation of care planning, particularly for families living in remote communities. KWILS submitted that interpreters are rarely used and family members are often excluded from care planning discussions, limiting families' understanding of protection concerns and reducing the effectiveness of safety and care plans:

In our experience, interpreters are rarely used and appropriate family members are not included in meetings, impacting upon the ability of parents and broader family to fully understand and engage with the protection concerns, safety planning and/or care planning for the child involved. As a result, we frequently see the development of poor safety plans that do not meet the needs of the family, and consequently, families do not understand them or adhere to them. In those cases where a workable safety plan is made, there is often no capacity to facilitate a review when circumstances change (such as when a person using violence returns to community on release from prison).⁵⁵¹

Leaving care planning

4.391 Although clauses 12 and 13 make only limited amendments to care planning provisions, many submitters raised broader concerns regarding the adequacy of existing care planning requirements.⁵⁵² A recurring concern was the lack of effective transition planning for young people leaving care.⁵⁵³ The Committee heard 56% of children aged 15 to 17 in OOH in the NT did not have a current care plan incorporating leaving-care planning.⁵⁵⁴ Submitters noted this could lead to homelessness and disproportionately affect Aboriginal children.⁵⁵⁵

4.392 The Office of the Children's Commissioner recommended strengthening existing section 70(3), which currently provides care plans for children over 15 years of age to identify the needs of the child in preparing to leave the CEO's care and transition to other living arrangements. The recommendations included:

- guaranteeing access to information, assistance and support
- requiring dedicated leaving care plans
- clarifying the CEO's responsibility for leading transition planning.⁵⁵⁶

4.393 Dr Marcia Langton AO and Professor Fiona Stanley similarly highlighted the absence of effective leaving care planning, noting that:

the absence of adequate, timely and meaningful leaving-care planning as a matter of serious concern to Aboriginal and Torres Strait Islander young people in care — and a documented pathway to homelessness and further contact with statutory systems.⁵⁵⁷

4.394 The NT Mental Health Coalition further submitted that the Bill does not require mandatory mental health screening or therapeutic care planning, despite evidence

⁵⁵¹ Katherine Women's Information and Legal Service, Submission No. 79, p. 11.

⁵⁵² Hon Chansey Paech MLA, Submission No. 42, p. 9.

⁵⁵³ Office of the Children's Commissioner, Submission No. 40, pp. 4, 17; Dr Marcia Langton AO and Professor Fiona Stanley, Submission No. 54, p. 6.

⁵⁵⁴ SNAICC – National Voice for Our Children, <https://www.snaicc.org.au/wp-content/uploads/2025/12/Family-Matters-Report-2025.pdf>

⁵⁵⁵ Dr Marcia Langton AO and Professor Fiona Stanley, Submission No. 54, p. 6.

⁵⁵⁶ Office of the Children's Commissioner, Submission No. 40, pp. 4, 17.

⁵⁵⁷ Dr Marcia Langton AO and Professor Fiona Stanley, Submission No. 54, p. 6.

that Aboriginal children in OOHC experience poorer mental health outcomes than other children.⁵⁵⁸

Who can participate in a care plan

4.395 The NTLAF highlighted the change to who the CEO may encourage and facilitate to participate in the preparation, modification or review of a care plan, noting that this ‘discourages the involvement of family and kin where a child has been disconnected from their culture’.⁵⁵⁹

4.396 The Committee sought clarification from the Department in relation to the rationale for prescribing different approaches for Aboriginal and non-Aboriginal children in relation to persons who may participate in a care plan or care plan review (i.e., for Aboriginal children they must be ‘of significance to the child’ but for non-Aboriginal children they may participate because they ‘represent the child’s cultural group’). The Department advised:

This was a drafting oversight and creating a disparity between Aboriginal and non-Aboriginal regarding who can participate in a care plan or a review of a care plan was unintentional. Persons participating in decision making, care planning or a review of a care plan should be a person of significance regardless of whether the child is Aboriginal or non-Aboriginal.⁵⁶⁰

Committee comments

4.397 The Committee notes the drafting error highlighted by the Department. Otherwise, the Committee considers the provisions appropriate as currently drafted.

Parties to proceedings

4.398 Clause 15 seeks to amend section 94 which sets out who are parties to court proceedings under the Care and Protection Act. These currently include the child, their parents, the CEO, each person proposed to be given daily care or parental responsibility for the child, and any other person the court considers has a direct or significant interest in the child’s wellbeing. The provision adds carers as parties to proceedings in circumstances where a child has been placed with the carer for a period of 8 months or more. Clauses 20 and 23 further seek to amend sections 125 and 137D to provide for carers to be parties in proceedings for a protection order or a permanent care order, where the child has been placed with that carer for more than 8 months.

4.399 The Explanatory Statement notes that the rationale for these amendments is to recognise that ‘carers can inform the court on matters relevant to the proceedings, particularly where they have formed a trusting and nurturing relationship with the child

⁵⁵⁸ NT Mental Health Coalition, Submission No. 66, p. 3.

⁵⁵⁹ Northern Territory Legal Assistance Forum, Submission No. 117, p. 7.

⁵⁶⁰ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 22.

and have an interest in the child's long-term stability'.⁵⁶¹ The Minister further explained during her first reading speech that:

This ensures that the court can hear directly from those best placed to speak regarding the child's day-to-day care, attachments and need for stability.⁵⁶²

4.400 Existing section 125(2)(d) enables any other person to apply to the Court to be a party to proceedings and is considered by the Court to have a direct and significant interest in the wellbeing of the child.

Importance of carers' participation

4.401 Submitters generally acknowledged the important role carers play in the lives of children in OOHC and supported greater recognition of their knowledge and experience. The Committee heard that carers often have unique insight into a child's daily functioning, trauma responses, emotional needs and placement stability, which may assist the Court in determining the child's best interests.⁵⁶³

4.402 The FKCANT highlighted the 'critical role' carers play in the lives of children and young people in care. They submitted that:

Excluding carers from proceedings can result in:

- incomplete information before the Court;
- reduced understanding of the child's attachment relationships;
- decisions that unintentionally undermine stability;
- and increased distress for children and carers.⁵⁶⁴

4.403 The FKCANT also emphasised that carers were not seeking to replace parental rights but to provide evidence regarding the child's functioning, relationships, trauma responses and developmental progress.⁵⁶⁵ Similar views were expressed during the Department's public hearing. The Department stated that excluding carers risks the Court making decisions without the benefit of this information and that the reforms 'reflect lived realities in the system'.⁵⁶⁶

Effect on reunification and Aboriginal families

4.404 While acknowledging the important contribution carers can make, a number of submitters were concerned that, when read together with the broader reforms promoting permanency, the amendments may unintentionally favour non-kin placements and reduce opportunities for family reunification.⁵⁶⁷

⁵⁶¹ Explanatory Statement, Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (Serial 67), https://parliament.nt.gov.au/_data/assets/pdf_file/0015/1612500/Explanatory-Statement-Care-and-Protection-of-Children-Legislation-Amendment-Every-Child-Matters-Bill-2026-Serial-67.PDF, p. 13.

⁵⁶² Hon Robyn Cahill OAM MLA, Minister for Child Protection, Draft Daily Hansard – Wednesday 13 May 2026, <https://territorystories.nt.gov.au/10070/1036731>, p. 18.

⁵⁶³ Foster and Kinship Carers Association NT, Committee Transcript, 4 June 2026, p. 4.

⁵⁶⁴ Foster and Kinship Carers Association NT, Committee Transcript, 4 June 2026, p. 4.

⁵⁶⁵ Foster and Kinship Carers Association NT, Submission No. 24, p. 10.

⁵⁶⁶ Department of Children and Families, Committee Transcript, 5 June 2026, p. 4.

⁵⁶⁷ Mikan Aboriginal Corporation, Submission No. 45, p. 11.

4.405 Grace and Grit Consulting found that conferring automatic party status on carers after 8 months could create a procedural advantage for non-kin carers where a child has already formed attachments during placement, arguing that:

read alongside the Bill's subordination of the [ACPP] to permanency (s.12C(4)) and the demotion of cultural connection in the best interests hierarchy (s.8(3)), these provisions create a systemic risk:

- A child placed with a non-kin, non-community carer — particularly where placement decisions have been made under a framework that already undervalues cultural connection — will generate an eight-month relationship with that carer
- That carer then gains standing as a party to proceedings, including applications for long-term and permanent orders
- The carer's evidence about the child's attachment and stability will, in practice, carry significant weight against family members seeking reunification
- This procedural advantage compounds decisions made under a principle framework the Bill has already tilted away from the [ACPP]

We do not oppose carers having a voice in proceedings in all circumstances. We do submit that these provisions, in combination with the broader structural changes, systematically advantage non-kin placement and should be reviewed as part of any revision.⁵⁶⁸

4.406 Similar concerns were raised by several other submitters, who argued that the amendments may increase the likelihood that children, particularly Aboriginal children, remain in non-Aboriginal placements once removed from their families.⁵⁶⁹ Some submitters also noted that the existing Care and Protection Act already enables carers to seek party status where the Court considers they have a direct and significant interest in the child's wellbeing.⁵⁷⁰

Eight-month threshold

4.407 Several submitters questioned the appropriateness of the proposed 8 month threshold for automatic party status.⁵⁷¹ Concerns included:

- The 8 month period may not reflect a stable or permanent placement.⁵⁷²
- The term 'carer' is undefined for the purposes of the proposed amendments.⁵⁷³
- The provisions lack safeguards to ensure participation remains in the best interest of the child.⁵⁷⁴

4.408 Legal Aid NT submitted that the Bill does not define 'carer' and observed that equivalent provisions do not exist in corresponding legislation in other Australian jurisdictions:

⁵⁶⁸ Grace and Grit Consulting, Submission No. 65, p. 6.

⁵⁶⁹ Stephen Enciso, Submission No. 16; Human Rights Law Centre, Submission No. 21.

⁵⁷⁰ Nayomi Naranpanawa and Kate Lightfoot, Submission No. 73, p. 1.

⁵⁷¹ Grace and Grit Consulting, Submission No. 65, p. 1.

⁵⁷² Antony Sinni, Submission No. 133, p. 2; Alexander Mulligan, Submission No. 6, p. 5.

⁵⁷³ Legal Aid NT, Submission No. 131; Law Society Northern Territory, Submission No. 137.

⁵⁷⁴ Alexander Mulligan, Submission No. 6.

Legal Aid NT is opposed to the mandated addition of carers of more than 8 months of a child being necessary parties to proceedings under proposed sections 94, 125 and 137D of the Bill. Legal Aid NT observes the term 'carer' has not been defined and as a result the definition could include family members of the child or paid foster carers.

Legal Aid NT notes that there is no equivalent provision naming carers as mandated parties in the corresponding legislation of other jurisdictions.⁵⁷⁵

- 4.409 Mikan Aboriginal Corporation argued that the 8-month period is shorter than the time often required to identify and assess suitable Aboriginal kinship placements in remote communities:

In practice, then, the carer-as-party provisions will give legal standing to contest reunification — in the substantial majority of cases involving Aboriginal children — to non-Aboriginal carers. The eight-month threshold compounds this: it is shorter than the timeframes typically required to identify, assess and place an Aboriginal child with appropriate kin in remote and very remote communities.

Combined with the permanency framework in sections 8 and 12B, this creates legal infrastructure that systemically privileges non-Aboriginal placement over Aboriginal kinship reunification. This is the precise harm the ACPP was created to prevent.⁵⁷⁶

- 4.410 Individual submitter Antony Sinni also expressed his concerns:

As a Territorian, I am deeply concerned at the notion that under this bill, a person who has known my child for 8 months will automatically be party to a court proceeding about my child and be given the same the same rights in court processes as me as the parent of the child and also have access to all the records and information before the court.⁵⁷⁷

- 4.411 Alexander Mulligan submitted that stronger safeguards should be considered, including extending the placement period or requiring additional criteria to demonstrate placement stability and ensuring carers' participation remains directed to the child's best interests:

The inclusion of carers as parties to proceedings is acknowledged and supported in principle, recognising the important role carers play in the day-to-day care and wellbeing of children. However, the proposed threshold of eight months is not considered a sufficiently robust period to justify conferral of party status. Placement durations of this length may not reflect stability or permanency and may occur within the context of ongoing reunification planning or transitional care arrangements. Conferring party status provides carers with formal standing to participate in proceedings and advocate in relation to the child's circumstances. While intended to support the child's interests, there is a risk that this may, in practice, enable advocacy that reflects the carer's personal interests or preferences, particularly in situations where strong attachments have formed.

There is evidence in practice of carers developing significant bonds with children in their care, which, while understandable, can at times influence their position on reunification. This may manifest in opposition to reunification efforts or the portrayal of families in a manner that does not fully reflect the broader context or progress being made. Without appropriate safeguards, this provision may unintentionally create tension between parties and complicate reunification processes, particularly where the views of carers are given formal standing without clear parameters.

⁵⁷⁵ Legal Aid NT, Submission No. 131, p. 6.

⁵⁷⁶ Mikan Aboriginal Corporation, Submission No. 45, p. 11.

⁵⁷⁷ Antony Sinni, Submission No. 133, p. 2.

Consideration should be given to strengthening the criteria for party status, including extending the minimum period of placement or requiring additional factors to be demonstrated (such as placement stability or care trajectory). Further, safeguards should be embedded to ensure that participation by carers remains focused on the best interests of the child, with appropriate weight given to professional assessments and reunification planning led by the responsible authority. This section as it is currently written implies the assumption that a carer will act in the best interest of a child.⁵⁷⁸

4.412 The Committee sought clarification from the Department regarding why the 8-month timeframe was prescribed. The Department advised:

The 8-month timeframe has been prescribed based on the amount of time a child takes to form an attachment to their carer and the amount of time it takes for a carer to understand the needs of the child. This timeframe represents a stable placement for the majority of a short-term orders duration.⁵⁷⁹

4.413 The Department also clarified that it is intended that proposed section 125(2)(c) will apply to carers regardless of whether they are a present carer or a historical carer of the child:

Carers in the context of section 125(2)(c) refers to section 78 of the [Care and Protection] Act, which is a placement arrangement where a child in the CEO's care is placed with a family member of the child or an individual approved by the CEO.

There is no requirement for a carer to be a current carer, which leaves it open for a child's previous and current carers to be a party which ensures that that court may be provided a holistic view of the child's circumstances and needs where applicable.⁵⁸⁰

Impact on courts and legal services

4.414 Submitters also expressed concern that adding carers as automatic parties to proceedings may increase the number of contested matters and place additional pressure on the courts and legal assistance services. They argued that carers' interests may differ from those of parents, resulting in more complex proceedings and greater demands on already limited legal resources.⁵⁸¹ For example, the NTLAF told the Committee that:

Carers also constitute an additional party to proceedings. There is currently very little capacity within the sector to assist additional parties, presuming they are eligible for free legal assistance. If not, there is a likelihood of unrepresented parties which will increase pressure on the Courts.

The involvement of carers in proceedings will likely lead to more contested matters as carers often hold a different view to parents.⁵⁸²

⁵⁷⁸ Alexander Mulligan, Submission No. 6, p. 5.

⁵⁷⁹ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 23.

⁵⁸⁰ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, pp. 23-24.

⁵⁸¹ Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council, Submission No. 100; Law Society Northern Territory, Submission No. 137.

⁵⁸² Legal Assistance Forum, Submission No. 117, p. 23.

4.415 Highlighting the experiences of Anangu and Yarnangu family and community, the NPY Women's Council submitted that carers would have the same procedural rights as parents, including the ability to call evidence, make submissions and access sensitive information before the Court, and that this was likely to increase contested proceedings:

Currently, a non-parent must show a direct and significant interest in the child's wellbeing to take part in court proceedings. The Bill makes a carer an automatic party to the case if the child has been living with that carer for more than eight months. This gives carers, who are overwhelmingly non-Indigenous and non-family members, the same rights in court processes as parents or the child which elevates their say and dilutes the views and wishes of the Anangu and Yarnangu family and community.

Carers can be heard, make submissions, call evidence and block an agreed resolution. They can also access sensitive records and information put before the court about the parents. This is likely to increase the number of cases that are contested in court because carers' interests will often differ from those of parents.⁵⁸³

4.416 Submitters further advised that the addition of parties to proceedings may place a burden on already stretched legal services.⁵⁸⁴ Legal Aid NT raised concerns regarding increased demand for legal advice and representation and the potential for additional interlocutory disputes concerning confidential information, stating:

Legal Aid NT is concerned about the financial impact of this proposed change to the Act on the justice sector. It is anticipated that carers would seek legal assistance services both in relation to advice and legal representation as parties to the Court proceedings.

Firstly, in relation to the provision of legal advice, under the *Legal Aid Act 1990* (NT), Legal Aid NT may provide legal assistance to those persons who are "unable to afford the cost of obtaining from private legal practitioners the legal services in respect of which legal assistance is sought". The Legal Aid Guidelines further note that priority is given to certain classes of person in order, with the third class being: Persons who would be more severely disadvantaged than others (whether such disadvantage is expressed in terms of one or more economic, physical, cultural, linguistic, educational, geographic or other factors) if legal aid was not provided.

As a result, Legal Aid NT would be required to prioritise limited funding to provide advice and legal representation to parents in order to ensure compliance with our statutory function. There has been no indication as to what services and resources will be available to provide legal advice to carers, and how such services will be funded. Without any funding allocated to the provision of legal advice to carers, Legal Aid NT would be in a position where we would be unable to guarantee that advice could be provided.

Secondly, adding carers as another party to proceedings has the potential to introduce a more adversarial and inter-partes approach to litigation at the Court. This is likely to increase the workload of the Court and the various legal assistance services as more matters will be required to proceed to a contested hearing.

In addition, applications made to the Court often contain highly sensitive information about the parents which can include information about the parents

⁵⁸³ Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council, Submission No. 100, p. 7.

⁵⁸⁴ Top End Women's Legal Service, Submission No. 102; Northern Territory Legal Assistance Forum, Submission No. 117; Legal Aid NT, Submission No. 131.

being in care themselves. Such issues are likely to create further contested interlocutory applications for the suppression of certain information/evidence, which will further delay proceedings, creating further costs to the Court and legal assistance services.⁵⁸⁵

4.417 The Top End Women's Legal Service (TEWLS) also submitted that the amendments would place further pressure on an already strained legal assistance sector, increasing the likelihood of unrepresented parties and delays in proceedings:

For the Committee's awareness, we highlight that the capacity and capability of the legal system in the Top End Region, and indeed, across the entirety of the Northern Territory, is already over-stretched, with parties already appearing unrepresented in [Care and Protection Act] proceedings because of there being no service available to assist. With the Bill's proposal for two additional parties to be represented in proceedings, the current situation will be exacerbated, with impact that natural justice will be unable to be afforded to parties who have not had the benefit of legal advice and representation.⁵⁸⁶

Committee comments

4.418 The Committee notes the Department's advice that the 8-month period reflects the time generally required for a child to form an attachment with a carer and for the carer to develop an understanding of the child's needs. The Committee also notes the Department's advice that the provisions are intended to enable the Court to receive a holistic understanding of the child's circumstances.

4.419 The majority of the Committee considers the provisions appropriate as currently drafted.

Applications for protection orders

4.420 Clause 17 seeks to amend section 121 to allow the CEO to apply to the Court for a protection order where the Court has made a family responsibility order directing the CEO to make the application. The Explanatory Statement explains that this allows the CEO to make the application for a protection order regardless of whether the CEO has a reasonable belief that the child is in need of protection.⁵⁸⁷

4.421 Clause 18 further amends section 122 to expand the information that must be contained in the CEO's application for a protection order to include evidence of proactive efforts (required under new section 12D).

4.422 Clause 22 seeks to amend section 130 to alter the matters the Court must consider when making a protection order, including a protection order that specifies short-term parental responsibility directions. The amendments to section 130 include:

- inserting a new requirement for the Court to consider whether 'proactive efforts' under proposed section 12D were made in relation to a child were 'sufficient and appropriate' in the circumstances

⁵⁸⁵ Legal Aid NT, Submission No. 131, pp. 6-7.

⁵⁸⁶ Top End Women's Legal Service, Submission No. 102, p. 4.

⁵⁸⁷ Explanatory Statement, Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (Serial 67), https://parliament.nt.gov.au/_data/assets/pdf_file/0015/1612500/Explanatory-Statement-Care-and-Protection-of-Children-Legislation-Amendment-Every-Child-Matters-Bill-2026-Serial-67.PDF, p. 12.

- removing the existing requirement for the Court to consider whether services were provided in accordance with section 42(4) of the Care and Protection Act, including whether services were culturally responsive.

Court-directed applications for protection orders

4.423 Some submitters questioned whether permitting the Court to direct the CEO to apply for a protection order alters the respective roles of the judiciary and the executive in child protection proceedings. Concerns were raised that the amendment may blur the distinction between the CEO's statutory responsibility to assess risk and determine whether intervention is warranted, and the Court's role in determining applications brought before it. Alexander Mulligan submitted that the amendment may undermine the independence of professional child protection decision-making, stating that:

Granting the Court the authority to compel the CEO to make such an application raises significant concerns regarding the separation of powers and functions between the judiciary and child protection authorities.

The current child protection framework relies on the CEO, as the statutory decision-maker, to assess risk, determine the appropriate intervention, and initiate proceedings based on professional expertise and statutory thresholds. Directing the CEO to make an application may undermine this role and blur the distinction between judicial oversight and executive decision-making.

This approach risks compromising the independence of professional assessments and may result in applications being progressed in circumstances where the threshold for intervention has not been independently satisfied by the responsible authority.

Consideration should be given to preserving clear delineation between the Court's role in reviewing and determining matters before it, and the CEO's responsibility for initiating applications based on evidence, risk assessment, and legislative criteria.

Maintaining this separation is critical to ensuring procedural integrity, accountability, and the appropriate exercise of statutory functions within the child protection system.⁵⁸⁸

'Sufficient and appropriate' proactive efforts

4.424 Submitter comments regarding the operation of proposed section 121, 122 and 130 were interwoven with broader comments regarding the proactive efforts framework. A number of submitters emphasised that the effectiveness of the proposed amendments depends on families having timely access to appropriate support services. Concerns were raised that parents should not be disadvantaged where they have made genuine attempts to engage with services but are unable to do so because of factors outside their control, including long waiting lists, workforce shortages or limited service availability.⁵⁸⁹ These issues are discussed in more detail in this report under the section 'Proposed section 12D – Proactive efforts'.

4.425 Several submitters sought greater clarity regarding the requirement for the Court to consider whether proactive efforts were 'sufficient and appropriate'. The National Commission for Aboriginal and Torres Strait Islander Children and Young People

⁵⁸⁸ Alexander Mulligan, Submission No. 6, p. 3.

⁵⁸⁹ Alexander Mulligan, Submission No. 6, p. 4.

submitted 'the requirement that the court assess whether reunification efforts were 'sufficient and appropriate' is not defined in a way that reflects the needs and circumstances of Aboriginal children'.⁵⁹⁰

- 4.426 The NPY Women's Council queried what consequences follow if the Court considers the proactive efforts are not 'sufficient and appropriate':

The Court must consider whether DCF took appropriate "proactive efforts" to support the child and family, yet does not clearly outline what the court can do if those efforts were not good enough, especially because it also limits when a child can stay on a short-term order.⁵⁹¹

Andrew Dawes similarly recommended proposed section 122 should be amended to provide that 'applications must be refused where proactive efforts are not sufficient or appropriately evidenced'.⁵⁹²

- 4.427 The Committee sought clarification from the Department regarding what factors the Court will consider in determining whether proactive efforts were 'sufficient and appropriate' under section 130(1)(a). The Department advised that:

The provision has been drafted broadly to allow the matters the court may consider when assessing whether proactive efforts were sufficient and appropriate will correspond to the family's individual circumstances and specific risks to the child that need to be addressed. An attempt to prescribe all relevant matters that a court might consider would result in the provision being overly prescriptive and/or limiting.⁵⁹³

Removal of section 42(4) requirement

- 4.428 As noted above, existing section 42(2) sets out requirements for the CEO with regard to services provided to families under the Care and Protection Act, including the requirement for services to be culturally responsive.

- 4.429 The Committee further sought clarification from the Department regarding why consideration of the factors in section 42(4) are no longer prescribed. The Department advised that:

As explained in the previous question, section 130(ca) has been drafted broadly, so there are no limitations to the matters the court can consider when assessing proactive efforts made by the Department. It follows that the court can consider the matters provided in section 42(2) regarding the provision of services to families, and specifically whether services are culturally responsive.⁵⁹⁴

Committee comments

- 4.430 The majority of the Committee considers the provisions to be appropriate as currently drafted.

⁵⁹⁰ National Commission for Aboriginal and Torres Strait Islander Children and Young People, Submission No. 38, p. 4.

⁵⁹¹ Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council, Submission No. 100, p. 6.

⁵⁹² Andrew Dawes, Submission No. 34, p. 5.

⁵⁹³ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 15.

⁵⁹⁴ Department of Children and Families, Answers to Written Questions, p. 15.

Short-term parental responsibility directions

- 4.431 Existing section 123(1) provides that the CEO may apply to the Court for a protection order specifying a short-term parental responsibility direction or a long-term parental responsibility direction that gives parental responsibility for a child to a specified person for a specified period. A short-term responsibility direction may be given for 2 years,⁵⁹⁵ and a long-term direction may be given for a specified period exceeding 2 years, ending before the child turns 18.⁵⁹⁶
- 4.432 Clause 19 seeks to amend section 123(1) to shorten the maximum duration for short-term parental responsibility directions and shorten the minimum duration for long-term parental responsibility directions from 2 years to one year.
- 4.433 Clause 21 further seeks to amend section 128 to limit the circumstances in which the Court may make short-term parental responsibility directions, only permitting a second direction to be made if there is a high probability of reunification and the child's long-term stability and security is not likely to be adversely affected.
- 4.434 In her first reading speech, the Minister explained the policy rationale for limiting short-term parental responsibility orders:

Repeated short-term orders can leave children in perpetual cycles of instability, undermining secure attachments and allowing cases to drift without a clear and enduring outcome. By imposing a limit, the court and the Department of Children and Families are encouraged to act with greater urgency and accountability, prioritising timely permanency planning for children in the child protection system.⁵⁹⁷

- 4.435 The Committee notes the Department's *Care Planning Policy* which states that care plans that accompany applications for short-term directions focus on reunification, whereas long-term directions focus on safeguarding the child's wellbeing as they remain in OOH. ⁵⁹⁸ The Committee further notes the provisions are intended to work in tandem with the proactive efforts framework established in proposed section 12D.

Balancing permanency and reunification

- 4.436 Many stakeholders acknowledged the importance of achieving timely permanency for children but questioned whether the proposed timeframes appropriately balance that objective with the goal of family reunification.⁵⁹⁹ A recurring concern was that reducing short-term parental responsibility directions from 2 years to one year would reduce the opportunity for families to safely reunify before longer-term orders become necessary.
- 4.437 Several submitters argued that the proposed timeframe does not reflect the reality that many families require extended periods to address complex issues such as housing insecurity, substance dependence, mental ill-health or domestic and family

⁵⁹⁵ *Care and Protection of Children Act 2007*, s 123(1)(c).

⁵⁹⁶ *Care and Protection of Children Act 2007*, s 123(1)(d).

⁵⁹⁷ Hon Robyn Cahill OAM MLA, Minister for Child Protection, Draft Daily Hansard – Wednesday 13 May 2026, <https://territorystories.nt.gov.au/10070/1036731>, p. 20.

⁵⁹⁸ <https://families.nt.gov.au/media/documents/for-people-working-with-or-caring-for-children/child-protection-policies/care-planning-policy.pdf>

⁵⁹⁹ Katherine Women's Information and Legal Service, Committee Transcript, Public Hearing, 4 June 2026, p. 4.

violence, particularly where access to support services is limited. Submitters considered this may result in children moving to long-term orders because sufficient progress cannot be demonstrated within the statutory timeframe rather than because reunification is no longer achievable.⁶⁰⁰

- 4.438 AMA NT highlighted the clinical concerns associated with inflexible statutory timeframes for reunification:

While the overarching goal of minimising placement instability and "drift" in out-of-home care (OOHC) is a valid concern given that children in OOHC experience severe physical, cognitive, and mental health trauma, the imposition of an inflexible, two-year statutory clock is clinically unsound when applied to families facing profound, complex, and compounded trauma.⁶⁰¹

- 4.439 At the Committee's public hearing on 4 June 2026, Geoff Radford, CEO of the NT Mental Health Coalition, explained the complexities associated with service-provision within the two-year timeframe:

Two years is a very short period for working with families that have significant complexity. Lots of the programs that we work within mean that there are long-term relationships that need to be formed with families who already have significant mistrust in the system due to past and current practices. There is a fear when services go to visit families that their children will be removed just for being involved with some of the NGO sector, let alone the child protection system. If you were to consider that it would maybe take six months in order to develop a meaningful relationship in order to commence therapeutic work, that already cuts into a quarter of that two-year period. Having a limitation on that places additional undue pressure on families dealing with myriad complexities.⁶⁰²

- 4.440 Brianna Bell, representing KWILS, highlighted the interaction of the proposed amendments with other parts of the Bill including proactive efforts and family responsibility agreements, noting the constraints this may place on families in remote areas:

I see the risk with the limit on the number of short-term orders that can be made for kids. Essentially, if you cannot show us that you will be able to reunify in six months, it is off the table. That is a scary concept for families. A lot of people in our region are worried about that because, even if we do have a support service available in our community, all it takes—and I think there is one provision in the Bill that says before the family responsibility agreement can be made, the CEO needs to make sure that services are reasonably available. The service might be available at the time the agreement is made, but all it takes is for one person in our region to resign and that whole service cannot operate for months at a time until that position can be filled because we do not have five workers in an office; we generally have one. Service availability can fluctuate, and it is important that parents who are making genuine efforts do not get penalised because the support systems surrounding them cannot meet what they need. Flexibility has to be there.⁶⁰³

- 4.441 The FKCANT emphasised that a move to a long-term direction does not necessarily preclude a child from reunification with their family:

⁶⁰⁰ Joe Horner, Submission No. 33; Grace & Grit Consulting and Training, Submission No. 65; Australian Medical Association NT, Submission No. 92; Dr Ahmad Syahir Mohd Soffi, Submission No. 118; Jake McGovern, Submission No. 135.

⁶⁰¹ Australian Medical Association NT, Submission No. 92, pp. 10-11.

⁶⁰² Northern Territory Mental Health Coalition, Committee Transcript, Public Hearing, 4 June 2026, p. 3.

⁶⁰³ Katherine Women's Information and Legal Service, Committee Transcript, Public Hearing, 4 June 2026, p. 4.

Even if a child is on a long-term order that does not mean circumstances cannot change. A child can be returned to family if the child wishes to return to family. That has happened in some cases.

The paramount thing here is looking at the attachment relationships that the child has and the voice of the child.⁶⁰⁴

Limiting judicial discretion

4.442 A number of submitters also raised concerns that the amendments constrain the Court's ability to make orders that reflect the individual circumstances of each child. The Committee heard that rigid legislative timeframes may prevent the Court from extending short-term orders even where reunification remains in the child's best interests and delays have arisen through systemic barriers rather than parental unwillingness.

4.443 Andrew Roberts, Managing Lawyer of the civil section of NAAJA, explained the impact of the strict timeframes on best interest determinations at the Committee's public hearing:

Those systemic barriers go to the heart of the problem with a rigid timeframe. In posing strict limitations when the processes that need to happen to reunify might be beyond that person's control means that you can end up in situations where courts and departments are making decisions that might not be in the child's best interests but they are forced to make particular decisions because of an arbitrary timeframe.

What we are most concerned about with that structure of specific timeframes is that it means that the discretion of the court to make what is objectively the best interests determination is constrained. The court might have to say, 'I think it is in the best interests to make another short-term order, but I cannot. I might think it is the best interests to make another short-term order because the department has not taken the steps they need to take to support the family, and reunification is a real possibility, but it has not happened in this particular timeframe because of all of those barriers.'

They might look at a proactive efforts framework and say that the department has manifestly failed to meet that threshold and provide that standard of support to a family and still nonetheless be forced to make a particular order which might not be in that child's best interests.⁶⁰⁵

4.444 Andrew Roberts further explained that:

Section 128 amendments are a restriction on judicial discretion as to the making of long-term orders after two short-term orders, which can lead to a position where you have a conflict between the paramount best-interests principle in the guiding principles, but also an express provision in section 90 of the Act that means the court has to apply the best-interests principle of paramount concern, and a provision that then curtails the discretion of the judge to actually do that. Again, it will be very difficult to reconcile how you apply the paramount consideration of the best interests of the children with a requirement, in some cases, to make an order that the court considers is not in the child's best interests.⁶⁰⁶

⁶⁰⁴ Foster and Kinship Carers Association NT, Committee Transcript, 5 June 2026, p. 3.

⁶⁰⁵ Norther Australian Aboriginal Justice Agency, Committee Transcript, 4 June 2026, p. 3

⁶⁰⁶ Norther Australian Aboriginal Justice Agency, Committee Transcript, 4 June 2026, p. 6

4.445 Clara Mills, principal lawyer at NAAFLS, representing NTLAF at the public hearing, similarly argued:

Operationally, to that we would say that this is the express experience of Victoria, which has just repealed that section. Where the best interests of the child directly conflicted with the length of orders or the amount of orders that the court can make, what resulted was matters sitting in litigation for years. There was a longitudinal study that found that where the courts could not make the orders that were best for children, matters just stayed in litigation and stagnated whilst people had to find the alternate solution.⁶⁰⁷

Impact on vulnerable families

4.446 Many submitters emphasised that the proposed timeframes may disproportionately affect families facing structural disadvantage. Evidence presented to the Committee suggested that workforce shortages, housing shortages, limited service availability in remote communities and long waiting periods for therapeutic services may make reunification within the prescribed timeframe difficult, despite genuine efforts by parents.

4.447 Similar concerns were raised in relation to families affected by DFV. Submitters argued that recovery from coercive control and DFV is often non-linear and that rigid statutory timeframes do not reflect the realities of establishing long-term safety for non-offending parents. Grace and Grit Consulting submitted that the Northern Territory risks repeating reforms adopted in Victoria that were later revised because they reduced reunification opportunities and disproportionately affected Aboriginal families:

The NT risks repeating the errors of the Victorian model, which Victoria has since revised in response to evidence that it:

- Reduced reunification opportunities for families with genuine capacity to be safe
- Disproportionately harmed Aboriginal families, where cultural, housing, and systemic barriers extended timelines beyond what any legislative cap could accommodate
- Prioritised administrative timelines over children's actual safety circumstances

In DFV cases specifically, two years is frequently insufficient. Safety fluctuates. A woman may be in the process of leaving, subject to ongoing coercion, separated and then returned, before reaching the point at which reunification is genuinely safe. A hard legislative cap that treats all child protection timelines as equivalent does not reflect the reality of DFV-affected families.⁶⁰⁸

4.448 The Committee heard concerns that these amendments may create a pathway for more children to be placed in long-term care.⁶⁰⁹ This may create additional risks to child safety,⁶¹⁰ and trauma.⁶¹¹ Joe Horner similarly submitted:

⁶⁰⁷ Northern Territory Legal Assistance Forum, Committee Transcript, 4 June 2026, p. 6.

⁶⁰⁸ Grace & Grit Consulting and Training, Submission No. 65, p. 6.

⁶⁰⁹ Submissions 23, 33, 38, 45, 65, 70, 73, 87, 100, 105, 114, 117, 118, 130, 135 and 137.

⁶¹⁰ Hon Chansey Paech MLA, Submission No. 42.

⁶¹¹ Australian Medical Association NT, Submission No. 92.

One area of particular concern is the proposed two year cap on short term protection orders. Productivity Commission data from 2025 indicates that approximately 70% of children in out of home care in the Northern Territory remain in continuous care for longer than two years. The passage of this bill would mean that a significant proportion of children in out of home care would be placed on a trajectory towards a long term order.

This has serious implications for rates of reunification. It also appears to be inconsistent with the Department of Children and Families' own Safer Together policy, which emphasises the importance of keeping children affected by domestic and family violence safely connected to the non-offending parent wherever possible. A rigid two year timeframe does not reflect the realities faced by families, particularly where access to housing, services and support is limited.

The proposed reforms risk increasing the number of children who are permanently removed from their families, not necessarily because reunification is unsafe, but because it is not achievable within prescribed timeframes.⁶¹²

Disproportionate impact on Aboriginal children

4.449 Several submitters argued that the amendments would have a disproportionate impact on Aboriginal children because they are significantly more likely to remain in OOHC for extended periods.⁶¹³ The National Commission for Aboriginal and Torres Strait Islander Children and Young People submitted that almost three-quarters of Aboriginal children in OOHC in the Northern Territory had already been continuously in care for more than two years and warned that, under the proposed framework, many children would effectively exceed the available timeframe for reunification:

The most recent available data shows that, as at 30 June 2024, 73.7% of Aboriginal and Torres Strait Islander children in out-of-home care in the Northern Territory had been continuously in care for 2 years or more, with 54.8% having been in care for 5 years or more. Meaning that under the proposed framework, most Aboriginal and Torres Strait Islander children currently in out-of-home care in the Northern Territory would already exceed the effective timeframe for reunification. They would likely be permanently removed from their families and communities.

This is a significant and deeply concerning outcome, particularly in the absence of evidence that the Northern Territory child protection system has the capacity to safely reunify children within shorter timeframes. Recent public reporting and stakeholder commentary has also pointed to workforce and resourcing pressures within the Northern Territory child protection system, which further contextualise these concerns.⁶¹⁴

4.450 Palm Tree OT found that the amendments may have long-term impacts on children with complex needs (i.e., disability, neurodivergence) who rely on predictable relationships and familiar environments, and Aboriginal children who may not retain a connection to community and Country.⁶¹⁵ Dr Ahmad Syahir Mohd Soffi similarly contended that the provisions could result in more Aboriginal children entering long-term or permanent care:

Clauses 19 and 21 of the Bill then restrict the time frame in which First Nations children are allowed to be placed under parental responsibility directions under a

⁶¹² Joe Horner, Submission No. 33, p. 1.

⁶¹³ Submissions 38, 40, 42, 45, 49, 50.

⁶¹⁴ National Commission for Aboriginal and Torres Strait Islander Children and Young People, Submission No. 38, p. 3.

⁶¹⁵ Palm Tree OT, Submission No. 18, p. 3.

protection order, giving the CEO of Territory Families easier access to place First Nations children into permanent placement under a permanent care order.⁶¹⁶

4.451 NPY Women's Council similarly submitted that the combined effect of shorter reunification timeframes and limited access to services would increase the likelihood of long-term separation of Anangu and Yarnangu children from their family, community and culture. It argued that permanency timeframes should not override the obligation to provide genuine, adequately resourced reunification efforts:

NPY [Women's Council] reject narrow understandings of permanency and attachment centering on a singular emotional connection which is inconsistent with Anangu and Yarnangu parenting practices. Due to the limited service delivery and the transience of Anangu and Yarnangu families across the region, it is once again essential that adequate notice is given to allow families time to seek legal advice and support navigating the system.

The Bill reduces a short-term parental responsibility direction from two years to one year. If the court has already made one short-term direction, it may make another one only if it is satisfied that:

- there is a "high probability" of reunifying the child with the child's parents; and
- the child's long-term stability and security is not likely to be adversely affected by the further short-term parental responsibility direction.

The Court must consider whether [the Department] took appropriate "proactive efforts" to support the child and family, yet does not clearly outline what the court can do if those efforts were not good enough, especially because it also limits when a child can stay on a short-term order.

The combined effect of shorter reunification timeframes and limited support will therefore increase the likelihood of long-term separation of Anangu and Yarnangu children from family, community and culture. Reducing timeframes means less time to address structural issues and service gaps, increasing the likelihood that a parent or family are unable to meet expected requirements within allocated timeframes. This part of the Bill also increases the likelihood of permanent removal. Permanency timelines should not override the obligations to provide genuine adequately resourced reunification efforts.⁶¹⁷

4.452 The Committee invited the Department to comment on submitter concerns that the one-year timeframe will not be sufficient time for families to address the long-term systemic issues they face. The Department advised that:

The maximum duration of 2 years for short-term parental responsibility directions seeks to combat the successive short-term orders that result in children being caught in a perpetual cycle of uncertainty regarding their placement arrangements, jeopardising the child's sense of security and wellbeing. When this occurs in a child's developmental years, the consequences tend to be detrimental for the child's cognitive and psychological performance in adulthood.

Authoritative research from the Harvard Medical School highlights that Early Life Stress in a child can impede cognitive and affective function in adulthood.

Subsequent research conducted supports that early childhood stress and anxiety can severely impact psychosocial functioning in adulthood.

Turning to premature assessments of non-compliance: removing children is viewed as the last resort when all attempts to address the underlying issues

⁶¹⁶ Dr Ahmad Syahir Mohd Soffi, Submission No. 118, p. 4.

⁶¹⁷ Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council, Submission No. 100, p. 6.

affecting child safety and wellbeing have failed. The reduction of short-term parental responsibility timeframes from 2 years to 1 year will be supported with the proactive efforts framework and the Department providing all necessary supports to the families to address risks to the child.

Under the Bill's reforms, the CEO is legally obligated to demonstrate proactive efforts that were undertaken to address underlying conditions before applying for a protection order. If no proactive efforts were taken, the Court may issue a [family responsibility order] instead, preventing the removal of the child. Where a child is placed on a protection order, proactive efforts will obligate the CEO to take all reasonable efforts to reunite the child with the family within 2 years.⁶¹⁸

'High probability of reunification' threshold

4.453 Submitters also questioned the requirement that a second short-term parental responsibility direction may only be made where there is a 'high probability of reunification'.⁶¹⁹ The CREATE Foundation submitted that the threshold would be difficult to satisfy in practice for families experiencing DFSV, mental ill-health or substance dependence, even where reunification remained achievable with additional time and support. It further argued that capping orders without addressing systemic barriers to reunification would simply increase the number of children progressing to long-term orders:

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.⁶²⁰

4.454 The Committee sought advice from the Department in relation to how the Court will determine that there is a 'high probability of reunification', what review or appeal processes are available to families, and how many families the Department projects the Court will determine will meet this criteria. The Department advised that:

A high probability of reunification will likely be based on the best interests of the child and a range of interrelated factors which may include the steps the parents are taking to address the risks that resulted in the child needing care and protection, and efforts made to maintain contact and visits with the child.

...

⁶¹⁸ Department of Children and Families, Answers to Written Questions, p. 23.

⁶¹⁹ Submissions 23, 33, 92, 100 and 117.

⁶²⁰ CREATE Foundation, Submission No. 23, pp. 15-16.

The Department has not carried out projections, however; there are numerous case studies that indicate protracted attempts at reunification where the likelihood is remote. This has resulted in successive short-term orders and a cycle of perpetual uncertainty for the child. ...

Section 137 of the Act provides for a party to proceedings to make an application to vary or revoke a protection order.⁶²¹

Committee comments

4.455 The majority of the Committee considers the provisions appropriate as currently drafted.

Legal representation for children

4.456 Existing section 143A(1) provides that, in proceedings under the Care and Protection Act, the Court may order the appointment of a legal practitioner to represent a child to whom the proceedings relate if the Court considers doing so is in the best interests of the child.

4.457 Clause 25 seeks to repeal and replace existing section 143A. Proposed section 143A(1) provides for a new requirement that the Court must not hear an application for a permanent care order or a protection order with a long-term parental responsibility direction, unless:

- the child is represented by a legal practitioner, or
- the Court is satisfied that the child has made an informed and independent decision not to be represented, or
- the Court is satisfied the matter should be heard as a matter of urgency and it is in the best interest of the child to proceed without representation.

4.458 Proposed section 143A(2) further provides that in any proceeding under the Care and Protection Act, if a child is not represented by a legal practitioner and the Court is not satisfied that the child has made an informed and independent decision not to be represented, the Court:

- (a) may order the appointment of a legal practitioner to represent the child; and
- (b) on adjournment, may make any interim orders it could make if the child were represented by a legal practitioner.

4.459 The Explanatory Statement explains the intention of proposed section 143A is to align with the overarching policy intent of the Bill to 'elevate children's voices and ensure children's views are properly heard in decisions that shape their future'.⁶²² In her first reading speech, the Minister further explained that:

By making this legal representation mandatory in significant proceedings, this Bill will strengthen the integrity of the process and ensure that decisions with lifelong

⁶²¹ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF, p. 22.

⁶²² Explanatory Statement, Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (Serial 67), https://parliament.nt.gov.au/_data/assets/pdf_file/0015/1612500/Explanatory-Statement-Care-and-Protection-of-Children-Legislation-Amendment-Every-Child-Matters-Bill-2026-Serial-67.PDF p. 14.

consequences for a child are made with the benefit of a clear, independent voice focused on the child's wishes and best interests. There is a sensible exemption to this requirement, but in limited circumstances where a matter needs to be heard on urgency and it is in the best interests of the child to progress in that manner.⁶²³

- 4.460 The Committee notes the proposed amendments will interact with existing section 143E of the Care and Protection Act which provides for regulations establishing eligibility criteria and standards for children's legal representatives.

Strengthening the voice of children

- 4.461 Many submitters supported proposed section 143A.⁶²⁴ The Committee heard the amendments will strengthen the voice of children in proceedings that determine their long-term futures.⁶²⁵ The Committee was told that the amendments are consistent with the recommendations of the *Royal Commission into the Protection and Detention of Children in the Northern Territory*, the principles underpinning the ACPP, and Article 12 of the UNCRC.⁶²⁶

- 4.462 While supporting the reform, CREATE Foundation suggested that mandatory legal representation should ultimately be extended to other significant child protection proceedings, including applications for short-term orders and family responsibility order proceedings:

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 [family responsibility order] hearings. The [Office of the Children's Commissioner] 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 [Care and Protection Act] 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.⁶²⁷

- 4.463 At the public hearing, the Department highlighted that the provision is intended to strengthen the voice of children:

The Bill also introduces a requirement that a court must not hear an application for a permanent care order or a long-term order unless the child is legally represented or has made an informed and independent decision not to be represented. It puts the child's voice, backed by legal representation, at the heart of the most consequential proceedings in the child protection system. The current [Care and Protection] Act does not guarantee children that right; this Bill does. The picture on participation is there for more nuance than the criticism suggests. The changes represent a genuine and substantial strengthening of their right to be heard.⁶²⁸

⁶²³ Hon Robyn Cahill OAM MLA, Minister for Child Protection, Draft Daily Hansard – Wednesday 13 May 2026, <https://territorystories.nt.gov.au/10070/1036731>, p. 20.

⁶²⁴ Submissions 34, 40, 50, 51, 65 and 80.

⁶²⁵ Submissions 15, 17, 34, 44, 45, 65 and 86; Department of Children and Families, Committee Transcript, 5 June 2026.

⁶²⁶ Grace & Grit Consulting, Submission No. 65, p. 7; Northern Territory Mental Health Coalition, Submission No. 66, p. 6.

⁶²⁷ CREATE Foundation, Submission No. 23, p. 16.

⁶²⁸ Department of Children and Families, Committee Transcript, 4 June 2026, p. 4.

Resourcing

4.464 Although there was broad support for the principle of mandatory representation, many submitters emphasised that its effectiveness will depend upon sufficient investment in the legal assistance sector.⁶²⁹ Concerns were raised that existing workforce shortages may result in delays, unequal access to representation and an increase in unrepresented parties.

4.465 The Australian Human Rights Commission submitted that:

Strengthening children's access to independent legal representation in long-term child protection matters is a positive reform, as it ensures children's voices are heard in decisions that directly affect their lives and promotes fairness in a system often dominated by adult perspectives. It can improve accountability and support better outcomes, particularly given the Northern Territory's complex context. However, its effectiveness depends on adequate funding, availability of trained lawyers and culturally appropriate practices, as otherwise it may lead to delays or uneven access to representation.⁶³⁰

4.466 Similar concerns were expressed by the TEWLS and KWILS, which submitted that existing legal services are already under significant pressure and that the additional representation requirements for both children and carers may further strain regional legal assistance services. The TEWLS submitted that:

For the Committee's awareness, we highlight that the capacity and capability of the legal system in the Top End Region, and indeed, across the entirety of the Northern Territory, is already over-stretched, with parties already appearing unrepresented in [Care and Protection Act] proceedings because of there being no service available to assist. With the Bill's proposal for two additional parties to be represented in proceedings, the current situation will be exacerbated, with impact that natural justice will be unable to be afforded to parties who have not had the benefit of legal advice and representation.⁶³¹

4.467 KWILS similarly stated that:

With two additional parties requiring representation under the Bill (the child and carer), there is a high degree of risk that the legal service system in Katherine will not be able to provide the required services. We anticipate this will result in higher rates of unrepresented litigants and parties being represented by practitioners outside the region who may not have a comprehensive understanding of local contexts.⁶³²

Independence and quality of child representation

4.468 A recurring theme in submissions was that expanding children's access to legal representation should be accompanied by measures to ensure representatives are independent, appropriately qualified and culturally competent.⁶³³ Submitters observed that child representatives are currently drawn from the same panel of

⁶²⁹ Nayomi Naranpanawa and Kate Lightfoot, Submission No. 73, p. 1; Australian Human Rights Commission, Submission No. 88, p. 11; Northern Territory Legal Assistance Forum, Submission No. 117, p. 23; 131

⁶³⁰ Australian Human Rights Commission, Submission No. 88, p. 11.

⁶³¹ Top End Women's Legal Service, Submission No. 102, p. 4.

⁶³² Katherine Women's Information and Legal Service, Submission No. 79, p. 8.

⁶³³ Children's Ground, Submission No. 80, p. 8.

practitioners who may also act for the Department, potentially undermining confidence in their independence.⁶³⁴ The NTLAF submitted that:

Whilst we generally welcome the appointment of child representatives, the Bill does nothing to address the fact that child representatives are currently appointed from the same panel of private lawyers who represent the Department. It is essential that children's representatives are truly independent, and can demonstrate appropriate skills, qualifications, experience and cultural competency in order to properly fulfill this essential role.⁶³⁵

4.469 NPY Women's Council similarly advocated for lawyers to be independent, specialist and trauma-informed:

Legal representation for children is generally positive and supports their best interests. However, the lawyer must be independent, specialist, trauma-informed and culturally safe. The Bill does not address the fact that children are often represented by the same panel of private lawyers who also act for [the Department].⁶³⁶

4.470 Several submitters also noted that, although existing section 143E contemplates regulations prescribing eligibility criteria and standards for child representatives, no such regulations have been made.⁶³⁷ Legal Aid NT and the CREATE Foundation recommended that regulations be developed to establish accreditation, specialist training and minimum practice standards, particularly in relation to the cultural needs of Aboriginal children.⁶³⁸ For example, Legal Aid NT noted that:

Legal practitioners undertaking this work are drawn from both the local private profession and from national commercial firms, have varied skills and experience working with clients with highly complex communication needs, experience in the Northern Territory and general legal expertise in this area.

Unlike interstate jurisdictions, where Legal Aid Commissions are funded to appoint child representatives including providing and regulating targeted child representative training, in the Northern Territory the Solicitor for the Northern Territory ("SFNT") manages the appointment of all child representatives. The legal practitioners appointed are private firms who must be registered and on the published NT Legal Services List to undertake NT government work in a range of legal areas. Such practitioners sometimes undertake work representing the Department, in one matter and child representative, in another. In Legal Aid NT's experience, this has sometimes caused confusion for clients and families at Court events.

In Legal Aid NT's experience, separate child representatives will often be required to visit children at their placements through their carers. If carers are added as necessary parties, parents may be concerned about the impartiality of child representatives in circumstances where the representative is meeting the child through the carer.

Legal Aid NT understands the training requirement imposed for legal practitioners to undertake child representation work is the completion of a national accreditation training programme for Independent Children's Lawyers in Family Law proceedings. This training is to be distinguished from the specialist child representation training delivered by interstate Legal Aid Commissions. The family

⁶³⁴ Northern Territory Legal Assistance Forum, Submission No. 117, p. 23; Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council, Submission No. 100, p. 7.

⁶³⁵ Northern Territory Legal Assistance Forum, Submission No. 117, p. 23.

⁶³⁶ Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council, Submission No. 100, p. 7.

⁶³⁷ Legal Aid NT, Submission No. 131, pp. 8-9.

⁶³⁸ CREATE Foundation, Submission No. 23, p. 16; Legal Aid NT, Submission No. 131, pp. 8-9.

law and care and protection jurisdictions are not analogous. It is by design that different training and accreditation programmes and selection criteria/panel entry requirements have been established by legal aid commissions in other jurisdictions.

The absence of specialist training in the NT may explain why legal practitioners are requested to undertake alternate training designed for a different area of law and practice.

Legal Aid NT invites government to promulgate the regulation contemplated in section 143 E of the Act to regulate the quality and impact of child representation and provide appropriate funding to facilitate training.⁶³⁹

Decision-making capacity

4.471 Some submitters highlighted that proposed section 143A(1)(b) would require the Court to determine a child's capacity for informed and independent decision-making but noted that the Court will often not have enough evidence before it to determine a child's level of understanding.⁶⁴⁰ Submitters stated that this may create uncertainty in court processes.⁶⁴¹

4.472 Legal Aid NT submitted that the provisions, as currently drafted, could restrict the discretion of the Court:

While Legal Aid NT appreciates the stated intent of the Bill is to increase access to legal representation and keep children central to decision making, Legal Aid NT has concerns, the proposed amendments do not achieve that aim.

The existing provisions for the legal representation of children are contained in Division 6A of the Act.

Section 143A of the Act currently provides the Court with a broad discretion to appoint a legal practitioner to represent a child (commonly known as the child representative), if it is considered to be in the child's best interests. This provision applies to any proceeding under the Act.

The basis for representation is either on instructions with an age presumption of 10 years of age or best interests under section 143B.

The child representative is required to determine whether the child has sufficient maturity and understanding to be able to provide instructions in the proceedings, advise the Court of the basis of the child's capacity to instruct, put the child's views and wishes before the court and to actively and professionally represent the child as if engaged by the child.

The proposed amendments are to section 143A only. This would remove the Court's discretion to order the appointment if it is in the child's best interests and substitute it by (a) introducing mandatory orders for appointment, with exceptions, where a long-term parental responsibility child protection or permanent care order is sought; and (b) in the case of any other proceeding, replacing it with the requirement for the Court to be satisfied the child has not made an informed and independent decision not to be represented, thereby requiring order for appointment.⁶⁴²

⁶³⁹ Legal Aid NT, Submission No. 131, pp. 8-9.

⁶⁴⁰ Legal Aid NT, Submission No. 131, p. 7.

⁶⁴¹ Northern Territory Legal Assistance Forum, Committee Transcript, 4 June 2026.

⁶⁴² Legal Aid NT, Submission No. 131, p. 7.

4.473 The Committee sought advice from the Department regarding how the Court would determine that a child has made an informed and independent decision. The Department advised that:

The test for whether the Court can determine that a child has made an informed and independent decision comes from *Gillick v West Norfolk and Wisbech AHA* where a child's age maturity and understanding have to be considered. The case cites some guidelines (the Fraser Guidelines) for decision making for medical treatment (which can directly translate to child protection matters):

- the child is mature and intelligent enough to understand the nature and implications of the treatment
- it is possible to persuade the child to tell their parents or let the doctor tell them
- their physical or mental health is likely to suffer unless they get the advice or treatment
- the advice or treatment is in their best interest.

The Court will apply the *Gillick* competency in determining whether a child has made an informed and independent decision. Further in South Australia, under legislation yet to be commenced, a child must be represented unless the court is satisfied the child has made an informed and independent decision not to be represented.⁶⁴³

Urgency exception

4.474 Some submitters queried the rationale for the inclusion of the 'urgency exception' in proposed section 143A(1)(c).⁶⁴⁴ The CREATE Foundation noted that:

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.⁶⁴⁵

Given the severity of these decisions, a decision to make a long term/permanent care order for a child should never be made urgently or without hearing from the child. Services should also be funded to appropriately represent children.⁶⁴⁶

4.475 The Committee sought advice from the Department regarding scenarios in which a permanent care order or a protection order with a long-term parental responsibility direction would need to be heard on urgency, as would be permitted under proposed section 143A(c). The Department advised that:

The Department is unable to provide any examples of scenarios in which a permanent or long-term care order would be heard on urgency. This is not a practice that is utilised by the Department and requires significant mapping and work before a decision is made.

⁶⁴³ Department of Children and Families, Answers to Written Questions and Questions on Notice, 18 June 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0019/1620055/From-Department-of-Children-and-Families-Answers-to-Written-Questions.PDF.

⁶⁴⁴ Dr Matthew Jennings, Submission No. 17, pp. 5-6; Subs 23 and 73

⁶⁴⁵ CREATE Foundation, Submission No. 23, p. 16.

⁶⁴⁶ Nayomi Naranpanawa and Kate Lightfoot, Submission No. 73, p. 1.

The courts would not entertain such an application should be it made.⁶⁴⁷

Committee comments

4.476 On balance, the Committee considers the provisions are appropriate as currently drafted. The Committee notes the Department's advice that the Court will apply a Gillick competence test to determine a child's decision-making capacity. The Committee further notes the Department's advice that it is unlikely the Court would entertain an application of a permanent care order or a protection order with a long-term parental responsibility direction to be heard on urgency. Notwithstanding the Department's advice, the Committee considers the Court would be best placed to determine if, and when, such an exception is appropriate, taking into consideration the child's best interest on a case-by-case basis. Accordingly, the Committee considers that no amendment is required to the provision.

Working With Children Clearance

4.477 Part 3 of the Bill seeks to amend the Care and Protection Act's WWCC scheme set out in Part 3.1 of the Care and Protection Act, to:

extend the period of validity of a clearance from two to five years; introduce the power to suspend a clearance or an application; remove the CEO's discretion to issue WWCC exemptions; address administrative inefficiencies; and support the operationalisation of mutual recognition of negative notices in the Northern Territory.⁶⁴⁸

Proposed sections 188A and 189 – Decisions on applications

4.478 Clause 39 seeks to insert new section 188A to restrict a person's entitlement to apply for a clearance following a notice of refusal or revocation. Clause 40 further seeks to amend existing section 189 so that the Screening Authority is not required to consider or make a decision on an application submitted by a person captured under sections 188A and 194B(3).

4.479 The Committee received broad comments that the screening process should remain culturally informed. For example, Children's Ground told the Committee that:

Screening must remain rigorous, but also proportionate, culturally informed, recognizing the over-representation of Aboriginal people historically in the criminal justice system and avoid unnecessarily excluding Aboriginal kinship carers and community-controlled workers with historic or low-level offending (non-child related/serious offences).⁶⁴⁹

4.480 Justice Reform Initiative raised concerns about the potential for the provisions to permanently exclude some individuals from obtaining a clearance without a meaningful opportunity for review or reconsideration:

The JRI is concerned about the breadth of the proposed WWCC framework and the potential for future expansion of disqualifying offences through regulation

⁶⁴⁷ Department of Children and Families, Answers to Written Questions

⁶⁴⁸ Explanatory Statement, Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (Serial 67), https://parliament.nt.gov.au/data/assets/pdf_file/0015/1612500/Explanatory-Statement-Care-and-Protection-of-Children-Legislation-Amendment-Every-Child-Matters-Bill-2026-Serial-67.PDF, p. 1.

⁶⁴⁹ Children's Ground, Submission No. 80, p. 5.

rather than primary legislation. Overly broad screening regimes compound the exclusion of Aboriginal and Torres Strait Islander people, particularly in community-controlled, lived experience, peer-support, and child and family service roles. The ability for additional offences to be prescribed through regulation, with limited public scrutiny or parliamentary debate, creates uncertainty and increases the risk of incremental “mission creep” beyond the original intent of screening frameworks. Importantly, the proposed amendments appear to contain tension between clauses that permanently prohibit reapplication following certain disqualifying offences and provisions elsewhere that recognise the possibility of “relevant changes in circumstances” or “exceptional circumstances” warranting reconsideration. We are concerned about the proposed section 188A and the interaction between automatic disqualification provisions under section 189(1) and the prohibition on future applications following refusal or revocation of a clearance. Although the explanatory materials frame these amendments as operational measures designed to prevent frivolous or vexatious repeat applications, the practical effect may be far broader, particularly for people with conviction histories engaged in lived experience, peer support, education, disability, advocacy, or community-sector work.⁶⁵⁰

Proposed section 192 – Period of Working With Children Clearances

4.481 Clause 42 seeks to amend section 192 of the Care and Protection Act to extend the validity period of a WWCC from 2 years to 5 years. The Explanatory Statement notes that:

This clause makes a minor amendment to section 192 of the Act to extend the validity period of a WWCC from 2 years to 5 years. The new validity period aligns the Northern Territory with the clearance validity periods in New South Wales, Victoria and South Australia, and will reduce unnecessary frequency of WWCC renewal applications.

This measure is supported by the Screening Authority’s continuous monitoring of WWCC holders, and the powers to suspend a clearance notice under section 191A, introduced by this Bill. Further continuous monitoring of WWCC holders in the Northern Territory will be supported at the national level by the upcoming National Continuous Checking Capability (NCCC) service, that will perform continuous checking of WWCC holder against the Australian Criminal Intelligence Commission (ACIC) national police information systems.⁶⁵¹

4.482 Submitters were generally supportive of the amendments. Mikan Aboriginal Corporation submitted that:

The extension of clearance validity from two to five years to align with other jurisdictions (section 192) and the introduction of continuous monitoring are sensible operational reforms. Mikan flags, however, that the interim bar and suspension provisions (new sections 191A and 191B) require careful safeguards to ensure they do not have disproportionate impact on Aboriginal applicants, including in the context of Aboriginal Community Controlled Organisations’ ability to recruit and retain Aboriginal workers.⁶⁵²

⁶⁵⁰ Justice Reform Initiative, Submission No. 75, p. 3.

⁶⁵¹ Explanatory Statement, Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (Serial 67), https://parliament.nt.gov.au/data/assets/pdf_file/0015/1612500/Explanatory-Statement-Care-and-Protection-of-Children-Legislation-Amendment-Every-Child-Matters-Bill-2026-Serial-67.PDF, p. 18.

⁶⁵² Mikan Aboriginal Corporation, Submission No. 45, p. 15.

4.483 The Australian Human Rights Commission stated that:

We support amendments in the Bill to the WWCC system in the Northern Territory that improves consistency with the National Standards and the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse.⁶⁵³

Committee comments

4.484 The Committee considers the provisions appropriate as currently drafted.

Other issues

4.485 Several submitters raised issues that did not relate to a specific provision of the Bill but related to its implementation or the broader child protection system. These issues included:

- The inclusion of a review of the Care and Protection Act after a set period (e.g., 2 or 5 years) or the inclusion of annual reporting obligations.⁶⁵⁴
- An Aboriginal-led Board of Inquiry into child protection.⁶⁵⁵
- A review of the child protection system by the NT Children's Commissioner.⁶⁵⁶
- Establishing an Aboriginal and Torres Strait Islander Child Protection Expert Taskforce.⁶⁵⁷

⁶⁵³ Australian Human Rights Commission, Submission No. 88, p. 11.

⁶⁵⁴ OzChild, Submission No. 41; Morgan Rickard, Submission No. 51; Families Australia, Submission No. 70; Children's Ground, Submission No. 80.

⁶⁵⁵ CREATE Foundation, Submission No. 23; Yeyekerte Aboriginal Corporation, Submission No. 25; Office of the Children's Commissioner, Submission No. 40; Australian Education Union – Northern Territory, Submission No. 109; NSW Advocate for Children and Young People and NSW Children's Guardians, Submission No. 111.

⁶⁵⁶ Australian Human Rights Commission, Submission No. 88, p. 6.

⁶⁵⁷ Royal Australian and New Zealand College of Psychiatrists, Submission No. 50.

Appendix 1: Submissions Received

Submissions Received

1. Julie Allen
2. Caroline Stafford
3. Sally Gearin
4. Not for publication
5. Katerina and Graeme Tidswell
6. Alexander Mulligan
7. Keith Gregory - Guardians of Earth Foundation
 - 7a. Keith Gregory - Guardians of Earth Foundation
8. Name withheld on request
9. NT Anti-Discrimination Commission
10. Name withheld on request
11. Marthakal Homelands and Resource Centre Aboriginal Corporation
12. Roisin Prunty
13. Dr Sophia Nicolades
14. Olivia Ellis
15. Susan Bamberger
16. Stephen Enciso
17. Dr Matthew Jennings
18. Palm Tree OT
19. Justin Tutty
20. Elizabeth Creed
21. Human Rights Law Centre
22. Katherine West Health Board Aboriginal Corporation
23. CREATE Foundation
24. Foster and Kinship Carers Association NT (FKCANT)
25. Yeyekerte Aboriginal Corporation
26. Community Restorative Centre
27. Dr Richard Fejo
28. Catholic Church of the Diocese of Darwin
29. Maia Bohler
30. North Australian Aboriginal Justice Agency (NAAJA)
31. Kate Charlwood
32. Aboriginal Medical Services Alliance Northern Territory (AMSANT)
33. Joe Horner
34. Andrew Dawes
35. Tiwi Land Council
36. Save the Children and 54 reasons
37. Jesuit Social Services
38. National Commission for Aboriginal and Torres Strait Islander Children and Young People
39. Bravehearts
40. Office of the Children's Commissioner

41. OzChild
42. Hon Chansey Paech MLA
43. National Association for the Prevention of Child Abuse and Neglect (NAPCAN)
44. Australian Christian Lobby
45. Mikan Aboriginal Corporation
46. Ellen Pocock
47. yourtown
48. Briar Bailey
49. Senator Jacinta Nampijinpa Price
50. Royal Australian and New Zealand College of Psychiatrists
51. Morgan Rickard
52. ARDS Aboriginal Corporation
53. Unions NT
54. Dr Marcia Langton AO and Prof Fiona Stanley
55. First Nations NGO Alliance and Allies for Children
56. Office of the Aboriginal and Torres Strait Islander Children's Commissioner (QLD)
57. Samantha Cotton
58. Dr Steven Roche
59. Anglicare NT
60. Name withheld on request
61. Djirra
62. Larrakia Nation Aboriginal Corporation
63. Queensland Aboriginal and Torres Strait Islander Child Protection Peak
64. Australian Services Union SA and NT Branch
65. Grace & Grit Consulting and Training
66. Northern Territory Mental Health Coalition
67. Change the Record
68. Name withheld on request
69. Gina Makrylos
70. Families Australia
71. Australian Childhood Foundation
72. Not for publication
73. Nayomi Naranpanawa and Kate Lightfoot
74. Northern Territory Council of Social Service (NTCOSS)
75. Justice Reform Initiative
76. Katerina Athanasiou
77. Justice and Equity Centre
78. Central Land Council
79. Katherine Women's Information and Legal Service (KWILS)
80. Children's Ground
81. Lumenia
82. M. Kay Smith
83. Fiona Alessi
84. Phil Walcott
85. South Australian Commissioner for Aboriginal Children and Young People
86. Elena Gomas

87. National Justice Project
88. Australian Human Rights Commission
89. Thriving Families SA and the SA Commissioner for Aboriginal Children and Young People
90. Centre for Innovative Justice
91. Royal Australasian College of Physicians
92. Australian Medical Association NT (AMA NT)
93. Jennifer Taylor
94. Mission Australia
95. Sarah Wilson
96. Eliza Palmer
97. Yinjiya Guyula MLA
98. Rhoda Golun, Lulu Guyula and Nyomba Gandrau
99. Dr Hayley Boxall and others
100. Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council
101. First Nations Advocates Against Family Violence (FNAAFV)
102. Top End Women's Legal Service (TEWLS)
103. Tangentyere Family Violence Prevention Division
104. Acting ACT Aboriginal and Torres Strait Islander Children & Young People Commissioner
105. CatholicCare NT
106. Name withheld on request
107. Wangatunga Strong Women
108. Northern Territory Police Association (NTPA)
109. Australian Education Union – Northern Territory
110. Early Childhood Australia
111. NSW Advocate for Children and Young People and NSW Children's Guardians
112. Not for publication
113. Catholic Church Wadeye NT
114. Sally Sievers AO
115. Central Australian Women's Legal Service
116. Australia's National Research Organisation for Women's Safety
117. Northern Territory Legal Assistance Forum (NTLAF)
118. Dr Ahmad Syahir Mohd Soffi
119. Australian and New Zealand Children's Commissioners, Guardians and Advocates
120. South Australian Guardian for Children and Young People
121. Australian Lawyers Alliance
122. Emma Henke and Hannah Gibson
123. Jumbunna Institute for Indigenous Education and Research, University of Technology Sydney
124. Vivien Dunn
125. Yes Please Solutions Inc
126. Women's Safety Services of Central Australia
127. Our Watch
128. Jewish Health Workers Alliance and Jewish Voices of Inner Sydney
129. Andrea Myers

130. SNAICC – National Voice for our Children (SNAICC)
131. Legal Aid NT
132. Community and Public Sector Union
133. Antony Sinni
134. Olivia Conan-Davies
135. Jake McGovern
136. Aboriginal Housing Northern Territory
137. Law Society Northern Territory
138. 4Rs Network
139. Jane Lee
140. Australian Centre for Child Protection
141. Georgina Gartland and concerned Australians
142. Christopher Knight
143. North Australian Aboriginal Family Legal Service (NAAFLS)
144. Derek Dcruz
145. Danila Dilba on behalf of Darwin Aboriginal Working Group
146. Ellie Lukin
147. Royal Darwin Hospital Paediatric Department, Women, Children, Youth
148. Northern Land Council
149. Victorian Aboriginal Child and Community Agency (VACCA)
150. Not for publication

Note: Copies of submissions are available at: <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/67-2026>

Appendix 2: Public Briefing and Hearings

Public Briefing – Darwin, 27 May 2026

Department of Children and Families

- Brent Warren: Chief Executive Officer
- Michelle Ganzer: Acting Executive Director, Strategic, Policy and Commissioning

Public Hearing – Darwin, 4 June 2026

Individual witness

- Sally Gearin

SNAICC – National Voice for Our Children

- Catherine Liddle: Chief Executive Officer
- John Burton: Executive Director Policy and Research

NT Office of the Children's Commissioner

- Shahleena Musk: Children's Commissioner

Australian Medical Association NT

- Dr John Zorbas: President
- Dr Rosie Rock: Councillor

Aboriginal Medical Services Alliance NT

- Dr Donna Ah Chee: Chief Executive Officer

Northern Territory Mental Health Coalition

- Geoff Radford: Chief Executive Officer

North Australian Aboriginal Justice Agency

- Andrew Roberts: Managing Civil Lawyer
- Grace Mayor: Care and Protection Lawyer
- Jessica Hartman: Family Support Coordinator

Northern Territory Legal Assistance Forum

- Clara Mills: Principal Lawyer, Northern Territory Legal Assistance Forum
- Andrew Roberts: Managing Civil Lawyer, North Australian Aboriginal Justice Agency

NT Police Association

- Nathan Finn: President

Katherine Women's Information and Legal Service

- Brianna Bell: Strategic Partnerships and Advocacy Leader

Public Hearing – Darwin, 5 June 2026

Foster and Kinship Carers Association NT

- Amanda Thompson: Chief Executive Officer
- Denise Higginson: Manager Practice & Assessment
- Denise Jenkins: Board Vice Chair & Foster Carer
- Jackie Williams: Board Member & Foster Carer
- AnneLouise Cooper: Board Member & Foster Carer
- Kay Thomson : Board Member & Kinship Carer
- Stephen Atherton: Board Member & Foster Carer
- Sandy Potter: Board Member & Foster Carer
- Amy Banson: Foster Carer

Larrakia Nation Aboriginal Corporation

- Katrina Hill: Family Services Manager

Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council

- Andrea Mason: Acting Chief Executive Officer
- Alexandra Liddle: Assistant Manager, Child & Family Wellbeing Service
- Steven Bruce: Senior Project Officer, Child & Family Wellbeing Service

Aboriginal Housing NT

- Leeanne Caton: Chief Executive Officer
- Pallas Gelfling: Policy Officer

Northern Territory Council of Social Services, Anglicare NT, and Catholic Care NT

- Claire Pirrett: Interim Chief Executive Officer, Northern Territory Council of Social Services
- Emma Hohnberg: Director Business Development, Anglicare
- Jayne Lloyd: Chief Executive Officer, Catholic Care NT

ARDS Aboriginal Corporation

- Sylvia Nulpinditj: Co-Chief Executive Officer
- Eleanor Connop: Senior Conflict Resolution Lead
- Yangipuy Wanambi: Member, Gapuwiyak Leadership Group on Child Protection Matters

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<https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/67-2026>

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Dissenting Report – Justine Davis MLA

Justine Davis MLA

Independent Member for Johnston

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7 July 2026

Dear Chair and Members of the Legislative Scrutiny Committee,

Re: Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026

This Bill asks the Legislative Assembly to make some of the most significant changes to the Northern Territory's child protection laws in a generation.

Every Member of this Assembly wants children to be safe. That is not in dispute.

The question before us is whether these reforms will make children safer than the law we already have. After hearing evidence from more than 140 witnesses and submitters, including the Children's Commissioner, Aboriginal community-controlled organisations, legal experts, medical and mental health experts, clinicians and people with lived experience, I am not persuaded that this Bill will make children safer.

The evidence presented to the Committee was remarkably consistent. Witnesses did not argue that the child protection system should remain unchanged. Quite the opposite. They described a system in urgent need of reform. But they also described a system where the greatest barriers to keeping children safe are not legislative. They are chronic workforce shortages, limited access to housing, inadequate therapeutic and family support services, under-investment in Aboriginal community-controlled organisations, and a child protection workforce operating under sustained, unworkable pressure.

This Bill responds to longstanding failures in the design, resourcing and implementation of the child protection system with legislative change that is neither supported by the evidence or directed at the underlying causes of harm. It weakens important safeguards, limits judicial discretion and expands statutory intervention without addressing the structural conditions including insecure housing, healthcare, and support services, that continue to place children at risk.

The considered position of the overwhelming majority of people and organisations with direct expertise in, or lived experience of, the Northern Territory's child protection system, is that this Bill should not pass in its current form

In my view, the Committee majority has reached a conclusion that is inconsistent with the evidence presented throughout the inquiry.



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Based on the evidence before the Committee, I believe the Bill should not pass in its current form.

The majority Committee report recommends that the Legislative Assembly pass the Bill without amendment, save for a handful of process recommendations requiring further explanatory material. I do not agree with that recommendation. This dissenting report sets out, clause by clause, why I believe the Bill should not proceed in its current form.

Our role as a Committee is to rigorously test legislation against the evidence before us, not to endorse decisions the Government has already made in the face of overwhelming evidence to the contrary. The evidence in this inquiry is not finely balanced. It is clear, consistent and compelling. Across 150 submissions and extensive public hearings, the overwhelming majority of experts, practitioners, Aboriginal organisations, advocates, legal representatives and people with lived experience repeatedly told the Committee that this Bill should not pass as drafted.

The role of this Committee is not to dismiss or discredit those who provide evidence, but to listen carefully, test that evidence, and consider whether proposed laws will achieve their intended purpose. When evidence provided by those with expertise and lived experience is dismissed rather than genuinely considered, the Committee fails in its responsibility to provide Parliament with rigorous, evidence-based advice.

The responsibility of this Parliament is clear: every law we pass and every decision we make must place the safety, wellbeing and best interests of children at the centre.

In line with my responsibility as a member of this Committee, I therefore provide this dissenting report.

The existing Act already places child safety at the centre

Before addressing the individual clauses, it is necessary to address the framing that underlies the Government's case for this Bill: that the existing Act is inadequate to protect children and that therefore what is needed is expanded statutory intervention, new pathways into the system, and prescribed timeframes.

Practitioners and independent officers who appeared before the Committee with decades of experience in this system directly and consistently contradicted that framing.



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The Children's Commissioner, whose independent statutory mandate is focused on the safety and wellbeing of vulnerable children, was unequivocal: *The Aboriginal Child Placement Principle is not failing Aboriginal children. Poor outcomes for Aboriginal children reflect failures of implementation, investment, and accountability.*

To respond to systemic failure by removing legal protections from the very children the system is failing will do nothing to make them safer.

The existing Act already places child safety at the centre. It already contains broad powers to investigate concerns, remove children, assume parental responsibility and seek long-term orders. To remove a child into provisional protection, all that is currently required is that the CEO reasonably believes the child might be in need of protection and that removal is urgently needed to safeguard their wellbeing. The threshold for investigation is precautionary; the CEO may investigate where there are reasonable grounds for believing a child might be in need of protection, before harm has occurred or been established.

There is no legal ambiguity about safety coming first. The Northern Territory courts have consistently confirmed that the child's safety and wellbeing are the paramount concern¹ and that where any conflict arises between any principle and a child's safety and wellbeing, safety and wellbeing take precedence.

That is the established law now. This Bill does not change that legal principle but instead creates new uncertainty and removes protections that courts have developed over decades.

The issue before this Committee, as the Committee heard overwhelmingly in evidence, is not whether the law permits intervention; it absolutely does. The issue is whether this Bill will improve safety outcomes beyond those already available under the existing framework.

The evidence was consistent and unambiguous: when things go wrong, it is because the Department has not had the time or resources to investigate notifications, does not have the caseworkers available to work with families to properly plan for safety or engage them with services, or those services do not exist or are not accessible.²

¹The Court of Appeal decision in *NB & Ors v SB & Ors* [2020] NTCA 2.

²This evidence is supported by the record. The Children's Commissioner's Monitoring Harm in Care report found that nearly one in three children in out-of-home care - 292 individual children - were subject to at least one alleged harm notification in 2024-25, more than double the previous reporting year. Only one of 75 substantiated harm in care investigations was completed within the 42-day requirement. Only one of ten priority one investigations - the most urgent cases involving physical and sexual harm- was commenced within 24 hours. In more than a quarter of substantiated cases the person responsible for the harm was the carer. A child

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This Bill tries to address these systemic problems through legislative change alone. It expands statutory intervention, limits judicial discretion, and creates new pathways into the child protection system, but it does not address the underlying issues that continue to place children at risk: workforce shortages, housing shortages, inadequate therapeutic supports, insufficient support for kinship carers, and a lack of coordinated early intervention services. Only approximately nine per cent of the funding that goes into child protection and family strengthening in the Northern Territory currently goes to Aboriginal community-controlled services; the services that evidence shows achieve significantly better outcomes.

The scaffolding required to make this Bill work is not established in the Bill, not clearly funded in the Budget, and not set out in any articulated whole-of-government implementation framework. Supporters of the Bill, including the NT Police Association and the Foster and Kinship Carers Association, said that the success of these reforms depends on adequate child protection resources, family support services and integrated coordination. Without those foundations, the Bill risks creating an appearance of reform without addressing the conditions that create harm.

The Department's response

The Department told the Committee it does not anticipate needing additional resources to implement this Bill and that it has capacity within its existing budget.

This answer is at odds with the evidence from every other witness who appeared before the Committee, including those who support the Bill's policy direction. It is also at odds with a vacancy rate within the Department that represents roughly one in four positions unfilled.

What the Committee has agreed

The Committee report includes the following recommendations:

- That a supplementary explanatory statement be tabled explaining the interaction between proposed sections 12 and 7(4).

can be removed and still be unsafe. A child can be placed on a long-term order and still experience placement instability. The 2025 Family Matters Report found that almost half the children in out-of-home care in the NT are living in purchased or residential care arrangements rather than family-based care. In 2024, the Court heard that the Department continued to operate at a nearly 40 per cent vacancy rate - a figure now said to have improved to approximately 25 per cent, which remains a significant proportion of an already stretched workforce.



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- That a supplementary explanatory statement be tabled clarifying whether ‘significant and likely risk of harm’ is intended to alter the existing threshold for removing a child from their family.
- That, consistent with proposed section 65D, the Bill be amended to include a note to section 12D that provides ‘Section 42(4) relates to the CEO’s responsibilities when providing services to, and interacting with, families’.
- That the Department implement measures to enable families to understand their rights and obligations regarding proactive efforts made by the CEO.
- That a supplementary explanatory statement be tabled outlining the rationale for removing the content of proposed sections 12E and 12F from being underlying principles of the Care and Protection Act and whether it is intended for sections 12E and 12F to create or confer any right or entitlement enforceable at law.

I do not consider these recommendations are an adequate response to the evidence the Committee received. Every one of them asks the government to explain itself. None of them changes a single word of the operative law. A family whose child is removed under this legislation will not be assisted by a supplementary explanatory statement. This report sets out where I consider the Bill must be amended before it is fit to pass.

Clause 6 - Proposed sections 7(4) and 12C: rights replaced with opportunities

The Bill removes explicit rights from Aboriginal children and families under proposed section 12C and replaces them with ‘opportunities’, while retaining rights language for children with disabilities under proposed section 12 in substantially the same form.

The Department’s evidence to the Committee was that the words ‘right’ and ‘opportunity’ are interchangeable. That evidence was directly contradicted by multiple legal submitters, and it does not explain why the Bill treats the two cohorts of children differently.

Legal practitioners who gave evidence before this Committee put the consequence plainly: if the guiding principles are expressly non-binding, how does the Department implement them? How does a court enforce compliance with them?

The Department says this is just clearer drafting, that nothing is really lost. But when asked directly whether these new “opportunities” for Aboriginal children can be overridden by the safety provisions, the Chief Executive confirmed they’d “always sit subsidiary” to safety. That’s



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the Department admitting, on the record, that this right isn't really a right at all. This creates precisely the legal incoherence that practitioners have warned will occur.

Amendment 1 - Remove s7(4)

Proposed section 7(4) should be removed from the Bill. Removing it would not, on the Department's own evidence, alter the existing legal position, but retaining it actively forecloses the legal force the principles currently carry as interpretive guides and creates an irresolvable conflict with section 12C that the Department has confirmed on the record.

Amendment 2 - Restore rights language in s12C

Proposed sections 12C(2)(a) and (b) should be amended to replace 'should be given the opportunity to' with 'have the right to'. Proposed section 12C(3)(b) should be amended to provide that an Aboriginal child has a right to be supported to maintain a connection with family, community, culture, traditions, language and country.

Clause 6 - Proposed section 12C: the Aboriginal Child Placement Principle

This is the most contested provision in the Bill, and the one on which the evidence was most overwhelming. More than one hundred submissions argued that the cumulative effect of removing the Aboriginal Child Placement Principle hierarchy, replacing rights with opportunities, removing recognition of Aboriginal community-controlled organisations, and removing the requirement for trauma-informed decision-making amounts to a substantial weakening of the principal protective mechanism for Aboriginal children in care.



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The Government's framing of these amendments rests on a fundamental mischaracterisation: that the existing Principle places culture above safety, and that the Bill is needed to make safety paramount.

That framing was directly contradicted by every independent witness who addressed the point. The Children's Commissioner was direct: the framing that the existing Act puts culture ahead of safety is absurd, is wrong, is not supported by the text of the Act and is not supported by the evidence. The established appellate authority³ confirms that safety and wellbeing take precedence where any conflict arises. That is the law now, without this Bill.

Practitioners, peak bodies, and the Children's Commissioner were all consistent in how they described the Principle's actual legal function: the Aboriginal Child Placement Principle does not displace the primary objective of the Act to protect children. What it does is operate after safety is assured; once a child is safe, it establishes that the child's right to experience their culture is not displaced and their identity is not severed unnecessarily. The Principle is not a barrier to safety, it is an integral part of safety. Connection to kinship, language, and community is a protective factor. Severing those connections where it is not necessary to do so creates its own risks to long-term safety and stability.

The Government's framing of the Principle as a risk to safety misrepresents its legal function.⁴

The numbers show what's at stake. Aboriginal children now make up over 90% of kids in care in the NT. Only 16.7% of those children are placed with Aboriginal relatives or kin - the lowest rate in the country - while nearly three-quarters go to non-Indigenous, non-relative carers. Reunification has fallen to just 5.2% and is still declining.

That's not evidence the Principle is failing. It's evidence that the Principle is rarely being applied. The Children's Commissioner told us this is a failure of implementation, not of the law - an argument for properly resourcing these protections, not stripping them back.

Protecting children and respecting culture are not competing goals. The evidence to this Committee was that, for Aboriginal children, they're the same goal.

³The Court of Appeal in *NB & Ors v SB & Ors* [2020] NTCA 2.

⁴The evidence from the Queensland Commissioner for Children was also cited before this Committee: the Principle operates within, not as an exception to, the best interests of the child. It is integrated, not hierarchical. Best interests remains paramount when any conflict arises. The Principle refines and informs the best interests inquiry by identifying cultural, relational and identity-based factors relevant to long-term wellbeing and stability for an Aboriginal child



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The consequence of failing to implement the Principle is not abstract. Coronial inquests across the country have implicated that failure in the deaths of Aboriginal children in care.⁵

The evidence of what happens when you narrow legislative language in the way this Bill proposes is already on the record from another Australian jurisdiction. When South Australia narrowed its child protection legislation to foreground the word ‘safety’, child removals increased dramatically.⁶

The Department’s response on the Principle

The Department told the Committee that this Bill does not remove cultural protections and that section 12C contains explicit enforceable obligations to support the connection of Aboriginal children to culture. The Department also argued that the Bill strengthens protections by introducing a universal placement principle that applies to all children.

Both claims require scrutiny. On section 12C, the Department’s own evidence before this Committee confirmed that section 12C “always would sit subsidiary” to safety.

An obligation that is always subordinate to a principle that is itself expressly non-binding is not an enforceable protection in any meaningful sense.

On the universal placement principle, the Department framed this as a new protection. What it is, in practice, is a generic framework into which the Aboriginal-specific hierarchy has been absorbed and diluted.

If the Department is confident the Principle continues to operate effectively through the Bill as drafted, there is no cost to making that intent explicit on the face of the legislation. The fact that it has not been made explicit is, in itself, the problem the Committee should have addressed.

⁵ The Committee heard of a nine-year-old girl, removed as a baby with her older brother, placed with non-Indigenous carers 900 kilometres from her home community despite family members wanting to care for the children. She was placed with three different carers and separated from her brother; her only family anchor. She died at nine years old. The Coroner found that the failure to implement the child placement principle was a factor in her death.

⁶ In one month during a national consultation, 80 Aboriginal and Torres Strait Islander children were removed and not reconnected. The legislation is now in the process of being repealed. SNAICC described evidence that a hospital adopted its own interpretation of the safety-first framing and began generating child protection notifications for every Aboriginal patient, on the basis that any Aboriginal child was at risk. Removals at birth increased substantially. This is not a hypothetical risk.



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Amendment 3 - Reinstate ATSICPP placement hierarchy in s12B(2)

Proposed section 12B(2) should be amended to add back the placement priority that allows a child to be placed within their extended family, their kinship systems, their broader community, or their cultural connections, using the terms as they appear in the existing section 12(3) of the Act. If the Government is unwilling to make this specific to Aboriginal children, the principle should at minimum be incorporated into a global child placement principle recognising that all children do better when placed within their existing family networks, communities, or cultural connections, where safe to do so.

Amendment 4 - Restore full ATSICPP protections in s12C

Proposed section 12C should be replaced with provisions that reinstate the Principle's placement hierarchy, restore rights language for Aboriginal children and families, reinsert recognition of Aboriginal community-controlled organisations as having a major role through self-determination, and reinstate the requirement that decisions involving Aboriginal children be healing-focused and trauma-informed. At minimum, proposed section 12C(1) should be amended to reinsert Aboriginal community-controlled organisations, and proposed section 12B should be amended to require that significant decisions involving any child be healing-focused and trauma-informed.

Clause 6 - Proposed section 12A: the threshold for removing a child

The Bill changes the test for removing a child from their family from 'unacceptable risk of harm' to 'significant and likely risk of harm', and changes 'may' to 'must'.

This is not a minor drafting refinement. 'Unacceptable risk of harm' has been extensively considered by Australian courts. 'Significant and likely risk of harm' has not. The Department's own evidence relied on English case law from 1996 to justify the new wording. Changing 'may' to 'must' removes the discretion that currently allows a decision-maker to weigh the individual circumstances of a child and family before removal occurs.



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Submitters with experience in the existing Act were clear that the threshold for intervention is **already precautionary**. A child may be found to be in need of care and protection not only where harm has occurred, but where it is likely to occur. The CEO may investigate where there are reasonable grounds for believing a child might be in need of protection, before risk has crystallised into harm. Section 50 of the Act permits protective action where there are reasonable grounds for believing a child ‘might’ be in need of protection.

The issue is not that these thresholds are too high; it is that the system does not have the resources to use the powers it already has.

Amendment 5 - Retain existing threshold in s12A(3)

Proposed section 12A(3) should be amended to retain the ‘unacceptable risk of harm’ threshold. The Bill should also retain the existing qualified principle that, as far as practicable and consistent with the child’s best interests, a child removed from their family should eventually be returned to that family. The Department’s evidence did not explain why this principle - which is qualified and not absolute - needed to be removed from the Act.

Clause 6 - Proposed section 8: the best interests hierarchy

Proposed section 8 creates a ranked hierarchy of considerations in determining a child’s best interests, with safety placed above all else and a child’s cultural connection relegated to a secondary list of matters that decision-makers ‘may’ consider. This is a narrowing of the definition of safety in ways that lead practitioners to miss the broader conditions that keep children safe.

The UN Committee on the Rights of the Child has specifically recommended a non-hierarchical list of best-interests considerations. The Commonwealth removed an equivalent two-tier hierarchy from the Family Law Act in 2023 because it was overly complex and inconsistent with the Convention on the Rights of the Child.



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This Bill moves the Northern Territory in the opposite direction from national and international good practice, creating a ranked list that, as the evidence from multiple jurisdictions demonstrates, produces worse outcomes by narrowing the concept of safety.

Amendment 6 - Remove hierarchy from s8(2)

The words 'in the following order of priority' should be removed from proposed section 8(2). This will ensure courts turn their mind to all components of child wellbeing while removing the rigid hierarchy, enabling the individual needs of each child to be considered according to their unique circumstances.

Amendment 7 - Elevate s8(3) to equal consideration

Proposed section 8(3) should be amended so that the matters listed — including a child's connection to family, culture, community, traditions and country — are included in the primary list of best interests considerations under s8(2) and considered equally, rather than as optional add-ons. In particular, proposed section 8(3)(c) should be elevated to ensure that a child's ongoing connection to their cultural heritage is considered as a foundational need, not a secondary one.

Clauses 8, 11 and 16 - Family responsibility agreements and orders

The Bill reintroduces family responsibility agreements and orders, including a new 'event of concern' trigger that allows the Department to intervene in family life on a lower threshold than currently applies to mandatory reporting.

Terms central to that trigger - 'anti-social behaviour' and 'an event that adversely affects a child's wellbeing' - are undefined.



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The words ‘or is at risk of occurring’ should be removed from proposed section 65D(1)(a), and the Bill should include examples of what constitutes an event of concern in the legislation, not solely in policy guidance.

Legal practitioners who appeared before the Committee identified a further serious problem: there is no legal standard or threshold for the court in making a family responsibility order. There is a threshold the Department must satisfy to make an application, but the Bill provides no guidance to the court as to the circumstances in which an order should be made, what it should seek to achieve, or how. The only guidance a court might draw upon is the guiding principles which, under proposed section 7(4), are expressly non-binding.

The combined effect is an intervention mechanism with no enforceable standards at any stage of the process.

The barriers families face in engaging with the existing system are also directly relevant to how this framework will operate in practice.

Evidence before the Committee documented the kinship carer approval process in detail: an applicant must provide 100 points of identification; complete up to ten forms covering police checks, working with children clearances, medical information, and carer references; and every adult in the household must complete separate forms.

A practitioner with years of experience in this area told the Committee they had never successfully assisted a client through the kinship carer process. Practitioners described sitting in court with a client, identifying three plausible family members in a fifteen-minute conversation, and then waiting six to twelve months for the approval process to run its course. For a family in a remote community, where English may be a fourth or fifth language and there is no on-the-ground Department presence, these requirements can be insurmountable without support. A family responsibility agreement framework that adds new compliance obligations to families already navigating these barriers, without additional support services, will produce the same failures in new legislative clothing.

To argue that this somehow puts children safety first is nonsense.



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Amendment 8 - Require family-led decision-making conferences in Part 2.1A

Part 2.1A and Subdivision 1A of the Bill should be amended to include a requirement that families are referred to family-led decision-making conferences as part of the family responsibility agreement process, before an agreement is entered into. New South Wales has embedded Aboriginal-led family group conferencing in legislation. The NT should do the same. Evidence from jurisdictions where active efforts have been properly implemented, including a case where an Aboriginal organisation identified 200 relatives for a child within two weeks, after another organisation had reported finding no family for two years, demonstrates what genuine family engagement achieves.

Amendment 9 - Require personal service and legal referral in ss102G, 102H, 102J and 102K

A family responsibility order application should not be able to proceed unless personal service has been effected. A family cannot comply with an order they have not received, and it is procedurally unfair to allow a breach finding against a family that did not know the order existed. The sections should also be strengthened to require that families are referred to legal services before an application proceeds. The Bill does not contemplate how legal services will be funded to absorb this additional scope of work, and that gap must be addressed.

Section 122(1)(b) - Court lacks power to compel proactive efforts

The Bill introduces proactive efforts obligations on the CEO under proposed section 12D, but it does not give courts the power to enforce those obligations. The evidence before the Committee was consistent: the court process is the key mechanism for providing independent oversight and accountability in the child protection system. Through proceedings, courts can and should ask hard questions about whether proper reunification efforts have occurred, whether services have been provided, and whether decisions are genuinely in the best



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interests of each individual child. Currently, coming back before the court on a semi-regular basis is the only regular external check and measure that a child's safety and wellbeing are being appropriately supported by a system under pressure.

This Bill restricts the ability of a child's matter to come back before the court after the first two years, while also failing to provide courts with the tools to enforce the proactive efforts obligations before that point.

It imposes an active efforts framework without accountability mechanisms for the CEO and then renders the guiding principles expressly non-binding. The result is a statement of intent that neither families nor courts can enforce.

Amendment 10 - Amend s122(1)(b) to give courts power to compel proactive efforts

Section 122(1)(b) should be amended to give the court power to make orders compelling the CEO to take proactive efforts as designed in proposed section 12D, where there is no evidence that the Department has engaged in proactive or early intervention efforts and where such efforts would have been in the best interests of the child. Without this, the proactive efforts framework cannot be enforced by the people it is designed to protect.

Clause 25 - Proposed section 125(ca): legal representation for carers

Proposed section 125(ca) introduces a right for carers to join proceedings after a child has been in their care for eight months. This provision creates a legal right without a legal services system capable of absorbing it.

In the Northern Territory, the services available to people in family law and child protection matters are: specialist domestic violence legal services - NAAFLS, CAAFLU, KWILS, CAWLS and TEWLS - whose eligibility is tied to the experience of domestic, family, or sexual violence; NAAJA, which can only assist Aboriginal clients; and LANT, which applies a means test that most carers are unlikely to meet.



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There is no legal service through which a non-Aboriginal carer without a domestic violence history could access funded representation in these proceedings. The result will be carers either paying for private lawyers or self-representing in proceedings that are already complex. Carers who wish to participate already have an avenue under existing section 125(d) of the Act.

Amendment 11 - Remove proposed s125(ca)

Proposed section 125(ca) should be removed from the Bill. Creating a legal right to join proceedings without the legal services infrastructure to support it will produce procedural delays and self-represented parties in complex child protection matters. If the Government wishes to expand carers' participation rights, it should do so alongside a funded legal services response.

Proposed section 12D and Clauses 19, 21 - Permanency timeframes

The Bill introduces a rigid two-year timeframe for reunification under proposed section 12D and separately shortens the maximum duration of short-term parental responsibility directions from two to one year under clauses 19 and 21, while restricting further short-term directions to cases with a 'high probability of reunification'.

Read together, these provisions will push more children toward long-term out-of-home care, not fewer.

The evidence on why rigid timeframes do not work in the NT context was detailed and specific. Reunification can fail for reasons that have nothing to do with parental capacity.

Evidence before the Committee documented the reality families face.

- There are currently only eight beds at the Royal Darwin Hospital detox centre, the only free service of its kind. A family may be placed on a waitlist for weeks before accessing detox, while the child protection timeline runs against them.
- Families in overcrowded housing on waiting lists of up to ten or sixteen years cannot progress reunification plans that require stable accommodation.



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- Safe house crisis services for women experiencing domestic violence have turned women away because their children are not in their care.
- Families have been evicted from supported accommodation because their children were removed and then told they cannot be reunified because they lack stable housing.
- Parents have been unable to reach their caseworker because no caseworker was allocated to the file, or because the caseworker changed so many times they no longer knew who to contact.

These are not individual failures. They are the systemic reality in which a two-year hard deadline will be applied.

The SNAICC evidence made the consequence of that combination explicit. If a family is waiting more than two years for housing - and that is commonly the case - and that is why their child is in care, then under this Bill, that child may be permanently separated from their family. The family may eventually get the house, may eventually address the circumstances that brought them to the attention of authorities, but the two-year deadline will have passed. The child will have been permanently disconnected from their parents, their siblings, their grandparents, their cousins, their country. That is not merely a risk; it is what the evidence says will happen.

Judicial discretion serves a protective function in exactly these circumstances. It allows the court to distinguish between cases where reunification has not occurred because a parent has failed to address protection concerns, and cases where reunification has been prevented by service gaps, departmental failures, workforce pressures, or structural disadvantage.

The Bill's restrictions on that discretion create a direct conflict with the paramount best interests principle; a court required to make a long-term order may be prevented from making the order it considers is actually in the child's best interests.

Legal practitioners who appeared before the Committee described the practical consequence of this conflict with precision; it produces years of stagnated litigation as parties search for the alternate solution the court is prevented from providing directly.⁷

⁷ Victoria trialled a comparable permanency framework and has since repealed it. A longitudinal study found that where courts could not make the orders that were best for children, matters stayed in litigation for years. The AMA NT told the Committee the timeframes are inconsistent with clinical realities. The NT should not repeat that experience.



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The Department told the Committee that the two-year framework will free up resources by resolving cases more quickly. That framing inverts the purpose of child protection.

The purpose of the framework is not to free up departmental resources. It is to ensure that decisions are made in the best interests of the individual child.

The evidence is that a rigid cap will not achieve that.

Amendment 12 - Remove two-year limit from s12D(2)

Proposed section 12D(2) should be amended to remove the two-year limit on proactive efforts. A hard cap that treats all families the same regardless of their circumstances will produce worse outcomes for families facing structural barriers beyond their immediate control. Courts should retain the discretion to consider whether reunification remains in the best interests of the individual child.

Amendment 13 - Remove clauses 19 and 21; restore s128(1B) discretion

Clauses 19 and 21 should be removed from the Bill. Section 128(1B) should be amended to restore the court's discretion to consider further short-term protection orders where it is in the best interests of the individual child. Restricting that discretion creates a direct conflict with the paramount best interests principle. Victoria's experience demonstrates this produces years of stagnated litigation, not better outcomes for children.



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Amendment 14 - Strengthen proactive efforts standard in s12D

The proactive efforts framework in proposed section 12D should be amended to require that efforts be timely, practical, thorough, purposeful, conducted in genuine partnership with the child and their family, kin and community, and culturally appropriate — consistent with the active efforts model recommended by the Coronial Inquest into the Death of Baby G [2024] NTLC 16 and adopted in New South Wales, where active efforts are embedded in legislation and have demonstrably improved outcomes for Aboriginal children and for all children.

Clause 25 - Legal representation for children

I support the Bill's introduction of mandatory legal representation for children in proceedings for long-term and permanent care orders. However, legal practitioners who appeared before the Committee identified a practical problem that the majority report does not address: if section 128 narrows what orders the court can make, a child's legal representative may be in the position of proposing what is best for their client while the court is prevented from making that order.

The result is proceedings that sit in litigation, unresolved, because the court cannot give effect to the child's best interests. This is directly connected to the case for removing clauses 19 and 21: restoring the court's discretion resolves the conflict.

I also do not see a justification for the urgency exception in proposed section 143A(c)(i). The Department could not provide the Committee with an example of a circumstance in which a permanent or long-term order would need to be heard urgently without legal representation for the child.



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Amendment 15 - Remove urgency exception in s143A(c)(i)

Proposed section 143A(c)(i) should be removed. An unexplained exception to a mandatory protection risks being relied upon in precisely the cases where representation matters most.

Conclusion

Throughout this inquiry the Government argued that stronger legislation will make children safer. The evidence before the Committee points in a different direction.

None of the matters raised in this report are about whether children should be safe. Every witness who appeared before the Committee, without exception, agreed that child safety is paramount. The question put to the Assembly is whether the Bill before us achieves that goal, or whether it creates new risks in pursuit of it.

The Children's Commissioner, whose independent statutory mandate is the safety and wellbeing of vulnerable children, told this Committee the Bill should not pass. SNAICC, the peak national body for Aboriginal children's advocacy, told this Committee the Bill should not pass. Peak legal services, medical associations, community-controlled organisations, and more than 120 of the 150 submitters told this Committee the Bill should not pass. That is not a close call. It is an overwhelming, consistent verdict from the people and organisations who work in this system every day and who are directly accountable for its outcomes.

The Department told this Committee it has no regrets about the consultation process it followed in developing this Bill.

That position is difficult to reconcile with a Children's Commissioner who was given one week to review a Bill that completely reorientates the architecture of the child protection system.

It is difficult to reconcile with children in out-of-home care - children with direct lived experience of the system this Bill governs - who were not consulted at all. The Children's Commissioner told this Committee about meeting with fifteen Aboriginal children in out-of-home care just weeks before the Bill was introduced. They spoke about not knowing who they are, not being able to speak their language, being ashamed because they were unable to perform ceremony, because they had been disconnected from their family. Those children did not get a submission. They did not get a hearing date. They were not consulted.



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This Bill will determine the conditions under which children like them spend their childhood, and they were not asked.

The fifteen amendments set out in this report address specific, evidenced failures in the Bill as drafted. They address provisions that remove enforceable rights from Aboriginal children, weaken the Principle that every serious inquiry has recommended strengthening, introduce untested legal thresholds that practitioners cannot apply with confidence, impose rigid timeframes that Victoria trialled and abandoned, create legal rights without the services to support them, and leave courts without the powers to hold the Department to the standards the Bill itself purports to set.

On any given day in the Territory, it is highly likely that every child in youth detention is known to child protection services. The pathway from an under-resourced, poorly implemented child protection system to the youth justice system is not theoretical - it is documented, it is current, and it will not be interrupted by legislation that creates new powers without addressing the conditions that drive harm.

The roadmap for genuine reform has been handed to successive governments many times. The Little Children are Sacred report recommended a fifteen-year generational strategy. The Royal Commission recommended a public health approach. Neither has been implemented.

Children are safest when decisions are made carefully, individually, with access to the supports required to make those decisions successful in practice, and in genuine partnership with the communities those children come from.

I urge the Assembly not to pass the Bill. In the alternative I urge the Assembly to amend the Bill in line with this report before it is passed.

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Dissenting Report – Mr Dheran Young MLA



DISSENTING REPORT

Care and Protection of Children (Every Child Matters) Bill 2026

As a member of the Legislative Scrutiny Committee, I have carefully considered the Care and Protection of Children (Every Child Matters) Bill 2026 (the Bill), the written submissions, the public hearings and the public briefings throughout the inquiry.

All Territorians want every child to be safe. Existing jurisprudence requires the best interests of children and their safety to be the paramount concern in decisions under the *Care and Protection of Children Act 2007* (NT).

While I understand some aspects of the Bill seek to strengthen safety, the evidence shared by stakeholders and witnesses strongly argued that the amendments prioritise punitive intervention over meaningful prevention, reduce the flexibility required to adequately respond to complex needs of Territory families and will likely disproportionately impact Aboriginal children and families who comprise 89% of children in out-of-home care.

Rather than strengthening the child protection system, public hearings and submissions provided evidence on how the amendments may increase distrust of child protection services, reduce opportunities for reunification, and place greater pressure on an already overstretched system.

While I am supportive of some aspects of the Bill, it's my opinion the Committee's review and understanding of the concerns raised have not been adequately reflected in the final report or the final recommendations, and for the following reasons I respectfully dissent.

Recommendations

I recommend that the Assembly:

1. Not pass the Bill in its current form.
2. If the Government wishes to pursue legislative amendments to strengthen child safety, undertake further consultation with stakeholders and experts to establish an independent advisory board to conduct a full review of the Care and Protection Act 2007 (NT) and any other related matters.

Grounds for Dissent

Ultimately, the proposed amendments are not likely to increase safety for Territory children and families. Instead, the Bill makes it harder for Aboriginal Territorians to engage with the child protection system in a manner that is supportive, early and preventive of entrenchment in the child protection system.

The proposed amendments restrict opportunities for safe reunification of children with their family when appropriate, introducing measures which have not worked in other jurisdictions.

The Bill is likely to increase the number of children in out-of-home care and increase pressure on the child protection system more broadly including but not limited to: workforce, resourcing, frontline services, care planning, family finding and courts. It is unclear how the child protection system will be supported commensurate with increased pressures.

1. Setting families up to fail

The evidence before the Committee from written submission and the public hearings confirms the Bill does not allow the necessary flexibility to provide supports to families on a case by case basis.

It is my opinion the Bill seriously misunderstands the circumstances of families who come into contact with the child protection system.

Families engaging with statutory child protection are often experiencing intersecting disadvantage, including homelessness, overcrowding, poverty, family violence, ill-health, disability, intergenerational trauma and limited access to essential services. Rather than responding to these underlying drivers, the Bill introduces a framework that places additional legal obligations on families without ensuring the necessary supports to meet those obligations exist, are appropriate or accessible.

The provisions set out in the Family Responsibility Agreements (FRAs) and the Family Responsibility Orders (FROs) do not, in my view, provide an adequate approach to support and improve families to safely care for their children.



Although FRAs are described as voluntary agreements, families who may be unable to participate (due to a range of circumstances as outlined above) may be subject to an FRO, transforming what is presented as collaborative engagement into a statutory intervention. Despite evidence that the threshold for intervention will become too low, with broad "events of concern" including truancy, antisocial behaviour and adverse childhood experiences, the amendments impose a legal hierarchy which will likely restrict child protection services working with families to address concerns which are

frequently reflective of unmet developmental needs, disability, trauma or broader social disadvantage rather than parental neglect.

An FRA or and FRO may commence without the Department of Children and Families (DCF) ensuring families have access to legal supports beforehand. For decisions involving Aboriginal families, the removal of the explicit requirement for Aboriginal Community Controlled Organisations to participate in processes does not ensure culturally appropriate supports and may increase risk of harm.

Serious concerns were also raised regarding the impact on victim-survivors of family violence. The Bill does not adequately distinguish between perpetrators and victim-survivors, where women experiencing coercive control will be subject to the same compliance measures as perpetrators. Witnesses also raised that these measures may result in fewer women meaningfully engaging with child protection services to seek the necessary supports and referrals.

Witnesses consistently advised that legislative reform is inconsistent with the lived reality of families who will be expected to comply with requirements through services that simply do not exist. Across the Territory there remains significant shortages in alcohol and other drug treatment, mental health services, parenting supports, disability services and family violence responses. These shortages are most acute in remote communities, where language barriers, workforce shortages, travel costs and limited service availability already create significant barriers for families to actively and successfully engage with child protection services.

Without first investing in these services, the Bill risks setting vulnerable families up to fail.

2. Prioritising permanency over prevention

I am concerned the proposed amendments shift the focus squarely on permanency and compliance rather than safe reunification for children in care. Safety is more than just permanency and in its current form, the Bill may cause more harm to Territory children.

There is no argument that stable care which meets children's needs is an important principle. However, taking into consideration the context and demographics of Territory children and families in the child protection system, and the evidence provided by the witnesses and through submissions, permanency and stability should not be prioritised at the expense of a child's right to maintain safe connection to family, community, language and Country. Safety and permanency are not mutually exclusive.

The dismantling of guiding placement principles with a new 'universal hierarchy' substantially weakens the intent and practical operation of the Aboriginal Child Placement Principle (ACPP). Further, it undermines the way the elements of the ACPP are meant to be understood, supported and implemented in line with strategic policy commitments to improve the lives of Aboriginal children and families who interact with the child protection system.

Witnesses argued that, while some elements of the ACPP remain dispersed within the legislation, numerous amendments dilute its practical effect by removing requirements for ACCO involvement, narrowing family participation in care planning, restricting opportunities for placements and reunification, limiting consideration of broader kinship networks, and reducing safeguards that recognise the unique rights of Aboriginal children.

This approach is inconsistent with decades of evidence, including Royal Commissions, inquiries and Closing the Gap commitments, which consistently identify self-determined participation and connection to family, language and community as fundamental protective factors for Aboriginal children.

The reduction of short-term parental responsibility orders from two years to one year, combined with restrictions preventing multiple extensions unless courts are satisfied reunification is highly likely and will not affect long-term stability, significantly reduces the judicial discretion necessary to respond to individual family circumstances.

The Bill fails to recognise that recovery from domestic violence, addiction, homelessness or intergenerational disadvantage often requires sustained support over several years.



I am unable to support a Bill that risks systemically entrenching Aboriginal children within non-Aboriginal placements while reducing opportunities for them to safely reunify or remain connected with family and kin. Rather than supporting families to address the issues that brought them into contact with child protection, the Bill establishes legislative pathways that make permanent separation more likely.

3. Increased pressure on the child protection system

After examining the evidence presented to the Committee, it is my view that the Bill will significantly increase, rather than reduce, pressure on the child protection system.

Child protection staff currently carry an average of 22.3 cases per person. The majority (87%) of child protection investigations are exceeding 42 days to complete with some complex cases requiring multiple levels of investigation across sectors such as health, courts and police. Robust care planning, particularly leaving care planning, is consistently raised as a significant issue by children in care, and their families.

In light of this, witnesses raised serious concerns about whether the Department of Children and Families has the workforce capacity, specialist expertise or capacity to work collaboratively with community-based services necessary to implement the reforms effectively (including on issues like family finding, administrative support, interpreting support, referrals). The requirements set out in the Bill under 'proactive efforts' will not only increase the responsibilities on DCF, but lack the enforceable mechanisms required to ensure DCF make thorough, culturally safe, appropriate, timely and reportable efforts to genuinely support children and families.

The broad definition of 'events of concern', coupled with the introduction FRAs and FROs, are likely to increase the number of families requiring significant caseload support from DCF staff.

Instead of strengthening early intervention, the Bill will likely shift more families into statutory oversight while providing few additional resources for DCF to meet their responsibilities to support successful engagement.

Ultimately, the proposed amendments will create greater demand for investigations, court proceedings and out-of-home care placements rather than reducing them.

Need for further consultation

Nearly all of the submissions expressed a clear willingness to improve the Care and Protection of Children Act 2007 (NT) through a collaborative process which has not occurred for this Bill. Experts and stakeholders acknowledged there are legislative, systemic, policy and practice concerns across the child protection system that require significant improvement if child safety, and achieving a reduction of children in care, is to be taken seriously. The community expects the Government to widely consult, consider frontline experience and develop stronger, evidence-based reform to the child protection system. This Bill falls well short of those objectives.

I remain concerned the Bill confuses stronger enforcement with better child protection. Keeping children safe requires investment in prevention, safe early intervention, appropriate family supports and community-led services. Not expanding rigid statutory powers.

I acknowledge and thank all of the individuals and organisations who presented compelling evidence at the Public Hearings and in submissions for the inquiry.

For these reasons, I cannot support the Bill. I recommend that it not be passed. Accordingly, I respectfully submit this dissenting report.

Regards,

A handwritten signature in black ink, appearing to read 'Dheran Young', with a stylized flourish at the end.

Dheran Young MLA
Member for Daly

07 July 2026