

The committee convened at 9 am.

**INQUIRY INTO THE CARE AND PROTECTION OF CHILDREN
LEGISLATION AMENDMENT (EVERY CHILD MATTERS) BILL 2026
Private Citizen**

Madam CHAIR: On behalf of the committee, I welcome everyone to this public hearing into the Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026.

I welcome to the table to give evidence to the committee Sally Gearin. Thank you for coming before the committee. We appreciate you taking time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website. If at any time during the hearing you are concerned that what you will say should not be made public, you may ask the committee to go into a closed session and take your evidence in private.

Could you please state your name and the capacity in which you are appearing.

Ms GEARIN: Sally Gearin is my name, and I appear in a personal capacity.

Madam CHAIR: Would you like to make an opening statement?

Ms GEARIN: No, I think my submission that I put to this committee states everything that I wanted to say about this matter.

Madam CHAIR: I will now open for questions. Member for Johnston, would you like to ask the first question?

J DAVIS: Thank you, Ms Gearin, for appearing today and for your submission.

I have a couple of questions to start off, just in terms of your appearance today and your role. There have been some public statements that you have been contracted to the department and advising the minister. Would you, for our benefit, tell us what your role is in relation to that, and whether you had any involvement over the past 12 months in the development of this Bill?

Ms GEARIN: To answer your last question, the answer is no.

To give you what occurred, as you know, I have been involved in domestic violence issues here for a long time. I spoke to the minister about the situation with women coming into Dawn House from communities and how they were churning in. They would come in—young women with two or three children—and they could not read or write English, they never had a job and they had nowhere to go except back to community after they stayed there for three months.

As I do with every government, I spoke to the relevant minister. She said, 'What do you need?' I said, 'I do not understand how you can make policy decisions when you do not have any data. There is no data about what communities are bad, what communities are good, how many people are in jail, how many are recidivists—all of those matters.'

She then asked me, 'Would you come and work for me on a three-month contract, two days a week, to collate that data?' I did that with Seranie Gamble, the head of the DV section, I think, of Children and Families. We did that, and we got almost all of it before I left. The purpose was to look at in what communities there are massive problems, what communities have no problems or few problems, and then find out why that was so, also to try to stop the churn of these young women coming into the refuges.

I approached everybody. I approached all of the DV services, Legal Aid and TEWLS. We found out that 77% of people in jail in the Northern Territory are Aboriginal males who are in there for alcohol-fuelled family violence. That is terrifying. I do not know what you do about that, but something has to be done. Unless you have that data—and by the way, more than 60% of them are recidivists. On one hand you have the churn in the refuge, and then on the other hand you have the churn in the jail, and nothing is being solved.

That was what I did, and that was the purpose of that three-month contract.

J DAVIS: Thank you. Just for our benefit are you still contracted to the minister or the department?

Ms GEARIN: No.

J DAVIS: You say many times in your submission that you have heard no argument why safety should not be the primary basis of decision-making. No argument has been advanced for why it should not be. Certainly, in any of the submissions I have read have I heard any argument that safety should not be the primary objective. Multiple submissions have all submitted that the current Act already makes child safety the paramount consideration under section 10, that nothing in the current Act prevents intervention to protect a child from immediate harm.

I am wondering: were you aware of that when you made your submission, what views do you have on it and, if so, what specific change does this Bill make to improve children's safety that the law does not already permit?

Ms GEARIN: It is my understanding. I never acted when I was at the Bar in any of these matters. I did have a quick look at the legislation, but it seemed to me that, given—I gave the Kumanjaya Walker example. I do not know whether you have seen that data in terms of the way that young man was dealt with by Children and Families.

J DAVIS: In relation to that, in your view, the current child protection law meant that Kumanjaya Walker was kept in an unsafe situation and if the law was changed, that would not happen?

Ms GEARIN: Yes, essentially.

J DAVIS: Can you explain how?

Ms GEARIN: Because my understanding—I do not have the proposed legislation in front of me—is that when you look at the criteria in the new section, whatever it is, they are according to their number. The first thing to determine: is this child safe?

If somebody had gone into the situation with Kumanjaya Walker, they would not have been able to say that child was safe.

J DAVIS: Is your understanding that the current Act does not have child safety as a primary principle? It is not the paramount principle.

Ms GEARIN: If it did, there would be no need for this amendment. Clearly, there are a lot of people who think that it does need to happen. I am not going to give you a legal opinion on the legislation.

J DAVIS: Sure, but you have provided a submission saying that you support these changes because you believe that they will increase children's safety.

Ms GEARIN: Yes, I believe it, but I do that as Sally Gearin citizen, not as a lawyer.

J DAVIS: We are interested in, and part of our role is to look at the law, the proposed Bill, and see whether or not it is going to achieve what the intent is—I think every single person in the Territory wants to make sure that children are safe.

Ms GEARIN: My understanding is that this legislation clarifies that.

J DAVIS: Part of our job is: is that the case?

Madam CHAIR: Thank you, Member for Johnston, I think we have some more questions on this side. Member for Drysdale.

Mr HOWE: Thank you, Ms Gearin, for coming in. I thank you for your submission.

Going to the point, clause 8 in the Bill specifically creates a paramount concern of child safety.

Ms GEARIN: Yes.

Mr HOWE: Could you give any insights? There have been statements that say this is against the UN Charter. My understanding from what I have read is that it is actually very much in line with the UN Charter, from its conception with the League of Nations and its history through, on increasing protections and the rights of children. Could you elaborate on that?

Ms GEARIN: That is my understanding as well. I looked at that particular section—section 8—and it seemed absolutely consistent. Point one—the first thing has to be children have to be safe. That is why I said I thought it was a bit Kafkaesque to not have safety as a consideration. That is my submission essentially.

Mr HOWE: What, in your view, leads people to try and criticise putting child safety first?

Ms GEARIN: I cannot speak for somebody else's point of view, but I do not understand why there is such a concern about it. I have not looked at the cases that have gone through the courts and how the previous legislation has been interpreted. That might be something that would be of assistance to Ms Davis because she was looking for that. There may be decisions of both the Local Court and the Supreme Court that set out how those matters are determined, I am sure, over 20 years, or however long that legislation has been there. I am sure that you have got legal people who can give you that.

It is my opinion, having looked at the United Nations rights of children, their primary right is to be safe. I saw that this section 8 was totally consistent with that.

Mr HOWE: The other thing this Bill aims to do is actually intervene earlier, trying to recognise that keeping families together, getting a family to function well together, is going to be a greater outcome for a family. In your experience throughout your career, what could you speak to that in the importance of early intervention?

Ms GEARIN: If a child is in a difficult situation, then clearly they need help and their parents need help. It is a question—I am just speaking now as a mother and grandmother. I think it is really important that the child has every opportunity. The earlier the intervention, in my opinion, the better.

If you go back to the Kumanjaji Walker matter, if that little fellow had had some assistance instead of everybody just saying, 'He is a troublemaker', or he is this or that—my understanding is that there were absolutely no attempts to help him.

I do not know if there are cases where that is continuing to occur. I do not know. It should not be happening. These are Australian children. They are entitled to get all the assistance that a child in Sydney or Brisbane or anywhere should get. Because they live on community, they should not be discriminated against in terms of their entitlements, and that is what I understand is happening at the moment.

I use that Kumanjaji Walker case as an example of all the interventions that did nothing. He just got moved from place to place to place. Anybody who knows anything about children knows that if a child is not in a stable safe environment, they are going to be damaged. It is not rocket science.

Mr HOWE: Could you highlight, through your career in the work you continue to do, the flow-on effects of not making a child's safety the priority and not having early intervention as well?

Ms GEARIN: I think Kumanjaji Walker is a perfect example of that. That is a real lived example. Everybody talks about—you know, sorry business when he was killed and all the rest of it. Look at his life: if that is happening now to children in the Northern Territory, it is an absolute shame job.

Mrs ZIO: Thank you for attending today, Ms Gearin, and for your submission. We appreciate it.

It is interesting that you talked about whilst the Member for Drysdale asked you some questions around the earlier the intervention the better—last night I was at a Clontarf event and spoke with some staff that work at Clontarf. They are pushing to try and introduce the Clontarf Academy into primary years more; they have only two, I think they said, primary years Clontarf. They specifically said last night that the earlier they can get those children involved in that process, the better for them. That aligns with a lot of thinking in the community, I think.

A number of the submitters have argued that these reforms remove protections for children, specifically Aboriginal children. Having reviewed the Bill, which continues to require connection to family, community, culture, traditions, language and country to be maintained where practicable, what is your response to those kinds of claims that it removes protections for Aboriginal children?

Ms GEARIN: I cannot see how it can if there is an appropriate family member where that child is safe and they are willing to take that child, why would the child not go there and have that connection? It is no different to us if our children misbehave or get on drugs or do all of those sorts of things, then there is somebody in family who will intervene, or should intervene, and say, 'I will be there for little Johnny or he can go and live with aunty or whatever because she has three kids and everything is fine'.

Obviously that is better, but my concern is that these kids just seem to move from house to house in the same community and they are often exposed to the same dangers that they were exposed to in their original position and taken away—and Kumanjaya Walker is a really good example. My concern with that case is that everybody knew and nobody did anything. They just said he is a troublemaker, he is this, he is that. He was not. He was a very damaged young man, and that is why he ended up where he is.

I think if you look at all the kids in juvie, you will find that they have a similar history. I do not like to generalise, but essentially that is my view about it.

Mrs ZIO: Having reviewed both the Bill and some of the public commentary surrounding it, do you agree that these reforms continue to recognise the importance of culture, family and kinship, but make it clear that when those considerations conflict with a child's safety that safety must come first?

Ms GEARIN: That is my understanding of it, yes, absolutely—that you make safety first rather than kinship. They may not be inconsistent. They may often be totally consistent.

Mrs ZIO: Some submitters have suggested that the reforms focus too heavily on removal; however, the Bill requires proactive efforts to prevent removal where possible and, following removal, requires efforts towards reunification with parents or family members where it is in the child's best interests. Do you consider these provisions strike an appropriate balance between family preservation and child safety?

Ms GEARIN: Yes, I do, and I now refer to the case that I mentioned in my submission. I do not know if anybody has had an opportunity to read that case from Western Australia. That was run by Maurice Blackburn, a very well-known personal injury firm. I used to be a personal injury barrister. I did other pro bono work, but essentially that was the work that I did. That case in Western Australia—\$2.8m, I think it was, that young person was awarded for the way he was not protected.

If, in fact, we have a whole lot of these Kumanjaya Walker matters that are in place presently, all of those children will be able to sue the government because their obligation is once you are alerted as the minister, you are responsible for that child's welfare. If you do not do that job properly, as they did not do in that case because they were focused on reunification of family, then you are liable to be sued by probably most of the kids who are in juvie, because it is negligent; you have not done your job as the minister when you have that responsibility of being in loco parentis.

That is another aspect that nobody seems to talk about, but that is another thing that is probably coming, I would have thought, knowing Maurice Blackburn. They are not just going to let it be one.

Mrs ZIO: I have one more question to clarify because I feel like some people will still have a grey area in response. It is relation to the first question that Ms Davis asked around your role while you were working with the minister. I want a yes or no answer. To clarify, when you came in and did that three-month contract for the minister around the domestic violence work that you were doing, gathering the data in the Northern Territory, was any of your role related to this work with the *Care and Protection of Children Act*?

Ms GEARIN: No.

Mr YOUNG: Thank you, Sally, for coming in today.

I have one quick question. In your submission—you stated earlier that you put in this submission on a personal base. In your actual submission you—and I quote:

... I have been professionally involved in ... Family Law matters, both at the Bar and more recently as a Mediator in Family Law matters.

Does that not contradict what you just said? Like this is from a professional sense, given your experience, your submission.

Ms GEARIN: No, I do not see the conflict there. Perhaps you could explain it to me.

Mr YOUNG: I just did. I just put the quote back to you ...

Ms GEARIN: I do not see any inconsistency.

Mr YOUNG: You do not?

Ms GEARIN: No, I do not. I am not coming here as a professional; I am coming here as a senior woman in her seventies, saying, 'I have seen a lot of stuff in the Northern Territory'. I am saying this is what I believe based on that information. I do not come here as a mediator. I do not come here as a barrister. As I said, I had never acted for or against the minister in matters relating to children.

I went to the Bar in 1990, so I have never been involved in that work, but I have been involved in family law. One of the issues that often arises in family law is what is the best place for children to go to. Sometimes that involves Aboriginal people; sometimes it does not. That is just experience. I am not coming here in a professional capacity.

Does that assist you?

Mr YOUNG: It does.

Can you show me in the current legislation where child safety is not the first consideration in the Act?

Ms GEARIN: I do not have it in front of me, sorry. I do not have the legislation in front of me.

Mr YOUNG: You put in a submission towards—it was purely based off the safety of children ...

Ms GEARIN: Okay, let me say this: I thought it was loose as to what the priority was before. If you look at that new section 8, it clarifies it. If you are judge sitting on that matter, you now look at that. If there is objection to a child being taken away, for example, you now have section 8 and you can look at that and you can say, 'The first priority is safety'. Or the people who are attending from Children and Families after a report, they go there, it makes their job so much easier because they can say, 'Okay, first thing is safety. Is the child safe?' Then you work out if the child is not safe, then certain things follow. If the child is safe, you then look at the other criteria. That is my understanding.

Mr YOUNG: In the current Act, in clause 8(2)(a), it states that the paramount concern is the best interests of the child.

Ms GEARIN: Absolutely.

Mr YOUNG: So, it is in there that the paramount concern is always the safety of the child, in the current Act.

Ms GEARIN: No, it is the best interests; it is quite different to safety. Under the *Family Law Act*, you will find that best interest of children is, in fact, the priority there as well.

Mr YOUNG: But it states the need to ensure the safety of the child. That is what it says.

Ms GEARIN: Of course. How could you leave a child in an unsafe situation? It beggars belief, doesn't it?

Mr YOUNG: That is what I am stating. It is already in the current Act.

Ms GEARIN: I do not think it is as clear as that. If it was, you would not have the situation you had with Kumanjayi Walker.

Mr YOUNG: What is your understanding of the need to ensure the safety of the child—your interpretation of that?

Ms GEARIN: That is the primary consideration when a report is made or an investigation is there.

Mr YOUNG: Which is in the current Act.

Ms GEARIN: In the current Act—that is my understanding, yes.

Mr YOUNG: So, it is paramount, the safety of children, which is in the current Act?

Ms GEARIN: That is what it says in section 8, doesn't it?

Mr YOUNG: Section 8(2)(a)?

Ms GEARIN: Yes. That is my understanding.

Mr YOUNG: You are stating it is not—earlier you said 'current Act'.

Ms GEARIN: Sorry; my understanding of it is that it was not clear in the previous legislation. It is now very clear, and that makes it so much easier for all of the people who work in these decisions, who have to make decisions.

Mr HOWE: Member for Daly, going back to the paramount concern, you said 8(2)(a). That is in the new legislation. You just quoted that back to the witness as 8(2)(a) says safety of the child. It is not the old legislation; that is the new legislation.

Mr YOUNG: The department's placement policy is currently that the safety and wellbeing of the best interests of the child. That is the current policy of the department, so it is.

A member: Are you talking about the legislation?

Mr YOUNG: No, I am talking about currently with the department.

A member: You are talking about policy, though.

Mr YOUNG: I am asking the question.

Ms GEARIN: I am not here to give you legal advice. I am sure you could get that appropriately. I can tell you what my understanding of it is, but as I say, I am here as an individual, not as a lawyer.

Madam CHAIR: If the Bill proceeds in its current form, would you recommend any accompanying changes to existing policy or practice within the child protection system?

Ms GEARIN: I think that the most important thing for children is safety. It is my understanding in this legislation that is made very, very clear. That makes it easy for the people who are on the ground who have to deal with these matters every day. It also makes it clear to the courts when a matter is challenged before them. If the legislation is clear, they do not have to be wishy-washy about it or try and find a way. It is very clear: safety is the most important thing. That is why I am supporting this. If it was the case in the past, you would not have had the situation of Kumanjaya Walker.

J DAVIS: You have talked a lot about the case of Kumanjaya Walker as an example. What I am understanding from what you are saying is that if this law is in place, Kumanjaya Walker would not have been in the terrible situations that he was in his life; is that correct?

Ms GEARIN: Yes.

J DAVIS: Can you explain where specifically these new proposed amendments would have prevented those things happening?

Ms GEARIN: I think if you read those factual matters—have you read them?

J DAVIS: Of course I have and I have read the Coroner's report.

Ms GEARIN: I do not have them in front of me. If you look at that chronology of that child and the reports that were made to Children and Families, it was very clear that there was nobody looking out for that little boy.

J DAVIS: I understand ...

Ms GEARIN: Just let me finish, please. If this legislation had been in place, it would have been clear to anybody that little boy was not safe. There was nobody looking out for him, his family were fighting with each

other—whatever—and so there would have been intervention in his matter. Maybe with that intervention, he would have got the assistance he needed.

J DAVIS: I think we are all probably familiar with the tragic story of Kumanjayi Walker, but I am interested in—I know you said many times you are not here giving legal opinion; you are here with all your life experience ...

Ms GEARIN: Citizen Sal.

J DAVIS: Yes. I am interested because it is our job in looking at specifically ...

Ms GEARIN: Absolutely.

J DAVIS: ... this law. You also talked about the fact that what it does is clarify, for example, for the courts, if they need to make a decision. The courts will now be making a decision very clearly with the child's safety first. Understanding that you have said you are here as a citizen, can you give any example where the court has made a decision under the current Act that is not putting the child's safety first?

Ms GEARIN: As I said, I did not practise in that jurisdiction.

Madam CHAIR: Thank you, Member for Johnston. That concludes the hearing for this morning's session. Thank you, Ms Gearin, for attending. Thank you very much, everybody.

Ms GEARIN: Thanks very much. Good luck with it all.

The committee suspended.
