

19 May 2026

Committee Secretariat  
Legislative Scrutiny Committee  
GPO Box 3721  
Darwin NT 0801

Via email: [LSC@nt.gov.au](mailto:LSC@nt.gov.au)

Dear Committee Members,

**Re: Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026**

Please find below my submission in relation to the Committee's inquiry into the above-named bill. This bill is a blatant attack on Aboriginal families making it more likely for children to be permanently removed. Please note that I haven't covered everything that makes this bill so nasty—only what stood out to me in the time that I had.

I note further the absurdity of the short time window afforded to members of the public to (a) read, (b) digest, and (c) formulate a submission in response to, the above-named bill ('**the child removal bill**'). Compounding this absurdity is another: the public briefing on the bill has been scheduled for the week after submissions close. I urge the Committee to hold a public inquiry and public hearings into the child removal bill so that it might grasp the catastrophic consequences that would follow its enactment.

I have organised my submission around the Committee's terms of reference.

**1. Whether the Assembly should pass the bill.**

It shouldn't.

**2. Whether the Assembly should amend the bill.**

It shouldn't. The bill must be rejected *in toto*.

**3. 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;**
- b. is consistent with principles of natural justice;**

The child removal bill undermines the principles of natural justice by removing the right of family to be involved in a 'significant decision' regarding a child. Currently, the Act stipulates that

When a significant decision involving an Aboriginal child is to be made: (a) the child's family members **have a right** to participate, and to be enabled to participate, in an administrative or judicial process for making the decision;<sup>1</sup>

The bill would amend this section so that it reads:

When a significant decision involving an Aboriginal child is to be made: (a) the child and the child's family members **should be given the opportunity** to participate in an administrative or judicial process for making the decision;<sup>2</sup>

What is currently a right is set to be diluted into a mere opportunity. Can you imagine not having the right to be, at the very least, involved in the discussion about what happens to your child? A right of involvement must be retained because what does it mean to be 'given the opportunity'? The formulation is liable to selective interpretation, placing families at the mercy of bureaucratic benevolence.

- ~~e. allows the delegation of administrative power only in appropriate cases and to appropriate persons;~~
- ~~d. does not reverse the onus of proof in criminal proceedings without adequate justification;~~
- ~~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;~~
- ~~f. provides appropriate protection against self-incrimination;~~
- ~~g. does not adversely affect rights and liberties, or impose obligations, retrospectively;~~

To say that the child removal bill adversely affects the rights and liberties of children and families is a profound understatement. Currently the Act stipulates that:

A child **may be** removed from the child's family **only if** there is an **unacceptable risk** of harm to the child.<sup>3</sup>

The bill would amend this section so that it reads:

A child **must be** removed from the child's family if there is a **significant and likely** risk of harm to the child.<sup>4</sup>

What is currently a discretion is set to become a mandate. Just as mandatory sentencing affords no opportunity for bespoke sentencing dispositions, mandatory removal ejects deliberation about the child's long-term best interests from the decision to remove them. Compounding this travesty is that the threshold for removal will be lower, since a risk of harm can be 'significant and likely' without being 'unacceptable'. If this bill passes, it is guaranteed that more children will be removed—and permanently. The bill requires that a decision to remove a child ensures 'the legal arrangements for the child's care provide the child with a sense of permanence and

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<sup>1</sup> *Care and Protection of Children Act 2007* (NT) s 12(2)(a).

<sup>2</sup> *Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026* cl 6, inserting a new s 12C(2)(a).

<sup>3</sup> *Care and Protection of Children Act* (n 1) s 8(3).

<sup>4</sup> 'Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026' (n 2) cl 6, inserting a new 12A(3).

long-term stability’.<sup>5</sup> The Department only has to try for two years to reunite a removed child with their family.<sup>6</sup> Many adults who were removed from their families as children carry significant trauma because of their removal,<sup>7</sup> prompting the question— a ‘sense of permanence and long-term stability’ for who? It might be easier from a logistical point of view for the government to allocate a child to an alternative family once and for all—but at what psychological cost to the child? The bill expands the legal rights of carers, allowing them to become parties to legal proceedings involving removed children once the children have been in the custody of the carers for at least 8 months.<sup>8</sup> That proposed change merely solidifies the risk that once a child has been taken, they will not be returning. Family reunification ought always to be a central aspiration of the Act. How could it ever be otherwise?

Can families thrive when they are being subjected to humiliating and paternalistic policies? Does official finger-wagging make parents better at parenting? The NT Government is already referring parents for compulsory income management when their children aren’t at school. The child removal bill expands the powers of police, the CEO and the Court. The proposed changes give police the discretion to refer a child to the CEO for the CEO to consider imposing a ‘family responsibility agreement’ or applying for a ‘family responsibility order’. (These are coercive instruments, pure and simple.) Police would acquire the discretion to notify the CEO when a child is declared *doli incapax* or when a child who has been declared *doli incapax* ‘is involved in subsequent police interactions or exhibits criminal or anti-social behaviour’.<sup>9</sup> To put it crudely: if a child cannot be punished through being prosecuted, this bill allows them to be punished by increasing their risk of removal.

Where previously you may have become liable for a fine if your child did not attend school, now you are liable to have your child taken from you, because the bill makes school non-attendance an ‘event of concern’.<sup>10</sup> The child removal bill gives the CEO the discretion to require parents to enter into a ‘family responsibility agreement’ or risk the CEO applying to the Court for a ‘family responsibility order’. Under the latter, the Court is empowered, *inter alia*, to direct the CEO to refer families for compulsory income management under the *Social Security (Administration) Act 1999* (Cth) s 123SCA.<sup>11</sup> (The Finocchiaro Government appears obsessed with income management.) If you breach your family responsibility agreement or fail to comply with the family responsibility order, the authorities are furnished with an additional item of evidence in their case for removing your child.

If you genuinely wanted to support families and children to thrive, you wouldn’t be advocating for this child removal bill.

**~~h. does not confer immunity from proceeding or prosecution without adequate justification;~~**

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<sup>5</sup> Ibid cl 6, inserting a new 12B(3)(b).

<sup>6</sup> Ibid cl 6, inserting a new 12D.

<sup>7</sup> NISATSICF (National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families), *Bringing Them Home* (Report, Human Rights and Equal Opportunity Commission, 1997) <[https://humanrights.gov.au/sites/default/files/content/pdf/social\\_justice/bringing\\_them\\_home\\_report.pdf](https://humanrights.gov.au/sites/default/files/content/pdf/social_justice/bringing_them_home_report.pdf)>; *Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory* (Final Report, 17 November 2017).

<sup>8</sup> ‘Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026’ (n 2) cl 15.

<sup>9</sup> Ibid cl 11, inserting new s 65E.

<sup>10</sup> Ibid cl 11, inserting new s 65D(6)(b).

<sup>11</sup> Ibid cl 16, inserting new s 102E(1)(c)(i).

- ~~i. provides for the compulsory acquisition of property only with fair compensation;~~
- j. has sufficient regard to Aboriginal and Torres Strait Islander tradition;**

The bill is contemptuous of Aboriginal and Torres Strait Islander tradition. The current Act stipulates that:

An Aboriginal child should, as far as practicable, be placed with a person in the following order of priority: (a) a member of the child's family; (b) **an Aboriginal person in the child's community in accordance with local community practice**; (c) any other Aboriginal person...<sup>12</sup>

The bill would amend this section so that it reads:

If an Aboriginal child is removed from the child's parents, the child should: (a) as far as practicable and consistent with the best interests of the child, **be placed in close proximity** to the child's family and community;<sup>13</sup>

There is no way around it—the proposed change is a flat-out assault on the Aboriginal and Torres Strait Islander Child Placement Principle. The enactment of the bill would give a parent priority for placement following a child's removal, followed by a family member, followed by a person approved by the CEO.<sup>14</sup> No longer will 'local community practice' be entitled to a place in the hierarchy of consideration.

Ejecting 'local community practice' implies there is something sinister about it, something which imperils children. That is a racist thing to imply. Need we recall how the demonisation of Aboriginal culture laid the groundwork for the Northern Territory Emergency Response? A discourse analysis of mainstream media coverage concluded that the media had colluded with government to create 'a climate of moral panic which conflated child abuse with Aboriginal culture',<sup>15</sup> and which therefore 'portrayed urgent Commonwealth intervention as necessary and heroic'.<sup>16</sup>

A bill that genuinely sought to support *all* families and communities to thrive would not take as its starting point calling into question the concept of 'local community practice'. The government asserts the universal applicability of its revised principles, but the law is not neutral. Difference-blind approaches only serve to maintain the dominance of an already-dominant group and its worldview while doing nothing to overcome entrenched racism.

- ~~k. is unambiguous and drafted in a sufficiently clear and precise way.~~

**~~4. Whether the bill has sufficient regard to the institution of Parliament, including whether a bill:~~**

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<sup>12</sup> *Care and Protection of Children Act* (n 1) s 12(3).

<sup>13</sup> 'Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026' (n 2) cl 6, inserting a new s 12C(3).

<sup>14</sup> *Ibid* cl 6, inserting a new s 12B.

<sup>15</sup> Fiona Proudfoot and Daphne Habibis, 'Separate Worlds: A Discourse Analysis of Mainstream and Aboriginal Populist Media Accounts of the Northern Territory Emergency Response in 2007' (2015) 51(2) *Journal of Sociology* 170, 183 ('Separate Worlds').

<sup>16</sup> *Ibid* 170.

- ~~a. allows the delegation of legislative power only in appropriate cases and to appropriate persons;~~
- ~~b. sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly;~~
- ~~c. authorises the amendment of an Act only by another Act~~

I am available for further comment if required.

Kind regards,

Stephen W Enciso

