

22 May 2026

Northern Territory Legislative Scrutiny Committee

Committee Secretariat
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Dear Committee Secretary,

**CALLS FOR SUBMISSIONS: Inquiry into the Care and Protection of Children Legislation
Amendment (Every Child Matters) Bill 2026**

The National Justice Project thanks the Northern Territory Legislative Scrutiny Committee for the opportunity to put forward a submission to the Inquiry into the *Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026*.

The National Justice Project (NJP) is a not-for-profit human rights legal service delivering strategic legal action, social justice education, advocacy, and collaborative projects. Our mission is to fight for justice, fairness, and inclusivity by eradicating systemic discrimination.

We are concerned that the proposed amendments to the Act would further contribute to the discriminatory impacts of intervention and child removal on First Nations people in the Northern Territory and that the proposed changes are rushed, reactionary and do not allow for proper consultation with the communities who will be most affected by the amendments.

The best interests of the child are broad

We submit that the proposed ss 7 & 8 are unnecessary given that sub-s 10(1) already enshrines that the 'best interests of the child are the paramount concern', and therefore the other principles outlined in the current Part 1.3 of the Act, are established as secondary considerations.

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.

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.¹

The Aboriginal and Torres Strait Islander Child Placement Principle must be respected

The proposed placement sections in ss 12B and 12C remove the mandatory steps under Aboriginal and Torres Strait Islander Child Placement Principle (**ATSICPP**) and the current sub-s 12(3): to place a child with an Aboriginal person in the child's community in accordance with local community practice; and then with any other Aboriginal person. These steps are replaced by a 'close proximity' principle, where if children are to be removed from their parents, they are to 'be placed in close proximity to the child's family and community.' This replacement places the Northern Territory out of step with the placement hierarchy in other Australian jurisdictions and with the ATSICPP.

The ATSICPP was established in 1984 by First Nations people to specifically address the growing rate of First Nations children being placed in out of home care with, or adopted by, non-Indigenous people. It has been recognised as a best practice model by the national peak First Nations body Secretariat of National Aboriginal and Islander Child Care (**SNAICC**)² and provides a framework for legislation, policy and practice to safeguard the rights and best interests of First Nations children and to promote systemic change to counter the embedded racism that caused the Stolen Generations.³

The proposed replacement fails to recognise the inherent benefits in First Nations children being placed with First Nations people, as recognised under the established ATSICPP, who are best placed to facilitate 'a connection to the child's family, community, culture, traditions, language and Country' as envisioned by the Bill at sub-s 12C(3)(b). 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.

The Northern Territory already has the highest percentage (70%) of placements of First Nations children with non-relative, non-Indigenous carers or in a family group home, residential care or independent living of all the states and territories in Australia. Only 19% of placements in 2022-2023 were with Aboriginal relatives or kin.⁴ The proposed replacement of mandatory steps under the ATSICPP will only place the Northern Territory further behind other Australian jurisdictions and create further barriers to placing First Nations children with First Nations family or carers and protecting their cultural connections.

The Bill also removes a number of sub-sections in the current s 12 that include protective statements on the rights of Aboriginal children and decisions made regarding them, including:

- (2A) that the decision should be healing focussed and trauma informed;
- (2B) that an Aboriginal child has the right to be brought up within the child's own family and community and on the child's own country; and
- (2C) that an Aboriginal child has a right to be supported to develop and maintain a connection with the child's family, community, culture, traditions, language and country, particularly when the child is placed with a person who is not from the child's community or kinship group.

These statements enshrine key elements of the ATSICPP in the Act and should not be removed.

¹ 'Territory Families, Northern Territory Government, 'Transforming Out of Home Care in the NT' (2019) p5, <https://families.nt.gov.au/media/documents/for-people-working-with-or-caring-for-children/out-of-home-care/Transforming-Out-of-home-care-in-the-NT.pdf>.

² SNAICC 'Family Matters Report 2025' pp23-24, <https://www.snaicc.org.au/wp-content/uploads/2026/01/Family-Matters-Report-2025-v3.pdf>.

³ Australian Childhood Foundation. (2018). Understanding and Applying the Aboriginal and Torres Strait Islander Child Placement Principle.

⁴ Australian Institute of Health and Welfare Child Protection Australia 2022-2023: Aboriginal and Torres Strait Islander Children, <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2022-23/contents/aboriginal-and-torres-strait-islander-children>.

The language shift repealing 'right to' and replacing it with 'should be given the opportunity' within s 12C also appears to water-down the rights of First Nations children and families to participate in decision-making regarding them and unnecessarily limit the State's obligations to respect their rights and the procedural fairness principle.

Reunification needs to be an ongoing consideration

The current Act does not impose a statutory time limitation on reunification efforts, however the new Bill at s 12D limits the CEO of the Department's obligation to make 'all reasonable proactive efforts to reunify the child with the child's parents' to 2 years after the removal. The Bill at ss 123 and 128 also seeks to reduce the length of a short-term protection order from up to 2 years to 1 year and limit the number of short-term protection orders to a maximum of 2. These proposed changes, which push towards more permanent placements, eliminate the hope of families being reunited unless it is achieved under strict timeframes, in direct contravention of the rights of children and families.

First Nations children are over-represented in the Northern Territory at every stage of the removal process,⁵ with lower rates of reunification than for non-Indigenous children.⁶ We submit that the Northern Territory should be prioritising ongoing support for families and reunification efforts rather than pushing towards permanent separation of children from their families, which will have a disproportionate effect on the First Nations community.

The rushed nature of the amendments and lack of consultation

As can be seen from our submissions above, the proposed amendments will make significant changes to the Act. We submit that these changes will have ongoing negative impacts for the children and families of the Northern Territory, especially for the First Nations community.

The National Justice Project is concerned that the Northern Territory Government has recently announced an Inquiry into the child protection system, in light of the tragic passing of Kumanjaji Little Baby, and yet it is not awaiting the findings of this Inquiry to consider the outcomes before amending this legislation.

The National Justice Project is additionally concerned that the proposed amendments to the Act do not allow for proper consultation with the communities who will be most affected by the amendments, including First Nations peak and representative bodies and First Nations communities in the Northern Territory. The provision of a one-week window to seek submissions from the community on these amendments is severely limited and will reduce the ability of smaller organisations and individuals to contribute their views on the proposed amendments. The Northern Territory Government has already been criticised by SNAICC for its lack of consultation with Aboriginal Community Controlled Organisations when amending the Act.⁷ It also appears that the Northern Territory Government has not sought direct feedback from the Northern Territory Children's Commissioner, Shahleena Musk, the National Commissioner for Aboriginal and Torres Strait Islander Children and Young People, Sue-Anne Hunter or the peak body, SNAICC on the proposed amendments or their involvement in the child protection Inquiry despite their roles as independent experts on the rights of children and young people.⁸

We urge the Committee to consider our submissions and for the Northern Territory Government to consider actively engaging in consultation with the communities who will be most affected by the changes.

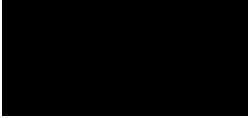
⁵ SNAICC 'Family Matters Report 2025' Figure 6, p 21, <https://www.snaicc.org.au/wp-content/uploads/2026/01/Family-Matters-Report-2025-v3.pdf>

⁶ Ibid, Figure 21, p 58.

⁷ Ibid, p 13 NT Building Block 4.

⁸ National Commission for Aboriginal and Torres Strait Islander Children and Young People. Joint Statement 12 May 2026, 'Commissioners call for independent inquiry into systems designed to protect the Territory's children', <https://www.ncatsicyp.gov.au/news/commissioners-call-independent-inquiry-systems-designed-protect-territorys-children>.

Yours sincerely,



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