



Queensland

Child Protection Reform Amendment Bill 2017



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2017

A Bill

for

An Act to amend the *Child Protection Act 1999* and the *Director of Child Protection Litigation Act 2016* for particular purposes

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Child Protection Reform Amendment Act 2017*. 4
5

Clause 2 Commencement 6

This Act commences on a day to be fixed by proclamation. 7

Part 2 Amendment of the Child Protection Act 1999 8
9

Clause 3 Act amended 10

This part amends the *Child Protection Act 1999*. 11

Clause 4 Amendment of s 5A (Paramount principle) 12

(1) Section 5A, after ‘of a child’— 13

insert— 14

, both through childhood and for the rest of the 15
child’s life, 16

(2) Section 5A, example, ‘best interests, and’— 17

omit, insert— 18

best interests (whether immediate or long-term in 19
nature), and 20

Clause 5	Amendment of s 5B (Other general principles)	1
(1)	Section 5B(k)—	2
	<i>omit.</i>	3
(2)	Section 5B(l) to (n)—	4
	<i>renumber</i> as section 5B(k) to (m).	5
Clause 6	Insertion of new s 5BA	6
	After section 5B—	7
	<i>insert—</i>	8
	5BA Principles for achieving permanency for a child	9 10
(1)	The principles stated in this section are relevant to making decisions about actions to be taken, or orders to be made, under this Act.	11 12 13
(2)	For ensuring the wellbeing and best interests of a child, the action or order that should be preferred, having regard to the principles mentioned in sections 5B and 5C, is the action or order that best ensures the child experiences or has—	14 15 16 17 18
(a)	ongoing positive, trusting and nurturing relationships with persons of significance to the child, including the child’s parents, siblings, extended family members and carers; and	19 20 21 22 23
(b)	stable living arrangements, with connections to the child’s community, that meet the child’s developmental, educational, emotional, health, intellectual and physical needs; and	24 25 26 27 28
	<i>Example—</i>	29
	living arrangements that provide for a stable and continuous schooling environment	30 31

[s 7]

- (c) legal arrangements for the child’s care that provide the child with a sense of permanence and long-term stability, including, for example, a long-term guardianship order, a permanent care order or an adoption order for the child.

Note—

See sections 62 and 64 about the restrictions on the duration or extension of child protection orders granting custody or short-term guardianship.

- (3) For this Act, ***permanency***, for a child, means the experience by the child of having the things mentioned in subsection (2)(a) to (c).

- (4) For deciding whether an action or order best achieves permanency for a child, the following principles also apply, in order of priority—

- (a) the first preference is for the child to be cared for by the child’s family;
- (b) the second preference is for the child to be cared for under the guardianship of a person who is a member of the child’s family, other than a parent of the child, or another suitable person;
- (c) the third preference is for the child to be cared for under the guardianship of the chief executive.

Clause 7 Replacement of s 5C (Additional principles for Aboriginal or Torres Strait Islander children)

Section 5C—

omit, insert—

5C Additional principles for Aboriginal or Torres Strait Islander children

- (1) The following additional principles apply for

-
- administering this Act in relation to Aboriginal or
Torres Strait Islander children— 1
2
- (a) Aboriginal and Torres Strait Islander people 3
have the right to self-determination; 4
- (b) the long-term effect of a decision on the 5
child’s identity and connection with the 6
child’s family and community must be taken 7
into account. 8
- (2) The following principles (the *child placement*
principles) also apply in relation to Aboriginal or 9
Torres Strait Islander children— 10
11
- (a) the principle (the *prevention principle*) that 12
a child has the right to be brought up within 13
the child’s own family and community; 14
- (b) the principle (the *partnership principle*) that 15
Aboriginal or Torres Strait Islander persons 16
have the right to participate in significant 17
decisions under this Act about Aboriginal or 18
Torres Strait Islander children; 19
- (c) the principle (the *placement principle*) that, 20
if a child is to be placed in care, the child 21
has a right to be placed with a member of 22
the child’s family group; 23
- Note—* 24
- See section 83 for provisions for placing 25
Aboriginal and Torres Strait Islander children in 26
care. 27
- (d) the principle (the *participation principle*) 28
that a child and the child’s parents and 29
family members have a right to participate, 30
and be enabled to participate, in an 31
administrative or judicial process for 32
making a significant decision about the 33
child; 34
- (e) the principle (the *connection principle*) that 35
a child has a right to be supported to develop 36

[s 8]

	and maintain a connection with the child's family, community, culture, traditions and language, particularly when the child is in the care of a person who is not an Aboriginal or Torres Strait Islander person.	1 2 3 4 5
Clause 8	Replacement of s 6 (Recognised entities and decisions about Aboriginal and Torres Strait Islander children)	6 7
	Section 6—	8
	<i>omit, insert—</i>	9
	6 Who is an <i>independent Aboriginal or Torres Strait Islander entity</i>	10 11
	(1) An entity is an <i>independent Aboriginal or Torres Strait Islander entity</i> , for an Aboriginal or Torres Strait Islander child, if—	12 13 14
	(a) the entity is—	15
	(i) an individual who is an Aboriginal or Torres Strait Islander person; or	16 17
	(ii) another entity whose members include individuals who are Aboriginal or Torres Strait Islander persons; and	18 19 20
	(b) the chief executive is satisfied the entity—	21
	(i) provides services to Aboriginal or Torres Strait Islander persons; or	22 23
	(ii) is a representative of the child's community or language group; or	24 25
	(iii) satisfies the requirements mentioned in subsection (2); and	26 27
	(c) is a suitable person to be an independent Aboriginal or Torres Strait Islander entity for the child.	28 29 30

<i>Examples of persons who may be independent Aboriginal or Torres Strait Islander entities for Aboriginal or Torres Strait Islander children—</i>	1
	2
	3
• an Aboriginal or Torres Strait Islander elder	4
• an entity funded by a State or the Commonwealth to provide cultural services, including cultural advice and support, to Aboriginal or Torres Strait Islander persons	5
	6
	7
	8
(2) For subsection (1)(b)(iii), the requirements are that the entity is an individual who—	9
	10
(a) is a person of significance to the child or child’s family; and	11
	12
(b) is a suitable person for associating on a daily basis with the child; and	13
	14
(c) is a person with appropriate authority to speak about Aboriginal or Torres Strait Islander culture in relation to the child or the child’s family; and	15
	16
	17
	18
(d) is not an officer or employee of the department.	19
	20

6AA Principles about Aboriginal and Torres Strait Islander children—chief executive, litigation director and authorised officers 21
22
23

(1) This section applies to the following persons (each a <i>relevant authority</i>)—	24
	25
(a) the chief executive;	26
(b) the litigation director;	27
(c) an authorised officer.	28
(2) When making a significant decision about an Aboriginal or Torres Strait Islander child, a relevant authority must—	29
	30
	31
(a) have regard to the child placement principles in relation to the child; and	32
	33

[s 8]

- (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. 1
2
3
4
5
6
- (3) However, subsection (2)(b) does not apply if— 7
 - (a) complying with the subsection— 8
 - (i) is not practicable because an independent Aboriginal or Torres Strait Islander entity for the child is not available or urgent action is required to protect the child; or 9
10
11
12
13
 - (ii) is likely to have a significant adverse effect on the safety or psychological or emotional wellbeing of the child or any other person; or 14
15
16
17
 - (iii) is otherwise not in the child's best interests; or 18
19
 - (b) the child or the child's family does not consent to the ongoing involvement in the decision-making process of an independent Aboriginal or Torres Strait Islander entity for the child. 20
21
22
23
24
- (4) Also, subsection (2)(b) does not apply if— 25
 - (a) the relevant authority is the litigation director; and 26
27
 - (b) the litigation director is satisfied the chief executive or an authorised officer has already complied with the requirement in relation to the significant decision. 28
29
30
31
- (5) As far as reasonably practicable, a relevant authority must, in performing a function under this Act involving an Aboriginal or Torres Strait Islander person (whether a child or not), perform 32
33
34
35

the function—	1
(a) in a way that allows the full participation of the person and the person’s family group; and	2 3 4
(b) in a place that is appropriate to Aboriginal tradition or Island custom.	5 6
6AB Principles about Aboriginal and Torres Strait Islander children—Childrens Court	7 8
(1) This section applies to the Childrens Court.	9
(2) When exercising a power under this Act in relation to an Aboriginal or Torres Strait Islander child, the court must have regard to—	10 11 12
(a) Aboriginal tradition and Island custom relating to the child; and	13 14
<i>Note—</i>	15
<i>The Acts Interpretation Act 1954, schedule 1, contains definitions of Aboriginal tradition and Island custom.</i>	16 17 18
(b) the child placement principles in relation to the child.	19 20
(3) To inform itself about the matters mentioned in subsection (2)(a), the court may have regard to the views about those matters of—	21 22 23
(a) an independent Aboriginal or Torres Strait Islander entity for the child; or	24 25
(b) the child; or	26
(c) a member of the child’s family.	27
Clause 9 Amendment of s 7 (Chief executive’s functions)	28
Section 7(1)(o)—	29
<i>omit, insert—</i>	30

[s 10]

	(o) arranging for independent Aboriginal or Torres Strait Islander entities for Aboriginal or Torres Strait Islander children to facilitate the participation of the children and the children’s families when making decisions in relation to the children; and	1 2 3 4 5 6
Clause 10	Amendment of s 13B (Action by relevant persons under other provisions)	7 8
	Section 13B(3), ‘section 159M’—	9
	<i>omit, insert—</i>	10
	section 159MD(1)	11
Clause 11	Amendment of s 21A (Unborn children)	12
	(1) Section 21A(3)—	13
	<i>omit, insert—</i>	14
	(3) If the child is an Aboriginal or Torres Strait Islander child, the chief executive or an authorised officer must arrange for an independent Aboriginal or Torres Strait Islander entity for the child to—	15 16 17 18 19
	(a) facilitate the participation of the pregnant woman and the child’s family in relation to a matter mentioned in subsection (2); and	20 21 22
	(b) offer help and support to the pregnant woman.	23 24
	(2) Section 21A(4), ‘consultation taking place’—	25
	<i>omit, insert—</i>	26
	involvement of an independent Aboriginal or Torres Strait Islander entity for the child	27 28

Clause 12	Amendment of s 23 (Meaning of <i>parent</i> in pt 2)	1
	Section 23, definition <i>parent</i> —	2
	<i>insert</i> —	3
	(e) a permanent guardian of the child.	4
Clause 13	Amendment of s 37 (Meaning of <i>parent</i> in pt 3)	5
	Section 37, definition <i>parent</i> —	6
	<i>insert</i> —	7
	(e) a permanent guardian of the child.	8
Clause 14	Amendment of s 51AA (Meaning of <i>parent</i> in pt 3AA)	9
	Section 51AA, definition <i>parent</i> —	10
	<i>insert</i> —	11
	(e) a permanent guardian of the child.	12
Clause 15	Amendment of s 51AB (Purpose)	13
	Section 51AB(2)—	14
	<i>omit, insert</i> —	15
	(2) The purpose of a temporary custody order is to	16
	authorise the action necessary to ensure the	17
	immediate safety of a child—	18
	(a) if the chief executive has referred a child	19
	protection matter relating to the child to the	20
	litigation director under the <i>Director of</i>	21
	<i>Child Protection Litigation Act 2016</i> ,	22
	section 15—while the chief executive works	23
	with the litigation director under section	24
	53A; or	25
	(b) otherwise—while the chief executive	26
	decides the most appropriate action to meet	27
	the child’s ongoing protection and care	28

[s 16]

	needs (for example, applying for a child protection order).	1 2
Clause 16	Amendment of s 51AE (Making of temporary custody order)	3 4
	Section 51AE(b)—	5
	<i>omit, insert—</i>	6
	(b) the following person will be able, within the term of the temporary custody order, to decide the most appropriate action to meet the child’s ongoing protection and care needs and start taking that action—	7 8 9 10 11
	(i) if the chief executive has not referred a child protection matter relating to the child to the litigation director under the <i>Director of Child Protection Litigation Act 2016</i> , section 15—the chief executive;	12 13 14 15 16 17
	(ii) otherwise—the litigation director.	18
Clause 17	Amendment of s 51B (What is a <i>case plan</i>)	19
	(1) Section 51B—	20
	<i>insert—</i>	21
	(1A) A case plan must include the following matters—	22
	(a) the goal for best achieving permanency for the child and the actions to be taken to achieve the goal;	23 24 25
	(b) if returning the child to the care of a parent of the child is the goal for best achieving permanency for the child—an alternative goal in the event that the timely return of the child to the care of the parent is not possible;	26 27 28 29 30

(c)	for an Aboriginal or Torres Strait Islander child—details about how the case plan is consistent with the connection principle stated in section 5C(2)(e).	1 2 3 4
	<i>Note—</i>	5
	See section 6AA(5) for requirements about how the chief executive or an authorised officer must perform functions under this Act involving an Aboriginal or Torres Strait Islander person.	6 7 8 9
(1B)	Also, a case plan must include actions for helping the child transition to independence if—	10 11
	(a) the child is 15 years or more; and	12
	(b) the child does not have a long-term guardian.	13 14
(2)	Section 51B(2), ‘may include’—	15
	<i>omit, insert—</i>	16
	may also include	17
(3)	Section 51B(2)(a), ‘a goal or’—	18
	<i>omit, insert—</i>	19
	any other	20
(4)	Section 51B(1A) to (2)—	21
	<i>renumber</i> as section 51B(2) to (4).	22
Clause 18	Amendment of s 51D (How case planning must be carried out)	23 24
(1)	Section 51D(1)(c)(iv), note—	25
	<i>omit, insert—</i>	26
	<i>Note—</i>	27
	See section 6AA(5) for requirements about how the chief executive, the litigation director or an authorised officer must perform functions under this Act involving an Aboriginal or Torres Strait Islander person.	28 29 30 31
(2)	Section 51D(1)(e)—	32

[s 19]

omit. 1

(3) Section 51D(1)(f), example, ‘paragraph (f)’— 2

omit, insert— 3

paragraph (e) 4

(4) Section 51D(1)(f)— 5

renumber as section 51D(1)(e). 6

Clause 19 Omission of s 51E (Who is a child’s *family group*) 7

Section 51E— 8

omit. 9

Clause 20 Amendment of s 51F (Meaning of *parent* in pt 3A) 10

Section 51F, definition *parent*— 11

insert— 12

(e) a permanent guardian of the child. 13

Clause 21 Amendment of s 51L (Who should be involved) 14

(1) Section 51L(1)(f)— 15

omit, insert— 16

(f) if the child is an Aboriginal or Torres Strait 17

Islander child—an independent Aboriginal 18

or Torres Strait Islander entity for the child; 19

(2) Section 51L(3), ‘subsection (1) or (2)’— 20

omit, insert— 21

subsection (1)(a) to (e), (1)(g) to (j) or (2) 22

(3) Section 51L(4), ‘subsection (1)(b) to (d) or (2)’— 23

omit, insert— 24

subsection (1)(b) to (d), (1)(f) or (2) 25

-
- (4) Section 51L— 1
insert— 2
- (5) Also, the convenor is not required to allow an 3
independent Aboriginal or Torres Strait Islander 4
entity for the child to attend or participate in the 5
meeting, under subsection (1)(f), if— 6
- (a) the entity’s attendance or participation is 7
likely to have a significant adverse effect on 8
the child’s or another person’s safety or 9
psychological or emotional wellbeing; or 10
- (b) the child or the child’s family does not 11
consent to the entity’s attendance or 12
participation. 13

- Clause 22 Amendment of s 51N (Obtaining the views of persons not attending)** 14
15
- Section 51N(d)— 16
omit, insert— 17
- (d) a relevant prescribed entity or service 18
provider. 19

- Clause 23 Amendment of s 51S (Preparing the plan if not developed at a meeting)** 20
21
- Section 51S(3)(a)(iv)— 22
omit, insert— 23
- (iv) a relevant prescribed entity or service 24
provider; and 25

- Clause 24 Amendment of s 51V (Review of plan—no long-term guardian)** 26
27
- (1) Section 51V— 28
insert— 29

[s 25]

- (4A) Subsection (6) applies to the review of a case plan for a child in care if—
- (a) the case plan does not include actions for helping the child transition from care to independence; and
 - (b) the child has turned 15 since the making, or last review, of the case plan.
- (4B) The review must include developing appropriate actions for helping the child transition to independence.
- (2) Section 51V(4A) to (5)—
renumber as section 51V(5) to (7).

Clause 25 Insertion of new s 51VB

After section 51VA—

insert—

51VB Review of plan—permanent guardian

- (1) This section applies if the child has a permanent guardian.
- (2) The permanent guardian or the child may, at any time, ask the chief executive to review the child's case plan.
- (3) On a request under subsection (2)—
 - (a) the chief executive may decide not to review the plan if satisfied—
 - (i) the child's circumstances have not changed significantly since the plan was finalised or, if it has been reviewed, since the most recent review; or
 - (ii) for another reason, it would not be appropriate in all the circumstances; or

(b)	otherwise, the chief executive must review the plan and prepare—	1 2
(i)	a report about the review under section 51X; and	3 4
(ii)	a revised case plan.	5
(4)	If, on a request under subsection (2), the chief executive decides not to review the case plan, the chief executive must give written notice of the decision to—	6 7 8 9
(a)	the person who made the request; and	10
(b)	if it was the child who made the request—the permanent guardian.	11 12
(5)	The notice mentioned in subsection (4) must comply with section 157(2) of the QCAT Act.	13 14
Clause 26	Amendment of s 51W (Who may participate)	15
(1)	Section 51W(1)(f), ‘a recognised entity, or member of a recognised entity’—	16 17
	<i>omit, insert—</i>	18
	an independent Aboriginal or Torres Strait Islander entity, or member of an independent Aboriginal or Torres Strait Islander entity	19 20 21
(2)	Section 51W(1)(h)—	22
	<i>omit, insert—</i>	23
	(h) a relevant prescribed entity or service provider;	24 25
(3)	Section 51W(5), ‘subsection (1)(b) to (d) or (3)’—	26
	<i>omit, insert—</i>	27
	subsection (1)(b) to (d), (1)(f) or (3)	28
(4)	Section 51W—	29
	<i>insert—</i>	30

<i>omit, insert—</i>	1
permanency for the child will not be best achieved	2
(6) Section 51X(3)(c)—	3
<i>insert—</i>	4
(ia) arrangements for the child to live with a member of the child’s family or another suitable person under a permanent care order; or	5 6 7 8
(7) Section 51X(3)(c)(ia) to (iii)—	9
<i>renumber</i> as section 51X(3)(c)(ii) to (iv).	10
(8) Section 51X—	11
<i>insert—</i>	12
(4) For subsection (2), if the child is placed in the care of the chief executive under a child protection order granting long-term guardianship of the child, the report must state the progress made in planning for alternative long-term arrangements for the child, including, for example—	13 14 15 16 17 18
(a) arrangements for the child to live with a member of the child’s family or another suitable person under a child protection order granting long-term guardianship of the child; or	19 20 21 22 23
(b) arrangements for the child to live with a member of the child’s family or another suitable person under a permanent care order; or	24 25 26 27
(c) arrangements for the child’s adoption under the <i>Adoption Act 2009</i> .	28 29

Clause 28	Amendment of s 51ZB (Considering intervention with agreement)	30
	Section 51ZB—	31
		32

[s 29]

insert—

- (2) However, subsection (1) does not apply if the chief executive reasonably believes it is likely that, if the child's parents withdraw their agreement to the intervention for the child, the child will be at immediate risk of harm.

Clause 29 Amendment of s 51ZC (Working with the child and parents)

Section 51ZC—

insert—

- (2) The case plan for the child must include details about what is expected of the child's parents and the chief executive to achieve the goals under the case plan.

Clause 30 Amendment of s 52 (Meaning of *parent* in pt 4)

Section 52, definition *parent*—

insert—

- (e) a permanent guardian of the child.

Clause 31 Amendment of s 59 (Making of child protection order)

- (1) Section 59(1)(b)(iii), 'an order granting long-term guardianship of the child'—

omit, insert—

a long-term guardianship order or a permanent care order for the child

- (2) Section 59(2)—

omit, insert—

- (2) Before making a child protection order, the court may have regard to the following matters—

-
- (a) any contravention of this Act or of an order made under this Act; 1
2
- (b) a decision by the chief executive to end intervention under part 3B because the intervention was no longer appropriate to meet the child’s protection and care needs. 3
4
5
6
- (3) Section 59(6), ‘a child protection order granting long-term guardianship of a child’— 7
8
omit, insert— 9
a long-term guardianship order or a permanent care order for a child 10
11
- (4) Section 59— 12
insert— 13
- (7A) The court may make a permanent care order for a child only if, in addition to the other matters about which the court must be satisfied under this section, the court is satisfied— 14
15
16
17
- (a) the person to whom guardianship of the child is to be granted under the order (the ***proposed guardian***) is— 18
19
20
- (i) a suitable person for having guardianship of the child on a permanent basis; and 21
22
23
- (ii) willing and able to meet the child’s ongoing protection and care needs on a permanent basis; and 24
25
26
- (iii) committed to preserving— 27
- (A) the child’s identity; and 28
- (B) the child’s connection to the child’s culture of origin; and 29
30
- (C) the child’s relationships with members of the child’s family in 31
32

[s 32]

	accordance with the case plan for the child; and	1 2
	(b) the child has been in the care of the proposed guardian, under a child protection order granting custody or guardianship of the child to the chief executive or the proposed guardian, for a period of at least 12 months immediately before the making of the application.	3 4 5 6 7 8 9
	(7B) However, the court may make a permanent care order, despite not being satisfied of the matter mentioned in subsection (7A)(b), if the court is satisfied there are exceptional circumstances that, in the best interests of the child, justify the making of the order.	10 11 12 13 14 15
	<i>Example of exceptional circumstances—</i>	16
	The proposed guardian is caring for 1 or more of the child’s siblings under a permanent care order.	17 18
Clause 32	Insertion of new s 59A	19
	After section 59—	20
	<i>insert—</i>	21
	59A Additional matters about making permanent care orders for Aboriginal or Torres Strait Islander children	22 23 24
	(1) This section applies to an application for a permanent care order for an Aboriginal or Torres Strait Islander child.	25 26 27
	(2) In deciding whether to make the order, the Childrens Court must have proper regard to—	28 29
	(a) Aboriginal tradition and Island custom relating to the child; and	30 31

<i>Note—</i>	1
The <i>Acts Interpretation Act 1954</i> , schedule 1, contains definitions of <i>Aboriginal tradition</i> and <i>Island custom</i> .	2 3 4
(b) the child placement principles in relation to the child.	5 6
(3) The court may make the order only if it is satisfied—	7 8
(a) the case plan for the child includes appropriate details about how the child’s connection with his or her culture, and community or language group, will be developed or maintained; and	9 10 11 12 13
(b) the decision to apply for the order has been made in consultation with the child, if the court considers consultation is appropriate.	14 15 16
(4) To inform itself about the matters mentioned in subsection (2)(a), the court may have regard to the views about those matters of—	17 18 19
(a) an independent Aboriginal or Torres Strait Islander entity for the child; or	20 21
(b) the child; or	22
(c) a member of the child’s family.	23
Clause 33 Amendment of s 61 (Types of child protection orders)	24
Section 61(f)—	25
<i>omit, insert—</i>	26
(f) an order (a <i>long-term guardianship order</i>) granting long-term guardianship of the child to—	27 28 29
(i) a suitable person, other than a parent of the child, who is a member of the child’s family; or	30 31 32

[s 34]

	(ii) another suitable person, other than a member of the child's family, nominated by the chief executive; or	1 2 3
	(iii) the chief executive;	4
	<i>Note—</i>	5
	The parents of the child may apply to vary or revoke a long-term guardianship order—see section 65(1).	6 7 8
	(g) an order (a <i>permanent care order</i>) granting long-term guardianship of the child to a suitable person, other than a parent of the child or the chief executive, nominated by the chief executive.	9 10 11 12 13
	<i>Note—</i>	14
	Only the litigation director may apply to vary or revoke a permanent care order—see section 65AA.	15 16
Clause 34	Amendment of s 62 (Duration of child protection orders)	17
	(1) Section 62(2)—	18
	<i>omit, insert—</i>	19
	(2) The stated time for an order that does not grant custody or guardianship of the child must not be more than 1 year after the day it is made.	20 21 22
	(2A) If no previous child protection order has been made for the child and the order grants custody or short-term guardianship of the child, the stated time for the order must not be more than 2 years after the day it is made.	23 24 25 26 27
	(2B) If a previous child protection order has been made for the child and the order grants custody or short-term guardianship of the child, the stated time for the order must not be—	28 29 30 31
	(a) if, immediately before the making of the order, the child has been in continuous care since the making of the earliest child	32 33 34

-
- protection order for the child—later than 2 1
years after the day the earliest order was 2
made; or 3
- Example—* 4
- The court makes an order granting custody of a 5
child to the chief executive. A previous child 6
protection order granting custody of the child to 7
the chief executive was in effect for 1 year. Since 8
the making of the previous order, the child has 9
been in care, including under interim orders, for a 10
continuous period of 18 months. The stated time 11
for the new order must not be more than 2 years 12
after the previous child protection order was 13
made. As a result, the maximum duration of the 14
new order is 6 months. 15
- (b) otherwise—later than 2 years after the day 16
the earliest child protection order for the 17
child made during the relevant continuous 18
care period was made. 19
- Example—* 20
- The court makes an order granting custody of a 21
child to the chief executive and there have been 22
previous orders granting custody of the child to 23
the chief executive. The first order was in effect 24
for 1 year, after which the child was returned to 25
the care of the child's parents for 1 year. Then 26
another order was made granting custody of the 27
child to the chief executive for 12 months. Since 28
the making of the second order, the child has been 29
in care, including under interim orders, for a 30
continuous period of 18 months. The stated time 31
for the new order must not be more than 2 years 32
after the second order was made. As a result, the 33
maximum duration of the new order is 6 months. 34
- (2C) However, despite subsection (4), the stated time 35
for an order to which subsection (4) would 36
otherwise apply must not be more than 2 years 37
after the day it is made if— 38
- (a) it is in the best interests of the child to have 39
a longer stated time for the order than the 40
time provided for under subsection (4); and 41

[s 35]

	(b) the Childrens Court considers that reunification of the child with the child's family is reasonably achievable within the longer stated time.	1 2 3 4
	(2D) The stated time for an order that grants long-term guardianship of the child must be the end of the day before the child turns 18 years.	5 6 7
(2)	Section 62(4), '(3)'— <i>omit, insert—</i>	8 9
	(7)	10
(3)	Section 62— <i>insert—</i>	11 12
	(5) In this section— <i>child protection order</i> does not include an interim order under section 67. <i>relevant continuous care period</i> means a period of continuous care that has not ended immediately before the making of the order.	13 14 15 16 17 18
(4)	Section 62(2A) to (5)— <i>renumber</i> as section 62(3) to (9).	19 20
Clause 35	Amendment of s 64 (Extension of certain child protection orders)	21 22
(1)	Section 64— <i>insert—</i>	23 24
	(2A) If the application is an application to extend a child protection order granting custody or short-term guardianship of a child, the court must not extend the order for a period of time that would result in the child being in continuous care for a period of 2 years or more.	25 26 27 28 29 30
	(2B) However, subsection (3) does not apply if the	31

	court is satisfied—	1
	(a) it is in the best interests of the child for the order to be extended for a longer time than the time provided for under subsection (3); and	2 3 4 5
	(b) reunification of the child with the child’s family is reasonably achievable within the longer time.	6 7 8
(2)	Section 64(3), ‘This’—	9
	<i>omit, insert—</i>	10
	Subject to subsections (3) and (4), this	11
(3)	Section 64(2A) to (3)—	12
	<i>renumber</i> as section 64(3) to (5).	13
Clause 36	Amendment of s 65 (Variation and revocation of child protection orders)	14 15
(1)	Section 65, heading, before ‘child’—	16
	<i>insert—</i>	17
	particular	18
(2)	Section 65(1)(a), after ‘order’—	19
	<i>insert—</i>	20
	, other than a permanent care order,	21
(3)	Section 65(1)(b)—	22
	<i>omit, insert—</i>	23
	(b) revoke a child protection order, other than a permanent care order, for the child and make another child protection order in its place.	24 25 26 27
(4)	Section 65(2)—	28
	<i>insert—</i>	29

[s 36]

- (c) apply to vary a long-term guardianship order granting long-term guardianship of the child to the chief executive to grant long-term guardianship of the child to a suitable person mentioned in section 61(f)(i) or (ii). 1
2
3
4
5
6
- (5) Section 65(4), ‘subsection (5)’— 7
omit, insert— 8
subsections (5) to (5D) 9
- (6) Section 65— 10
insert— 11
- (5A) Subsection (5B) applies if the litigation director or the child applies to— 12
13
- (a) vary or revoke a long-term guardianship order for the child; or 14
15
- (b) revoke a long-term guardianship order for the child and make a permanent care order for the child in its place. 16
17
18
- (5B) Section 59(1)(a) and (e), (6)(a), (7) and (8) does not apply to the application. 19
20
- (5C) However, subsection (5B) does not apply in relation to the application if— 21
22
- (a) the application is an application by the litigation director or the child mentioned in subsection (5A)(b); and 23
24
25
- (b) the court orders, on its own initiative or on the application of the litigation director or the child, that the provisions of section 59 mentioned in subsection (5B) are to apply to the application. 26
27
28
29
30
- (5D) The court may make an order under subsection (5C)(b) only if it is satisfied that, because of exceptional circumstances, it is in the best interests of the child for the provisions of section 31
32
33
34

	59 mentioned in subsection (5B) to apply to the application.	1 2
Clause 37	Amendment of s 65A (Court may make transition order)	3
	Section 65A(1)(b), after ‘(f)’—	4
	<i>insert—</i>	5
	or (g)	6
Clause 38	Insertion of new s 65AA	7
	Chapter 2, part 4, division 3—	8
	<i>insert—</i>	9
	65AA Variation and revocation of permanent care orders	10 11
	(1) The litigation director may apply to the Childrens Court for an order to—	12 13
	(a) vary or revoke a permanent care order for a child; or	14 15
	(b) revoke a permanent care order for a child and make another child protection order in its place.	16 17 18
	(2) However, the litigation director may apply to vary or revoke a permanent care order only if the litigation director is satisfied—	19 20 21
	(a) that—	22
	(i) the child has suffered significant harm, is suffering significant harm, or is at an unacceptable risk of suffering significant harm; and	23 24 25 26
	(ii) the child’s permanent guardian is not able and willing to protect the child from harm; or	27 28 29

[s 39]

	(b) the child's permanent guardian is not complying, in a significant way, with the guardian's obligations under section 79A(1).	1 2 3
	<i>Example—</i>	4
	The child's permanent guardian is not, despite it being in the best interests of the child, helping the child maintain the child's relationships with the child's parents or another person of significance to the child.	5 6 7 8 9
	(3) This part applies, with all necessary changes, to the application as if it were an application for a child protection order for the child.	10 11 12
	(4) The court may revoke a permanent care order for a child only if it is satisfied the revocation of the order—	13 14 15
	(a) is in the best interests of the child; and	16
	(b) will promote the child's ongoing protection and care needs.	17 18
	(5) Without limiting the matters to which the court may have regard in deciding an application under this section, the court—	19 20 21
	(a) may have regard to a contravention of the permanent care order or this Act; and	22 23
	(b) must have regard to the child's need for emotional security and stability.	24 25
	(6) Without limiting the court's powers, in deciding an application to revoke a permanent care order the court may—	26 27 28
	(a) revoke the order; or	29
	(b) revoke the order and make another child protection order in its place.	30 31
Clause 39	Amendment of s 70 (Attendance of parties)	32
	Section 70(4)—	33

omit, insert—

1

- (4) If the child is an Aboriginal or Torres Strait
Islander child, an independent Aboriginal or
Torres Strait Islander entity for the child, or
member of the entity, may attend the conference.

2

3

4

5

Clause 40 Insertion of new s 74A

6

After section 74—

7

insert—

8

**74A Chief executive's obligations to children under
particular child protection orders**

9

10

- (1) This section applies if either of the following
orders is made in relation to a child—

11

12

- (a) a long-term guardianship order granting
long-term guardianship of the child to a
person other than the chief executive;

13

14

15

- (b) a permanent care order.

16

- (2) The chief executive must ensure the child—

17

- (a) is told about the charter of rights for a child
in care in schedule 1 and its effect; and

18

19

- (b) is given written information about the
charter of rights unless, having regard to the
child's age or ability to understand, the chief
executive reasonably believes the child
would not be able to understand the
information; and

20

21

22

23

24

25

- (c) is told about the obligations of the child's
long-term guardian or permanent guardian
under section 79A; and

26

27

28

- (d) is told about the public guardian and other
entities known to the chief executive who
can help the child if the child considers that
the child's long-term guardian or permanent
guardian is not complying with the

29

30

31

32

33

[s 41]

	guardian’s obligations in relation to the child; and	1 2
	(e) is told about the child’s right to contact the chief executive if the child has any questions or concerns about the child’s protection and care needs.	3 4 5 6
Clause 41	Replacement of s 75 (Transition from care)	7
	Section 75—	8
	<i>omit, insert—</i>	9
	75 Transition to independence	10
	(1) This section applies to a person who is or has been a child in the custody or under the guardianship of the chief executive.	11 12 13
	(2) As far as practicable, the chief executive must—	14
	(a) ensure help is available to assist the person in the transition from being a child in care to independence; and	15 16 17
	(b) ensure the help is available to the person for the period starting when the person turns 15 and ending when the person turns 25.	18 19 20
	(3) Without limiting subsection (2)(a), the help may include the following—	21 22
	(a) help to access entitlements, including, for example, social security allowances or payments;	23 24 25
	(b) help to access appropriate accommodation;	26
	(c) help to access education and training;	27
	(d) help to obtain employment;	28
	(e) help to obtain legal advice;	29

(f)	help to access health and community services, including, for example, specialist disability support services;	1 2 3
(g)	support in establishing or maintaining relationships with the person's family or carer;	4 5 6
(h)	help in accessing information, including information in the chief executive's possession or control, about the person and his or her time in care;	7 8 9 10
	<i>Note—</i>	11
	See section 188C about the information the chief executive may give the person.	12 13
(i)	counselling or other support to help the person in relation to information mentioned in paragraph (h);	14 15 16
(j)	other assistance, based on an assessment of the person's needs, provided by the chief executive.	17 18 19
	<i>Examples of assistance, based on a person's needs, that may be provided by the chief executive—</i>	20 21
	• financial assistance under section 159	22
	• help given to ensure a young person with impaired capacity is given the opportunity to develop decision-making skills and exercise the rights mentioned in the <i>Guardianship and Administration Act 2000</i> , sections 5 and 6	23 24 25 26 27
(4)	In this section—	28
	<i>information</i> includes a document or copy of a document.	29 30
Clause 42	Amendment of s 79 (Obligations of family members to department under orders)	31 32
(1)	Section 79, heading, after 'family members'—	33
	<i>insert—</i>	34

[s 43]

	and other persons	1
(2)	Section 79—	2
	<i>insert—</i>	3
(3)	A long-term guardian or permanent guardian of a child must keep the chief executive informed about where the child is living.	4 5 6
Clause 43	Insertion of new s 79A	7
	After section 79—	8
	<i>insert—</i>	9
	79A Obligations of long-term guardians and permanent guardians to children under orders	10 11
(1)	A long-term guardian or permanent guardian of a child must—	12 13
(a)	as far as reasonably practicable, ensure the charter of rights for a child in care in schedule 1 is complied with in relation to the child as if—	14 15 16 17
(i)	the guardian were the chief executive; and	18 19
(ii)	the child were a child in need of protection in the custody or care of the chief executive; and	20 21 22
(b)	ensure the child is provided with appropriate help in the transition from being a child in care to independence; and	23 24 25
(c)	to the extent it is in the best interests of the child, preserve the child’s identity and connection to the child’s culture of origin; and	26 27 28 29
(d)	to the extent it is in the best interests of the child, help maintain the child’s relationships with the child’s parents, family members	30 31 32

	and other persons of significance to the child.	1 2
	(2) However, the Childrens Court may order that any of the requirements mentioned in subsection (1) do not apply, or apply with stated modifications or apply to a stated extent, if the court is satisfied compliance with the requirement would—	3 4 5 6 7
	(a) constitute a significant risk to the safety of the child or anyone else with whom the child is living; or	8 9 10
	(b) otherwise not be in the best interests of the child.	11 12
Clause 44	Replacement of s 80A (Obligations if child is no longer cared for by long-term guardian)	13 14
	Section 80A—	15
	<i>omit, insert—</i>	16
	80A Obligations if child is no longer cared for by long-term guardian or permanent guardian	17 18
	(1) This section applies if—	19
	(a) either of the following child protection orders are in force for a child—	20 21
	(i) a long-term guardianship order granting long-term guardianship of the child to a person other than the chief executive;	22 23 24 25
	(ii) a permanent care order; and	26
	(b) either—	27
	(i) the child’s long-term guardian or permanent guardian reasonably believes the guardian’s care of the child will end in the near future; or	28 29 30 31

[s 45]

	<i>Example—</i>	1
	The guardian has a health condition that will result in the guardian not being able to care for the child in the near future.	2 3 4
	(ii) the child is no longer cared for by the child’s long-term guardian or permanent guardian.	5 6 7
	<i>Examples—</i>	8
	1 The child is an older child transitioning to independent living.	9 10
	2 The relationship between the child and the guardian has broken down and the child is no longer able to live with the guardian.	11 12 13 14
(2)	The long-term guardian or permanent guardian must immediately give the chief executive written notice of—	15 16 17
(a)	if the guardian reasonably believes the guardian’s care of the child will end in the near future—that fact; or	18 19 20
(b)	if the care has ended—that fact and, if the guardian knows where the child is living, that information.	21 22 23
(3)	If the chief executive is given notice under subsection (2), the chief executive must—	24 25
(a)	review the child’s protection and care needs and wellbeing; and	26 27
(b)	take any further action the chief executive considers appropriate.	28 29
Clause 45	Insertion of new ch 2, pt 6, div 3A	30
	Chapter 2, part 6—	31
	<i>insert—</i>	32

Division 3A	Complaints about permanent guardians	1 2
80B	Making a complaint	3
(1)	This section applies if a child or a member of the child's family honestly and reasonably believes a permanent guardian of the child is not complying with the guardian's obligations under section 79A.	4 5 6 7 8
(2)	The person may make a complaint about the non-compliance to the chief executive.	9 10
(3)	A complaint may be made for the person by another person acting with the first person's consent.	11 12 13
80C	Chief executive may require further information	14 15
	The chief executive may, by notice, ask the complainant to give the chief executive further information about the complaint within the reasonable time stated in the notice.	16 17 18 19
80D	Refusal to deal with complaint	20
(1)	The chief executive may refuse to deal with the complaint if the chief executive reasonably believes—	21 22 23
(a)	the complaint is trivial, unreasonable or without substance; or	24 25
(b)	the complaint was made vexatiously; or	26
(c)	the complainant refuses, without a reasonable excuse, to provide further information reasonably required by the chief	27 28 29

[s 46]

	executive to decide whether to deal with the complaint.	1 2
(2)	If the chief executive refuses to deal with a complaint, the chief executive must—	3 4
(a)	as soon as practicable, give written notice of the decision to the complainant; and	5 6
(b)	keep a record about the complaint and the chief executive’s refusal to deal with the complaint.	7 8 9
(3)	The notice mentioned in subsection (2)(a) must comply with section 157(2) of the QCAT Act.	10 11
	80E Dealing with complaint	12
(1)	If the chief executive does not refuse to deal with a complaint under section 80D, the chief executive must take all reasonable steps to resolve the complaint as soon as is reasonably practicable.	13 14 15 16
(2)	After taking the reasonable steps, the chief executive must give the complainant a response to the complaint stating—	17 18 19
(a)	the steps taken to resolve the complaint; and	20
(b)	the reason the chief executive considers the steps taken are reasonable in the circumstances; and	21 22 23
(c)	any results of the steps taken that are known at the time of giving the response.	24 25
Clause 46	Amendment of s 83 (Additional provisions for placing Aboriginal and Torres Strait Islander children in care)	26 27
	Section 83(2) to (6)—	28
	<i>omit, insert—</i>	29
(2)	The chief executive must, in consultation with the child and the child’s family, arrange for an	30 31

-
- independent Aboriginal or Torres Strait Islander entity for the child to facilitate the participation of the child and the child's family in the process for making a decision about where or with whom the child will live.
- (3) However, the chief executive is not required to arrange for the involvement of an independent Aboriginal or Torres Strait Islander entity for the child under subsection (2) if—
- (a) it is not practicable because an entity is not available or urgent action is required to protect the child; or
 - (b) the chief executive is satisfied that an entity's involvement—
 - (i) is likely to have a significant adverse effect on the safety or psychological or emotional wellbeing of the child or any other person; or
 - (i) is not otherwise in the child's best interests; or
 - (c) the child or the child's family does not consent to the entity's involvement.
- (4) In making a decision about the person in whose care the child should be placed, the chief executive must, if practicable, place the child with a member of the child's family group.
- (5) However, if it is not practicable to place the child with a member of the child's family group, in making a decision about the person in whose care the child should be placed, the chief executive must place the child with—
- (a) a member of the child's community or language group; or
 - (b) if it is not practicable to place the child in the care of a person mentioned in paragraph
-

[s 47]

	(a), an Aboriginal or Torres Strait Islander person who is compatible with the child's community or language group; or	1 2 3
	(c) if it is not practicable to place the child in the care of a person mentioned in paragraph (a) or (b), another Aboriginal or Torres Strait Islander person; or	4 5 6 7
	(d) if it is not practicable to place the child in the care of a person mentioned in paragraphs (a) to (c), a person who—	8 9 10
	(i) lives near the child's family, community or language group; and	11 12
	(ii) has a demonstrated capacity for ensuring the child's continuity of connection to kin, country and culture.	13 14 15
	(6) Also, the chief executive must give proper consideration to—	16 17
	(a) the views of the child and the child's family; and	18 19
	(b) ensuring the decision provides for the optimal retention of the child's relationships with parents, siblings and other people of significance to the child under Aboriginal tradition or Island custom.	20 21 22 23 24
Clause 47	Amendment of s 97 (Carrying out medical examinations or treatment)	25 26
	Section 97—	27
	<i>insert—</i>	28
	(8) In this section—	29
	<i>treatment</i> includes vaccination.	30

Clause 48	Insertion of new ch 4, pt 2A	1
	Chapter 4—	2
	<i>insert—</i>	3
	Part 2A	4
	Prescribed delegates	5
	for Aboriginal or Torres	6
	Strait Islander children	6
	148BA Definitions for part	7
	In this part—	8
	<i>appropriate Aboriginal or Torres Strait Islander</i>	9
	<i>entity</i> means an entity—	10
	(a) that has a function of providing services to	11
	Aboriginal persons or Torres Strait	12
	Islanders; and	13
	(b) whose members include individuals who	14
	have appropriate knowledge of, or expertise	15
	in, child protection.	16
	<i>prescribed delegate</i> , for an Aboriginal or Torres	17
	Strait Islander child, means a person to whom the	18
	chief executive has delegated, under section	19
	148BB, a function or power in relation to the	20
	child.	21
	148BB Chief executive may delegate functions or	22
	powers	23
	(1) The chief executive may delegate 1 or more of the	24
	chief executive’s functions or powers under this	25
	Act in relation to an Aboriginal or Torres Strait	26
	Islander child who is—	27
	(a) a child in need of protection; or	28
	(b) likely to become a child in need of	29
	protection.	30

[s 48]

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| (2) The delegation must— | 1 |
| (a) despite the <i>Acts Interpretation Act 1954</i> ,
section 27A(1)(b), state the name of the
person to whom the function or power is
delegated; and | 2
3
4
5 |
| (b) state the child's name; and | 6 |
| (c) state each function or power the person may
perform or exercise in relation to the child;
and | 7
8
9 |
| (d) state any conditions of the delegation. | 10 |
| (3) The chief executive may delegate a function or
power to a person in relation to a child under
subsection (1) only if— | 11
12
13 |
| (a) the person— | 14 |
| (i) is an Aboriginal or Torres Strait
Islander person; and | 15
16 |
| (ii) is the chief executive officer, however
named, of an appropriate Aboriginal or
Torres Strait Islander entity; and | 17
18
19 |
| (iii) has a current positive prescribed notice
or a current positive exemption notice;
and | 20
21
22 |
| (b) the chief executive is reasonably satisfied
the person— | 23
24 |
| (i) is appropriately qualified to perform
the function or exercise the power in
relation to the child; and | 25
26
27 |
| (ii) is a suitable person to perform the
function or exercise the power in
relation to the child. | 28
29
30 |
| (4) Before delegating a function or power to a person
under subsection (1), the chief executive must— | 31
32 |

-
- (a) to the extent it is safe, possible and practical to do so, seek the views of the child and the parents of the child; and
- (b) have regard to any views obtained under paragraph (a).
- (5) The delegation does not take effect until the person has given the chief executive written notice that the person accepts the delegation.
- 148BC Actions by chief executive prevail**
- (1) This section applies if—
- (a) the chief executive performs a function or exercises a power under this Act in relation to a child; and
- (b) a prescribed delegate for the child performs the function or exercises the power in relation to the child in a way that results in an outcome that is inconsistent with the outcome of the performance of the function or exercise of the power by the chief executive.
- (2) Despite the *Acts Interpretation Act 1954*, section 27A, the performance of the function or exercise of the power by the chief executive prevails to the extent of the inconsistency.
- 148BD Withdrawal by prescribed delegate**
- (1) A prescribed delegate for an Aboriginal or Torres Strait Islander child may, at any time, withdraw the person's acceptance of the delegation by giving the chief executive written notice of the withdrawal.
- (2) If the prescribed delegate gives the chief executive notice under subsection (1), the delegation ends.

[s 48]

- (3) The delegation ends under subsection (2) on the later of the following—
 - (a) the day the notice is given to the chief executive;
 - (b) a later day stated in the notice.
- (4) The chief executive must record—
 - (a) the notice given under subsection (1); and
 - (b) the day on which the delegation ends.

148BE Automatic ending of delegation

- (1) This section applies if a prescribed delegate for an Aboriginal or Torres Strait Islander child—
 - (a) stops being the chief executive officer, however named, of an appropriate Aboriginal or Torres Strait Islander entity; or
 - (b) stops having a current positive prescribed notice or a current positive exemption notice.
- (2) The person must, as soon as practicable, give the chief executive written notice of that fact and the day on which the person—
 - (a) stopped being the chief executive officer, however named, of the entity; or
 - (b) stopped having a current positive prescribed notice or a current positive exemption notice.
- (3) The delegation of a function or power to the person by the chief executive under section 148BB ends.

148BF Chief executive may require information about child	1 2
(1) The chief executive may ask a person who is or was a prescribed delegate for an Aboriginal or Torres Strait Islander child, orally or in writing, to give the chief executive stated information about the child within a stated reasonable time.	3 4 5 6 7
(2) The person must comply with the request.	8
(3) A person who gives information requested under subsection (1) who would otherwise be required to maintain confidentiality about the information given under an Act, oath, rule of law or practice—	9 10 11 12
(a) does not contravene the Act, oath, rule of law or practice by giving the information; and	13 14 15
(b) is not liable to disciplinary action for giving the information.	16 17
(4) Also, merely because the person gives the information, the person can not be held to have—	18 19
(a) breached any code of professional etiquette or ethics; or	20 21
(b) departed from accepted standards of professional conduct.	22 23
148BG Chief executive may require information about delegate or proposed delegate	24 25
(1) The chief executive may ask a person to whom the chief executive proposes to delegate, or has delegated, a function or power under section 148BB for stated information about a matter mentioned in 148BB(3)(a).	26 27 28 29 30
(2) The person must comply with the request.	31
(3) The chief executive must request information mentioned in subsection (1) by giving the person	32 33

[s 49]

	a notice stating—	1
	(a) the information the chief executive requires;	2
	and	3
	(b) the day by which the person must give the	4
	information to the chief executive.	5
	(4) The day mentioned in subsection (3)(b) must be at	6
	least 14 days after the notice is given.	7
	148BH Obligation to notify chief executive of	8
	changed or new qualifying information	9
	(1) This section applies if there is a change in the	10
	information mentioned in section 148BB(3)(a)	11
	for—	12
	(a) a person who has given the information to	13
	the chief executive under section 148BG(2);	14
	or	15
	(b) a prescribed delegate for an Aboriginal or	16
	Torres Strait Islander child.	17
	(2) The person must, as soon as practicable, give the	18
	chief executive a notice of the changed or new	19
	information.	20
	148BI Giving information to proposed prescribed	21
	delegate	22
	Before delegating a function or power to a person	23
	under section 148BB, the chief executive must	24
	give the person any information the chief	25
	executive has about the child that the person	26
	reasonably requires to make an informed decision	27
	about whether to accept the delegation.	28
Clause 49	Amendment of s 156 (Delegation by chief executive)	29
	Section 156, after ‘Act’—	30

insert—

1

, other than a power under chapter 4, part 2A,

2

Clause 50 Amendment of s 159 (Payments for care and maintenance)

3

4

(1) Section 159(1), ‘carer or long-term’—

5

omit, insert—

6

carer, long-term guardian or permanent

7

(2) Section 159(5), ‘carers or long-term’—

8

omit, insert—

9

carers, long-term guardians or permanent

10

Clause 51 Amendment of ch 5A, hdg (Service delivery coordination and information exchange)

11

12

Chapter 5A, heading, ‘exchange’—

13

omit, insert—

14

sharing

15

Clause 52 Amendment of s 159A (Purpose)

16

(1) Section 159A, ‘service providers’—

17

omit, insert—

18

the chief executive, authorised officers,
prescribed entities and service providers

19

20

(2) Section 159A(b)—

21

omit, insert—

22

(b) sharing information, while protecting the
confidentiality of the information.

23

24

[s 53]

Clause 53	Amendment of s 159B (Principles for coordinating service delivery and exchanging information)	1 2
(1)	Section 159B, heading, ‘exchanging’—	3
	<i>omit, insert—</i>	4
	sharing	5
(2)	Section 159B(d), ‘each service provider should contribute, within the provider’s’—	6 7
	<i>omit, insert—</i>	8
	the chief executive, authorised officers, prescribed entities and service providers should contribute, within each entity’s	9 10 11
(3)	Section 159B(f) and (g)—	12
	<i>omit, insert—</i>	13
	(f) the entities mentioned in paragraph (d) should work collaboratively and in a way that respects the functions and expertise of each of the entities;	14 15 16 17
	(g) whenever safe, possible and practical, consent should be obtained before—	18 19
	(i) providing, or planning to provide, a service, help or support to a child or a child’s family to decrease the likelihood of the child becoming a child in need of protection; or	20 21 22 23 24
	(ii) disclosing personal information about a person to someone else;	25 26
	(h) because a child’s safety, wellbeing and best interests are paramount, the child’s protection and care needs take precedence over the protection of an individual’s privacy and the principle mentioned in paragraph (g);	27 28 29 30 31 32

-
- (i) before disclosing information about a person to someone else, an entity should consider whether disclosing the information is likely to adversely affect the safety, wellbeing and best interests of a child or the safety of another person.

Clause 54 Replacement of ss 159C and 159D

Sections 159C and 159D—

omit, insert—

159C Chief executive must make guidelines

- (1) The chief executive must make guidelines, consistent with this Act, for sharing and dealing with information under parts 4 and 5.
- (2) The purposes of the guidelines are to ensure—
- (a) information is shared under parts 4 and 5 only for proper purposes; and
- (b) to the greatest extent possible, the privacy of individuals is respected when sharing information under parts 4 and 5, having regard to the principles stated in sections 5A and 159B; and
- (c) information shared under parts 4 and 5 is properly used, stored, retained and disposed of.
- (3) The chief executive must publish the guidelines on the department’s website.

Clause 55 Amendment of s 159F (Service providers’ responsibilities)

(1) Section 159F, heading—

omit, insert—

[s 56]

	159F General responsibilities	1
	(2) Section 159F, ‘Service providers’—	2
	<i>omit, insert</i> —	3
	The chief executive, authorised officers, prescribed entities and service providers	4 5
Clause 56	Amendment of s 159G (Chief executive’s responsibilities)	6
	Section 159G(1)(a) and (b), ‘service providers’—	7
	<i>omit, insert</i> —	8
	the chief executive, authorised officers, prescribed entities and service providers	9 10
Clause 57	Amendment of s 159H (Chief executive may ask particular prescribed entities to provide a service)	11
	(1) Section 159H, heading, ‘prescribed’—	12
	<i>omit.</i>	13
	(2) Section 159H(1), (3) and (4), ‘prescribed’—	14
	<i>omit.</i>	15
	(3) Section 159H(2), ‘a prescribed’—	16
	<i>omit, insert</i> —	17
	an	18 19
Clause 58	Amendment of s 159J (Purpose)	20
	Section 159J(2)(a)—	21
	<i>omit, insert</i> —	22
	(a) the sharing of information under part 4 between members of the system; and	23 24

Clause 59	Amendment of s 159K (Members)	1
	(1) Section 159K(a)(v)—	2
	<i>omit.</i>	3
	(2) Section 159K(b), after ‘other’—	4
	<i>insert—</i>	5
	prescribed entities or	6
Clause 60	Amendment of s 159L (Responsibilities of the core members)	7
	(1) Section 159L(b)(i), ‘relevant’—	8
	<i>omit.</i>	9
	(2) Section 159L(e), after ‘other’—	10
	<i>insert—</i>	11
	prescribed entities or	12
		13
Clause 61	Replacement of ch 5A, pt 4, hdg (Information exchange)	14
	Chapter 5A, part 4, heading—	15
	<i>omit, insert—</i>	16
	Part 4	
	Information sharing	17
Clause 62	Replacement of s 159M (Particular prescribed entities giving and receiving relevant information)	18
	Section 159M—	19
	<i>omit, insert—</i>	20
	159M Definitions for part	21
	In this part—	22
	<i>prescribed entity</i> means each of the following	23
	entities—	24
		25

[s 62]

- (a) the chief executive of a department that is
mainly responsible for any of the following
matters—
- (i) adult corrective services;
 - (ii) community services;
 - (iii) disability services;
 - (iv) education;
 - (v) housing services;
 - (vi) public health;
- (b) the police commissioner;
- (c) the chief executive officer of Mater
Misericordiae Ltd (ACN 096 708 922);
- (d) a health service chief executive within the
meaning of the *Hospital and Health Boards
Act 2011*;
- (e) the principal of an accredited school under
the *Education (Accreditation of Non-State
Schools) Act 2001*;
- (f) a specialist service provider;
- (g) the chief executive of another entity that—
- (i) provides a service to children or
families; and
 - (ii) is prescribed by regulation.
- service provider*** means—
- (a) a person providing a service to children or
families; or
 - (b) a licensee; or
 - (c) an independent Aboriginal or Torres Strait
Islander entity for an Aboriginal or Torres
Strait Islander child.
- specialist service provider*** means a

-
- non-government entity, other than a licensee or an independent Aboriginal or Torres Strait Islander entity for an Aboriginal or Torres Strait Islander child, funded by the State or the Commonwealth to provide a service to—
- (a) a relevant child; or
 - (b) the family of a relevant child.

159MA Sharing information—reporting suspicion to chief executive

- A prescribed entity or service provider (each a *holder*) may give a prescribed entity or service provider (each a *recipient*) information if the holder reasonably believes the information may help the recipient—
- (a) decide whether information about suspected harm or risk of harm to a child should be given to the chief executive; or
 - (b) decide whether information about an unborn child who may need protection after birth should be given to the chief executive.

159MB Sharing information—assessment or investigation

- (1) A prescribed entity or service provider (each a *holder*) may give the chief executive or an authorised officer (each a *recipient*) information if the holder reasonably believes the information may help the recipient—
- (a) investigate an allegation of harm or risk of harm to a child or assess a child’s need for protection; or
 - (b) take action, or decide whether the recipient reasonably suspects a child is in need of protection, under section 14; or

[s 62]

- (c) investigate or assess, before the birth of a child, the likelihood that the child will need protection after the child is born. 1
2
3
- (2) The chief executive or an authorised officer (each also a *holder*) may give a prescribed entity or a service provider information (each also a *recipient*) if the holder reasonably believes giving the information may help the recipient decide whether to give the holder information under subsection (1). 4
5
6
7
8
9
10
- 159MC Sharing information—assessing care needs and planning services** 11
12
- (1) A prescribed entity or service provider (each a *holder*) may give the chief executive or an authorised officer information if the holder reasonably believes the information may help the chief executive or authorised officer— 13
14
15
16
17
- (a) develop, or assess the effectiveness of, a child’s case plan; or 18
19
- (b) assess or respond to the health, educational or care needs of a relevant child; or 20
21
- (c) otherwise make plans or decisions relating to, or provide services to, a relevant child or the child’s family; or 22
23
24
- (d) offer help and support to a pregnant woman under section 21A. 25
26
- (2) The chief executive, an authorised officer or a prescribed entity (each also a *holder*) may give a prescribed entity or a service provider (each a *recipient*) information if the holder reasonably believes the information may help the recipient— 27
28
29
30
31
- (a) participate in case planning; or 32

-
- (b) assess or respond to the health, educational or care needs of a child in need of protection; or
 - (c) otherwise make plans or decisions relating to, or provide services to, a child in need of protection or the child's family; or
 - (d) help the chief executive offer help and support to a pregnant woman under section 21A.
- (3) A service provider may give a prescribed entity information if the service provider reasonably believes the information may help the prescribed entity do a thing mentioned in subsection (2)(a) to (d).

159MD Sharing information—decreasing likelihood of child becoming in need of protection

- (1) The chief executive, an authorised officer or a prescribed entity (each a *holder*) may give a prescribed entity or a service provider (each a *recipient*) information if the holder reasonably believes the information may help the recipient—
 - (a) assess or respond to the health, educational or care needs of a child to decrease the likelihood of the child becoming a child in need of protection; or
 - (b) otherwise make plans or decisions relating to, or provide or offer to provide services to, a child or the child's family to decrease the likelihood of the child becoming a child in need of protection.
- (2) A service provider may give a prescribed entity information if the service provider reasonably believes the information may help the prescribed entity do a thing mentioned in subsection (1)(a) or (b).

[s 63]

159ME Sharing information—facilitating participation of child or child’s family	1 2
(1) The chief executive or an authorised officer (each a <i>holder</i>) may give an independent Aboriginal or Torres Strait Islander entity for an Aboriginal or Torres Strait Islander child information if the holder reasonably believes the information may help the independent Aboriginal or Torres Strait Islander entity—	3 4 5 6 7 8 9
(a) facilitate the participation of the child or the child’s family in making plans or decisions relating to the child or the child’s family; or	10 11 12
(b) provide, or offer to provide, services to the child or the child’s family.	13 14
(2) An independent Aboriginal or Torres Strait Islander entity for an Aboriginal or Torres Strait Islander child may give the chief executive or an authorised officer (each a <i>recipient</i>) information about the child if the independent Aboriginal or Torres Strait Islander entity reasonably believes the information may help—	15 16 17 18 19 20 21
(a) the child or the child’s family participate in making plans or decisions relating to the child or the child’s family; or	22 23 24
(b) the chief executive provide, or offer to provide, services to the child or the child’s family.	25 26 27

159MF Facts or opinions may be shared	28
Information that may be given to an entity under this part may be comprised of facts or opinions.	29 30

Clause 63 Amendment of s 159N (Information requirement made by chief executive or authorised officer)	31 32
(1) Section 159N(1) and (2)—	33

<i>omit, insert—</i>	1
(1) The chief executive or an authorised officer may ask any of the following entities for stated information, about a child or another person or an unborn child, in the entity’s possession or control—	2 3 4 5 6
(a) the public guardian;	7
(b) a prescribed entity;	8
(c) a licensee;	9
(d) the person in charge of a student hostel.	10
(1A) For subsection (1), the stated information must be information the chief executive or authorised officer reasonably considers relevant for the performance of a function or exercise of a power under this Act.	11 12 13 14 15
(2) The entity must comply with the request to the extent it relates to information in the entity’s possession or control.	16 17 18
(2A) For subsection (2), information is not taken to be in the entity’s control merely because of an agreement between the entity and another entity under which the other entity must give the information to the entity.	19 20 21 22 23
(2) Section 159N(3), ‘relevant information if the prescribed’—	24
<i>omit, insert—</i>	25
information if the	26
(3) Section 159N(4), ‘subsection (1)’—	27
<i>omit, insert—</i>	28
subsection (2)	29

Clause 64	Insertion of new s 159NA	30
	Chapter 5A, part 4—	31

[s 65]

insert—

1

159NA Limits on information that may be shared

2

Despite sections 159MA to 159N, information
may not be shared under this part to the extent it
relates to a conviction included in a person's
criminal history—

3

4

5

6

(a) for which the rehabilitation period under the
Criminal Law (Rehabilitation of Offenders)
Act 1986 has expired under that Act; and

7

8

9

(b) that is not revived as prescribed by section
11 of that Act.

10

11

**Clause 65 Amendment of s 159O (Release of information by a health
services designated person)**

12

13

Section 159O(3), 'relevant'—

14

omit.

15

Clause 66 Amendment of s 159R (Interaction with other laws)

16

(1) Section 159R(1), 'relevant'—

17

omit.

18

(2) Section 159R—

19

insert—

20

(3) However, disclosure of information under this
chapter does not waive, or otherwise affect, a
privilege a person may claim in relation to the
information under another Act or law.

21

22

23

24

Clause 67 Amendment of s 182 (Evidentiary provisions)

25

Section 182(4)(h)—

26

omit, insert—

27

	(h) a stated entity is an independent Aboriginal or Torres Strait Islander entity for a particular Aboriginal or Torres Strait Islander child;	1 2 3 4
Clause 68	Amendment of s 187 (Confidentiality of information obtained by persons involved in administration of Act)	5 6
	(1) Section 187(1)(a)(xi)—	7
	<i>omit, insert—</i>	8
	(xi) an independent Aboriginal or Torres Strait Islander entity for an Aboriginal or Torres Strait Islander child, or a member of the entity; or	9 10 11 12
	(xii) a service provider, or person engaged by a service provider, performing functions under or in relation to chapter 5A, part 4; or	13 14 15
	(xiii) a prescribed delegate for an Aboriginal or Torres Strait Islander child; or	16 17
	(xiv) a person given information about a child by the chief executive under section 148BI; or	18 19
	(xv) a person allowed to view a document or information under section 113; and	20 21
	(2) Section 187(3)(c)(iii), ‘section 159M’—	22
	<i>omit, insert—</i>	23
	chapter 5A, part 4	24
	(3) Section 187(4)—	25
	<i>insert—</i>	26
	<i>Note—</i>	27
	For the disclosure of information that is about the person and a third party, see section 188C.	28 29
	(4) Section 187(6)—	30
	<i>insert—</i>	31

[s 69]

	<i>recognised entity</i> means a recognised entity under this Act before the commencement of the <i>Child Protection Reform Amendment Act 2017</i> , section 78.	1 2 3 4
Clause 69	Amendment of s 188 (Confidentiality of information given by persons involved in administration of Act to other persons)	5 6 7
	(1) Section 188(1), ‘another prescribed’— <i>omit, insert</i> — a prescribed	8 9 10
	(2) Section 188(3)(a), ‘section 189B’— <i>omit, insert</i> — section 188C, 188D or 189B	11 12 13
Clause 70	Amendment of s 188B (Disclosure of information to a child’s family group)	14 15
	Section 188B(4)— <i>omit.</i>	16 17
Clause 71	Insertion of new ss 188C–188E	18
	After section 188B— <i>insert</i> —	19 20
	188C Chief executive may give information about third parties	21 22
	(1) This section applies to information, in the chief executive’s possession or control, that is—	23 24
	(a) about a relevant person; and	25
	(b) also about someone else.	26
	(2) Subject to section 186, the chief executive may disclose the information to the relevant person.	27 28

<i>Note—</i>	1
For the disclosure of information that is only about the relevant person, see section 187(4).	2 3
(3) However, the chief executive must not disclose the information to the relevant person if—	4 5
(a) the chief executive reasonably believes the disclosure of the information is likely to adversely affect the safety or psychological or emotional wellbeing of any person; or	6 7 8 9
(b) the information—	10
(i) is the subject of legal professional privilege; or	11 12
(ii) identifies, or is likely to identify, its source and the identification of the source is likely to prejudice the achievement of the purpose of this Act; or	13 14 15 16 17
(iii) is a record of confidential therapeutic counselling, and the person to whom it relates does not consent to its disclosure; or	18 19 20 21
(c) the disclosure of the information could reasonably be expected to—	22 23
(i) prejudice the investigation of a contravention or possible contravention of a law in a particular case; or	24 25 26
(ii) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of a law; or	27 28 29 30 31
(iii) enable the existence or identity of a confidential source of information, in relation to the enforcement or	32 33 34

[s 71]

- administration of a law, to be 1
ascertained. 2
- (4) The chief executive may authorise the relevant 3
person to use or disclose the information, or give 4
access to the information, to someone else. 5
- Note—* 6
- Under section 188, the person must not use, disclose or 7
give access to the information unless it is authorised by 8
the chief executive under this section. 9
- (5) The chief executive may disclose the information 10
subject to any other conditions the chief executive 11
considers appropriate. 12
- (6) In this section— 13
- relevant person*** means— 14
- (a) a child in care; or 15
- (b) a person who was in care under this Act or 16
the repealed *Children’s Services Act 1965*; 17
or 18
- (c) a person who was a State child under the 19
repealed *State Children Act 1911*. 20
- 188D Chief executive may give information about 21
deceased child 22**
- (1) This section applies to information about a child 23
who has died while under a child protection order. 24
- (2) Subject to section 186, the chief executive may 25
disclose the information to a parent of the child or 26
another person acting on behalf of the child. 27
- (3) However, the chief executive must not disclose 28
the information if— 29
- (a) the chief executive reasonably believes the 30
disclosure of the information is likely to 31
adversely affect the safety or psychological 32
or emotional wellbeing of any person; or 33

-
- (b) the information— 1
- (i) is the subject of legal professional privilege; or 2
3
 - (ii) identifies, or is likely to identify, its source and the identification of the source is likely to prejudice the achievement of the purpose of this Act; or 4
5
6
7
8
 - (iii) is a record of confidential therapeutic counselling, and the person to whom it relates does not consent to its disclosure; or 9
10
11
12
- (c) the disclosure of the information could reasonably be expected to— 13
14
- (i) prejudice the investigation of a contravention or possible contravention of a law in a particular case; or 15
16
17
 - (ii) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of a law; or 18
19
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21
22
 - (iii) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of a law, to be ascertained. 23
24
25
26
27
- (4) The chief executive may authorise the person to use or disclose the information, or give access to the information, to someone else. 28
29
30
- Note—* 31
- Under section 188, the person must not use, disclose or give access to the information unless it is authorised by the chief executive under this section. 32
33
34
- (5) The chief executive may disclose the information 35
-

[s 71]

subject to any other conditions the chief executive
considers appropriate. 1
2

**188E Chief executive must give police
commissioner information about deceased
child** 3
4
5

- (1) This section applies if— 6
- (a) an investigation in relation to the death of a 7
child is being carried out by a police officer; 8
and 9
 - (b) the police commissioner, by written notice, 10
asks the chief executive to give the police 11
commissioner stated information about the 12
child. 13
- (2) The chief executive must comply with the 14
request. 15
- (3) The chief executive’s obligation to comply with 16
the request applies only to information in the chief 17
executive’s possession. 18
- (4) The giving of the information is authorised 19
despite any Act or law, including a law imposing 20
an obligation to maintain confidentiality about the 21
information. 22
- (5) However, if the information includes notifier 23
details the chief executive must notify the police 24
commissioner of that fact when complying with 25
the request. 26
- (6) In this section— 27
- notifier details* means information about the 28
identity of a person mentioned in section 186(1) 29
who notifies the chief executive, an authorised 30
officer or a police officer that the person suspects 31
a matter mentioned in section 186(1)(a) or (b). 32

Clause 72	Insertion of new s 189AB	1
	After section 189AA—	2
	<i>insert—</i>	3
	189AB Giving information to corresponding child welfare authorities	4
		5
	(1) The chief executive may, under arrangements made with a corresponding chief executive of another State or New Zealand, give the corresponding chief executive relevant information if the chief executive reasonably believes the corresponding chief executive requires the information for the purposes of performing a function under a child welfare law of the other State or New Zealand.	6 7 8 9 10 11 12 13 14
	(2) However, subsection (1) does not apply to information about the identity of a person mentioned in section 186(1) who notifies the chief executive, an authorised officer or a police officer that the person suspects a matter mentioned in section 186(1)(a) or (b).	15 16 17 18 19 20
	(3) Section 188 does not apply to information given under subsection (1).	21 22
	(4) In this section—	23
	<i>corresponding chief executive</i> , of another State or New Zealand, means the chief executive of the department of the State or New Zealand administering a child welfare law of the State or New Zealand.	24 25 26 27 28
	<i>relevant information</i> means information about a person or an unborn child acquired in the administration of this Act.	29 30 31
Clause 73	Replacement of s 189B (Research)	32
	Section 189B—	33

[s 73]

omit, insert—

189B Access to information for prescribed research

(1) For the purpose of allowing a person to carry out prescribed research, the chief executive may authorise the person to have access to information relating to, or acquired in, the administration of this Act, including information from an officer of the department or a client.

(2) The chief executive may authorise the person to have access to the information only if the chief executive is satisfied—

(a) the information is reasonably necessary for the prescribed research; and

(b) the information will not be published in a way that could reasonably be expected to result in the identification of any of the individuals it relates to.

Example of details that could reasonably be expected to identify individuals—

Publishing the name of a small town or community in which a high profile case occurred could reasonably be expected to lead to identification of the individuals involved, even if the individuals' names are not published.

(3) The chief executive may contact, or authorise the person to contact, a client to ask if they would like to participate in the research being carried out by the person.

(4) The chief executive may authorise the person to use or disclose the information, or give access to the information, to someone else.

Note—

Under section 188, the person must not use, disclose or give access to the information unless it is authorised by the chief executive under this section.

-
- (5) The chief executive may impose any other conditions on the authorisation the chief executive considers appropriate. 1
2
3
- (6) The person must comply with any condition imposed by the chief executive unless the person has a reasonable excuse. 4
5
6
Maximum penalty—100 penalty units. 7
- (7) In this section— 8
client means any of the following persons— 9
- (a) a child to whom this Act applies; 10
- (b) a person who was a child to whom this Act applied; 11
12
- (c) a member of the family of a person mentioned in paragraph (a) or (b); 13
14
- (d) an approved carer; 15
- (e) a person who was an approved carer. 16
- prescribed research* means research carried out for any of the following purposes— 17
18
- (a) a purpose the chief executive is satisfied is consistent with a function of the chief executive under section 7; 19
20
21
- (b) evaluating interventions and services, or designing or projecting current and future interventions and services, in relation to children who are, or who have been, in need of protection or who may become in need of protection; 22
23
24
25
26
27
- (c) deciding whether a department should make a payment under a funding arrangement that requires outcomes to be monitored, verified or evaluated. 28
29
30
31

[s 74]

Clause 74	Amendment of s 193 (Restrictions on reporting certain court proceedings)	1 2
	(1) Section 193(1) to (3)—	3
	<i>omit, insert—</i>	4
	(1) If a child is, or is reasonably likely to be, a witness in a proceeding before a court or justice for an offence of a sexual nature or an offence of a violent nature, a person must not, in a report of the proceeding or a related proceeding, knowingly disclose identifying information about the child unless a court or justice orders that the person may disclose the information.	5 6 7 8 9 10 11 12
	(2) If a child is, or is reasonably likely to be, a witness in a proceeding before a court or justice for an offence other than an offence of a sexual nature or an offence of a violent nature, the court or justice may order that a report of the proceeding or a related proceeding must not disclose identifying information about the child other than information stated in the order.	13 14 15 16 17 18 19 20
	(3) A report of a proceeding for an offence of a sexual nature to which subsection (1) relates, or a related proceeding, must not disclose the name of an authorised officer or police officer involved in the proceeding unless the court or justice orders the officer's name to be included in the report.	21 22 23 24 25 26
	(3A) A court or justice may order that a report of any of the following proceedings must not disclose the name of an authorised officer or police officer involved in the proceeding—	27 28 29 30
	(a) a proceeding for an offence of a violent nature to which subsection (1) relates;	31 32
	(b) a proceeding to which subsection (2) relates;	33
	(c) a related proceeding for a proceeding mentioned in paragraph (a) or (b).	34 35

-
- (3B) For subsection (1), a person knowingly discloses identifying information about the child in a report of the proceeding if, when the person discloses the identifying information about the child, the person knows, or ought reasonably to know, that the child is, or is likely to be, a witness in the proceeding.
- (2) Section 193(4), after ‘offence’—
insert—
, unless the person has a reasonable excuse
- (3) Section 193—
insert—
- (5A) A court or justice may make an order under subsection (1), (3) or (3A)—
- (a) on its own initiative; or
 - (b) on application of a person.
- (4) Section 193(6), definition *proceeding*—
omit.
- (5) Section 193(6)—
insert—
- offence of a sexual nature*** means an offence defined in the Criminal Code, chapter 22, 22A or 32.
- offence of a violent nature*** means an offence against any of the following provisions of the Criminal Code—
- (a) a provision of chapter 28 or 28A;
 - (b) a provision of chapter 29, other than section 317A, 318, 319, 321, 321A, 327, 329, 330, 333 or 334;
 - (c) section 335, 339, 340, 354, 354A or 355;

[s 75]

	(d) a provision of chapter 33A;	1
	(e) section 363, 363A or 364.	2
	<i>related proceeding</i> , for a proceeding on a charge of an offence, includes the following proceedings related to the charge of the offence, whether or not the child is, or is likely to be, a witness in the related proceeding—	3 4 5 6 7
	(a) a bail proceeding;	8
	(b) a committal proceeding.	9
(6)	Section 193(6), definition <i>identifying information</i> , paragraph (b)(i), after ‘name,’—	10 11
	<i>insert</i> —	12
	age,	13
Clause 75	Amendment of s 194 (Publication of information identifying child victim)	14 15
	Section 194(2)(d)—	16
	<i>insert</i> —	17
	<i>Note</i> —	18
	Also, see section 188A about the use of confidential information by police.	19 20
Clause 76	Amendment of s 205 (Meaning of <i>parent</i> for ch 7)	21
	Section 205, definition <i>parent</i> —	22
	<i>insert</i> —	23
	(e) a permanent guardian of the child.	24
Clause 77	Amendment of s 206 (Orders that may be transferred)	25
	Section 206(b)—	26
	<i>omit, insert</i> —	27

	(b) a long-term guardianship order granting long-term guardianship of a child to someone other than the chief executive; or	1 2 3
	(c) a permanent care order.	4
Clause 78	Amendment of s 246DA (Review panel may obtain further information)	5 6
	(1) Section 246DA(4)— <i>omit, insert—</i>	7 8
	(4) If the chief executive asks the public guardian, a prescribed entity, a licensee or the person in charge of a student hostel for information, section 159N applies to the request as if the requested information were information requested under that section.	9 10 11 12 13 14
	(2) Section 246DA(5)— <i>omit.</i>	15 16
Clause 79	Omission of s 246I (Recognised entities)	17
	Section 246I— <i>omit.</i>	18 19
Clause 80	Insertion of new ch 9, pt 11	20
	Chapter 9— <i>insert—</i>	21 22
	Part 11	Transitional provisions
		for Child Protection
		Reform Amendment
		Act 2017
		23 24 25 26

[s 81]

274 Applications for temporary custody orders	1
(1) This section applies to an application for a temporary custody order made, but not decided, before the commencement.	2 3 4
(2) For deciding the application, previous sections 51AB and 51AE apply in relation to the application.	5 6 7
(3) In this section— <i>previous</i> , in relation to a section, means the section as in force from time to time before the commencement.	8 9 10 11

275 Existing case plans and reviews	12
(1) This section applies to a case plan for a child that is in effect immediately before the commencement.	13 14 15
(2) Section 51B(2) and (3) does not apply to the case plan until the first review of the plan under section 51V that starts after the commencement.	16 17 18

Clause 81	Amendment of sch 2 (Reviewable decisions and aggrieved persons)	19 20
(1)	Schedule 2, entry for refusing a request to review a case plan under section 51VA, after ‘section 51VA’— <i>insert</i> — or 51VB	21 22 23 24
(2)	Schedule 2, after entry for directing a parent in relation to a supervision matter stated in a child protection order (section 78)— <i>insert</i> —	25 26 27 28

refusing to deal with a complaint about a permanent guardian (section 80D(1)) the person making the complaint

Clause 82	Amendment of sch 3 (Dictionary)	1
(1)	Schedule 3, definitions <i>family group</i> , <i>prescribed entity</i> , <i>recognised entity</i> , <i>relevant information</i> , <i>service provider</i> and <i>student hostel</i> —	2 3 4
	<i>omit.</i>	5
(2)	Schedule 3—	6
	<i>insert</i> —	7
	<i>appropriate Aboriginal or Torres Strait Islander entity</i> , for chapter 4, part 2A, see section 148BA.	8 9
	<i>child placement principles</i> , in relation to an Aboriginal or Torres Strait Islander child, see section 5C(2).	10 11 12
	<i>family group</i> , of a child, includes—	13
	(a) members of the child’s extended family; and	14
	(b) if the child belongs to a clan, tribe or similar group—members of that group; and	15 16
	(c) anyone else recognised by persons mentioned in paragraph (a) or (b) as belonging to the child’s family.	17 18 19
	<i>independent Aboriginal or Torres Strait Islander entity</i> , for an Aboriginal or Torres Strait Islander child, see section 6(1).	20 21 22
	<i>long-term guardianship order</i> see section 61(f).	23
	<i>permanency</i> , for a child, see section 5BA(3).	24
	<i>permanent care order</i> see section 61(g).	25
	<i>permanent guardian</i> , of a child, means a person who is granted long-term guardianship of the	26 27

[s 82]

child under a permanent care order.	1
<i>Note—</i>	2
See section 61(g).	3
<i>prescribed delegate</i> , for an Aboriginal or Torres Strait Islander child, for chapter 4, part 2A, see section 148BA.	4 5 6
<i>prescribed entity</i> see section 159M.	7
<i>service provider</i> see section 159M.	8
<i>significant decision</i> , about an Aboriginal or Torres Strait Islander child, means a decision likely to have a significant impact on the child's life.	9 10 11 12
<i>Examples of decisions relating to an Aboriginal or Torres Strait Islander child that may be significant decisions—</i>	13 14
• a decision made in the course of investigating an allegation of harm to the child	15 16
• a decision about placing the child in care	17
• a decision by the litigation director about whether or not to apply for a child protection order for the child	18 19 20
<i>specialist service provider</i> , for chapter 5A, part 4, see section 159M.	21 22
<i>student hostel</i> means—	23
(a) a student hostel established under the <i>Education (General Provisions) Act 2006</i> , section 15(b); or	24 25 26
(b) a student hostel operated with an allowance paid under the <i>Education (General Provisions) Act 2006</i> , section 368(1)(e).	27 28 29
(3) Schedule 3, definition <i>long-term guardian</i> , 'child protection order'—	30 31
<i>omit, insert—</i>	32
long-term guardianship order	33

-
- (4) Schedule 3, definition *member*, paragraph 2, ‘a recognised entity’— 1
2
omit, insert— 3
an independent Aboriginal or Torres Strait 4
Islander entity for an Aboriginal or Torres Strait 5
Islander child 6
- (5) Schedule 3, definition *suitable person*— 7
insert— 8
(k) for being an independent Aboriginal or 9
Torres Strait Islander entity for an 10
Aboriginal or Torres Strait Islander child—a 11
person who is a suitable person under a 12
regulation. 13

Part 3 **Amendment of Director of Child Protection Litigation Act 2016** 14 15

Clause 83 **Act amended** 16
This part amends the *Director of Child Protection Litigation Act 2016*. 17
18

Clause 84 **Amendment of s 5 (Paramount principle)** 19
Section 5, after ‘of a child’— 20
insert— 21
, both through childhood and for the rest of his or 22
her life, 23

Clause 85 **Amendment of s 6 (Other general principles)** 24
(1) Section 6(1)— 25
insert— 26

[s 86]

	(da) each principle stated in the <i>Child Protection Act 1999</i> , section 5BA for achieving permanency for a child, to the extent the principle is capable of being applied to a person performing a function or exercising a power under this Act;	1 2 3 4 5 6
(2)	Section 6(1)(da) and (e)— <i>renumber</i> as section 6(1)(e) and (f).	7 8
(3)	Section 6— <i>insert</i> —	9 10
	(4) In this section— <i>permanency</i> , for a child, see the <i>Child Protection Act 1999</i> , section 5BA(3).	11 12 13
Clause 86	Amendment of s 15 (When chief executive (child safety) must refer child protection matter)	14 15
(1)	Section 15(1)— <i>insert</i> —	16 17
	(c) if—	18
	(i) a permanent care order is in force for the child; and	19 20
	(ii) the chief executive (child safety) is satisfied—	21 22
	(A) the child’s permanent guardian under the order is not complying, in a significant way, with the permanent guardian’s obligations under the <i>Child Protection Act 1999</i> , section 79A; and	23 24 25 26 27 28
	(B) the order is no longer appropriate and desirable for promoting the child’s safety, wellbeing and best interests.	29 30 31 32

-
- (2) Section 15(3)— 1
insert— 2
permanent care order see the *Child Protection Act 1999*, section 61(g). 3
permanent guardian, of a child, see the *Child Protection Act 1999*, schedule 3. 4
5
6

- Clause 87** **Amendment of s 16 (Requirements for referral of child protection matter)** 7
8
- (1) Section 16(1)— 9
insert— 10
- (ba) for a matter mentioned in section 15(1)(c), a 11
 brief of evidence about the child that 12
 includes the reasons why the chief executive 13
 (child safety) is satisfied— 14
- (i) the child’s permanent guardian is not 15
 complying, in a significant way, with 16
 the permanent guardian’s obligations 17
 under the *Child Protection Act 1999*, 18
 section 79A; and 19
- (ii) the order is no longer appropriate and 20
 desirable for promoting the child’s 21
 safety, wellbeing and best interests; 22
- (2) Section 16(1)(c), ‘(a) or (b)’— 23
omit, insert— 24
 (a), (b) or (c) 25
- (3) Section 16(1)(ba) to (d)— 26
renumber as section 16(1)(c) to (e). 27