



1 October 2021

Committee Secretary
Community Support & Services Committee
Parliament House
George Street
Brisbane Qld, 4001

Via email CSSC@parliament.qld.gov.au

Dear Chairperson & Members,

Thank you for the opportunity to present to you our submission on the Child Protection Reform and Other Legislation Amendment Bill 2021 (Bill) that was introduced into the Queensland Parliament by the Hon Leanne Linard MP on 15 September 2021.

As you will see in our submission, it is critical that legislative frameworks articulate a strong commitment to ensuring that Aboriginal and Torres Strait Islander children and young people, and their families, are able to exercise their rights, including their right to grow up safely in culture.

I am encouraged by your commitment to engage with the community to ensure that the Queensland government commitment to self-determination for Aboriginal and Torres Strait Islander children and families within the child protection system can be strengthened.

I would welcome the opportunity to discuss this submission with you in further detail. Please do not hesitate to contact my office on [REDACTED].

Yours sincerely,

A handwritten signature in black ink that reads 'CButler'.

CANDICE BUTLER
Acting Chief Executive Officer



ChildProtectionPeak

**Queensland Aboriginal and Torres Strait Islander
Child Protection Peak Limited**

Submission to Community Support and Services
Committee re: Child Protection Reform and Other
Legislation Amendment Bill



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QATSICPP Submission: Child Protection Reform and Other Legislation Amendment Bill

Who we are

The Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP) welcomes the opportunity to provide a response to the Child Protection Reform and Other Legislation Amendment Bill 2021 (the Bill) on behalf of our members.

QATSICPP is the non-Government Queensland Aboriginal and Torres Strait Islander child protection peak body promoting the rights, safety and wellbeing of Aboriginal and Torres Strait Islander children, young people and their families through effective partnerships and strategic collaborations. Our membership includes 35 Aboriginal and Torres Strait Islander community-controlled organisations across Queensland. We provide leadership in advocacy and the development of policies, strategies and programs to resource, support and strengthen the capacity and capability of Aboriginal and Torres Strait Islander child protection agencies.

Our vision is that all Aboriginal and Torres Strait Islander children and young people are physically, emotionally and spiritually strong, live in safe and caring environment within their own families and communities, and are afforded the same life opportunities available to all children and young people to achieve their full potential.

Executive Summary

It is QATSICPP's position that a legislative framework that articulates a strong commitment to the Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP) across the continuum of child protection is crucial to ensuring the right policy, practice and resourcing is implemented to deliver the change required to eliminate over-representation.

The ATSICPP is a key safeguard for the rights of Aboriginal and Torres Strait Islander children who are involved with, or at risk of entering, the child protection system, recognising the profound importance of connections to family, community, culture and country. The national peak body for Aboriginal and Torres Strait Islander Children, SNAICC, highlights in their resource, that systemic implementation of the principle needs to occur across a range of areas including legislation.¹

Put simply without a clear accountability mechanism in legislation to ensure that the ATSICPP is adhered to and implemented to the level of active efforts, we will struggle to have the rights of Aboriginal and Torres Strait Islander children upheld to grow up safely in their family and community and be proud of who they are.

In a risk averse, complex and contested space such as child protection, the role of legislation in influencing other, more operational system elements cannot be underestimated. The proposed bill represents a missed opportunity in terms of strengthening adherence to the ATSICPP. These concerns primarily relate to three broad areas:

- Cultural rights
- Cultural connection
- Cultural identity

Our submission therefore highlights the following critical concerns across the above areas:

1. The need to provide more detail on what 'active efforts' to implement the ATSICPP look like

¹ SNAICC 20



2. The need to strengthen the role of 'best interests of the child' principles in the application of the *Child Protection Act 1999 QLD* (as amended) (the Act)
3. The need to strengthen the reference to family support in the amendments to the purpose of the Act
4. Lack of detail in the amendment relating to the 'Partnership' element of the ATSICPP
5. The need to strengthen the participation principle to ensure children and young are supported to have a voice in a culturally safe and appropriate way
6. The need for more culturally safe and appropriate ways for children and families to participate in review processes
7. The need for carers to be given cultural support plans for children coming into their care and be supported to take responsibility for their role in ensuring adherence to the ATSICPP
8. The need to ensure an accurate shared understanding of kinship care
9. The need for community controlled based support for pregnant women who may be at risk of entering the child protection system

Background

Currently Aboriginal and Torres Strait Islander children are tragically 44.3 percent of all children living in out-of-home care (OOHC) in Queensland, a rate of 8.9 times more likely than their non-Indigenous peers.²

Eliminating the over-representation of our children in the child protection system is a stated priority for the Queensland government, and to date some promising progress has been made in implementing the intergenerational strategy *Our Way* and its associated *Changing Tracks* action plans.³

In Queensland, Aboriginal and Torres Strait Islander community-controlled organisations are delivering Family Wellbeing and Family Participation services aimed at supporting our families to care safely for their children, and ensuring our children and families have a voice in decisions over their children's lives.

QATSICPP and our members have significant concern that the rights (particularly the cultural rights) of our children are often seen as discretionary and subject to available resources. This notion is supported by the Queensland Family and Child Commission (QFCC) in their recently released *Principle Focus* report:

*Children are rights holders. Their rights are inalienable and indivisible. The full enjoyment of their rights should not be limited at the discretion of duty bearers nor subject to constraints or the convenience of responsible parties, the system or its actors.*⁴

Clearly further reform across the system is needed to drive real change. Crucial to this reform is achieving much greater adherence to the ATSICPP and its five core elements: Prevention, Partnership, Placement, Participation and Connection.

Prior to the introduction of this Bill, QATSICPP has provided input and feedback on proposed amendments through various consultation processes, dating back to 2019. In our submission to *"Rethinking rights and regulation: towards a stronger framework for protecting children and supporting families"*, QATSICPP called for a number of reforms to the Act, including:

- Proposing that the five elements of the ATSICPP should be implemented to the standard of 'active efforts'
- Developing a broader purpose for the Act than solely the protection of children
- Providing further legislative guidance on the application of the best interests principle for Aboriginal and Torres Strait Islander children

² AIHW.(2021). Child protection Australia 2019-2020.

³ Queensland Government. (2017) A generational strategy for Aboriginal and Torres Strait Islander children and families

⁴ Queensland Family and Child Commission. (2021). Principle Focus



- The establishment of a dedicated Aboriginal and Torres Strait Islander Child Guardian or similar position to advocate and support Aboriginal and Torres Strait Islander children to participate in decisions impacting them, make complaints and seek a review of decisions
- Enhancing the commitment to the ATSICPP Prevention principle by introducing legislated minimum standards for the availability of quality, accessible and culturally safe services that promote family preservation and reunification prior to and during statutory child protection intervention
- Broadening the reference to the ATSICPP Partnership principle in the Act to ensure the involvement of Aboriginal and Torres Strait Islander people, community representatives and organisations, and external to the statutory agency, in policy and program development

Proposed Changes to the Bill

Below is a comprehensive outline of proposed changes and amendments to the Bill. A Summary of these changes can be found in Appendix One within a table for easy reference.

Active Efforts

QATSICPP is supportive of the proposed amendments outlined in Clause 12 of the Bill, to use language of 'making active efforts' rather than 'having regard' to the Aboriginal and Torres Strait Islander Child Placement Principle. QATSICPP also supports including a definition of active efforts.

However, we **strongly recommend** the definition be aligned with that of the *Indian Child Welfare Act* 1978 (as amended) from where the concept of 'active efforts' originates, and that further detail is provided about what constitutes active efforts. We propose stronger language be used at the start of 6AA of the Act, such as:

"In this section— active efforts, to **comply** with the Aboriginal and Torres Strait Islander child placement principle, means purposeful, thorough and timely efforts **intended primarily to maintain connection or reunite an Aboriginal or Torres Strait Islander child with his or her family.**"⁵

Given that 6AA only applies to the Chief Executive, the Director of Litigation and authorized officers, QATSICPP is significantly concerned that in the current Bill, the concept of 'active efforts' has not been also introduced to 6AB, which applies to decisions made by the Children's Court.

A key original intention within the ICWA was that 'active efforts' be provided when considering the removal of an Indian child, it is a significant oversight that within the current Bill, the introduction of the requirement for 'active efforts' to implement ATSICPP is not applied to decisions made by the courts, which make key decisions around child removal and placement.

To this end, QATSICPP proposes introducing a further change to 6AB (Clause 13 in the Bill), amending 6AB 2b to:

"whether active efforts have been made to apply the Aboriginal and Torres Strait Islander Child Placement Principle. If the decision involves the removal or placement of an Aboriginal and Torres Strait Islander child, the court must be satisfied that active efforts have been made to provide services and support to prevent the break-up of an Aboriginal and Torres Strait Islander family and that such efforts have proven unsuccessful"

It is important to note that the amendments in the Bill reflect the national priority agreed upon by Australia's Community Services Ministers in 2018 to "implement active efforts in jurisdictions to ensure **compliance** with all five elements of the Aboriginal and Torres Strait Islander Child Placement Principle".

⁵ United States Congress. (1978). Indian Child Welfare Act.



Given the continuing rates of significant over-representation of Aboriginal and Torres Strait Islander children and young people coming into out-of-home care in Queensland, more than reasonable efforts are required to ensure effective operation of the ATSICPP and to redress the structural inequity that continues to this day as a result of past and ongoing practices of colonisation and child removal.

Without a sufficient legislative definition of active efforts and direction for how this concept is applied and operationalized within Queensland's family and child support system, there is a risk that the ATSICPP will continue to be a relatively ineffective safeguard for the rights of Aboriginal and Torres Strait Islander children⁶.

To ensure the changes outlined in the Bill have their desired effect, the implementation of this legislation should involve a robust and ongoing awareness raising campaign with the Children's Court and other key decision makers about the meaningful application of active efforts to implement all parts of the ATSICPP across the child protection continuum.

A key consideration in the implementation of these legislative changes is also how Aboriginal and Torres Strait Islander cultural authority and views can be central to any evaluation of whether active efforts to implement the ATSICPP have been made.

Furthermore, QATSICPP recommends that the Community Support and Services Committee require a statutory report be delivered by Queensland Family and Child Commission annually, on whether the Department of Children, Youth Justice and Multicultural Affairs (DCYJMA) and the Children's Court have implemented the ATSICPP to the standard of active efforts. This should include provision by the DCYJMA for independent access to departmental data. To ensure objectivity and accountability this report should be presented directly to the Parliamentary Speaker and tabled in parliament.

Best interest of the child

QATSICPP supports the proposition to provide further legislative guidance on the application of the *best interests* principle for Aboriginal and Torres Strait Islander children. Research has identified that amongst the major barriers to implementation of the ATSICPP is poor practitioner understanding of cultural connection and support needs of children and failures to enable Aboriginal and Torres Strait Islander participation to determine a child's best interests.

QATSICPP is supportive of the intent of Clause 8 within the Bill to amend 5B of the Act, however, propose that language be adjusted from the current - "are relevant to making decisions relating to" - to the more clear and concise language of **"must be considered as relevant to"**.

Without this change to the Bill, QATSICPP is significantly concerned the compulsion to consider the cultural rights of our children in determining their best interest is considerably weakened, and children's connection to their culture is considered as optional, rather than critical.

Moreover, QATSICPP proposes that the Bill **further amend 5B** to reflect guidance provided by the United Nations Committee on the Rights of the Child on determining the best interests of an Aboriginal or Torres Strait Islander child, namely:

"When State authorities including legislative bodies seek to assess the best interests of an Indigenous child, they should consider the cultural rights of the Indigenous child and his or her need to exercise such rights collectively with members of their group. As regards to legislation, policies and programs that affect Indigenous children in general, the Indigenous community should be consulted and given an opportunity to participate in the process on how the best interests of Indigenous children in general can be decided in a culturally sensitive way."⁷

⁶ QFCC, 2021

⁷ United Nations Committee on the Rights of the Child. (2009). General Comment No.11, para 33.



Purpose of the Act

QATSI CPP supports developing a broader purpose for the Act than ‘the protection of children’ to one that encompasses children and young people’s wellbeing, and the goal of ensuring they remain cared for and protected by their families. Within this frame, it is critical that all agencies across the Queensland Government are invested in achieving the Act’s purpose.

QATSI CPP supports amendments that improve clarification of the purpose of the Act to recognise the role of supporting families.

However, we are concerned that the current wording of Clause 7 of the Bill, that families be supported ‘*to the extent that it is appropriate*’ unnecessarily undermines the notion, outlined in the recommendations of the Queensland Child Protection Commission of Inquiry, that protecting children and supporting families are not mutually exclusive purposes.

Limiting the purpose of the Act in this way unnecessarily limits the scope of the Act to drive resourcing and focus on family preservation; failing to recognize that *family connection is foundational to our children’s cultural rights*. QATSI CPP notes that similar legislation in other Australian jurisdictions, such as New South Wales and Victoria, does not include disclaimers such as “to the extent that is appropriate”. Therefore, QATSI CPP proposes omitting “*to the extent that is appropriate*” from the Clause 7 amendment, so that a stated purpose for the Act is simply “to support families caring for children”.

ATSI CPP Partnership Principle

QATSI CPP broadly supports the proposal in Clause 9 to improve legislated description of application of the partnership element of the ATSI CPP. The amendment makes clearer the types of activities Aboriginal and Torres Strait Islander people, community representatives and organisations are to participate in.

We suggest improving clarity in 5C (2b) (a) regarding significant decisions to ensure application is to the level of active efforts and not reliant solely upon family led decision making as a mechanism for achieving compliance.

The SNAICC resource “*The Aboriginal and Torres Strait Islander Child Placement Principle: A Guide to Support Implementation*” indicates active efforts in relation to this principle:

“In the context of the ATSI CPP partnership means ensuring the involvement of Aboriginal and Torres Strait Islander community representatives, external to the statutory agency, in all service design, delivery and individual child-protection case decision-making. At the individual level, this includes case decisions at intake, assessment, intervention, placement and care, and judicial decision-making processes”.⁸

Further clarity is needed in the Queensland system; QATSI CPP is aware of significant uncertainty amongst members and other stakeholders about what constitutes a ‘significant decision’ in the context of the ATSI CPP, indicating that more direction is required to ensure meaningful adherence.

In accordance, we recommend the following further amendment:

participate in—

- (a) significant decisions under this Act about Aboriginal or Torres Strait Islander children at intake, assessment, intervention, placement and care and judicial decision-making processes through a variety

⁸ SNAICC. (2019). *The Aboriginal and Torres Strait Islander Child Placement Principle: A Guide to Support Implementation* page 31



of mechanisms (including but not limited to family led decision making, and legal representation for children and families); and

- (b) decisions relating to the development and delivery of services, provided by the department, that—
- (i) support Aboriginal or Torres Strait Islander families; or
 - (ii) provide for the care or protection of Aboriginal or Torres Strait Islander children.

This proposal is aligned with the *Our Way* strategy and provides a framework for greater involvement by the community-controlled sector with potential to act as a legislative enabler to the *Closing the Gap* (CTG) Agreement (CTG) to which the Queensland government is a signatory.

Building the community-controlled sector is a key priority area in the CTG agreement, which pledges governments around Australia to:

- Commit to building strong Aboriginal and Torres Strait Islander community-controlled sectors and organisations in line with the strong sector elements.
- Include in annual reports information on action taken to strengthen the community-controlled sector.
- Implement measures to increase the proportion of services delivered by Aboriginal and Torres Strait Islander organisations.⁹

ATSICPP Prevention Principle

Prevention has been identified as the first element of the ATSICPP, recognising that protecting the rights of children to be brought up in their families requires that they have access to a full range of culturally safe and quality universal and targeted support services.

Prevention is critically important for minimising involvement in the child protection system and upholding the rights of Aboriginal and Torres Strait Islander children to grow up within their own family and community.

The Prevention element encompasses:

- primary prevention activities that improve the health and wellbeing of children, families, and communities
- early intervention or secondary level activities, that provide family support services for children and families who are experiencing vulnerabilities or facing personal or social barriers in meeting their needs
- tertiary or statutory intervention for children and families where maltreatment has been identified and aims to prevent it re-occurring and promote preservation and restoration/reunification.

In its 2019 submission to the *Rethinking rights and regulation: towards a stronger framework for protecting children and supporting families discussion paper*, QATSICPP expressed the view that the meaning of prevention currently adopted is too narrow.

QATSICPP considers that the current wording of the Prevention Principle at Section 5C (2)(a) of the Act excludes an important aspect, being the entitlement to access the services and supports that families require to enable children to be raised safely and thrive at home.

The narrow focus of the current description in the Act is incongruent with both the policy intent and the understanding of the Prevention Element expressed in the *National Framework for Protecting Australia's Children* (Action Plans 3 and 4), the Government's *Our Way Strategy*, and importantly the publications and practice resources developed by SNAICC and QATSICPP that currently guide implementation in Queensland and nationally.

⁹ National Agreement on Closing the Gap. (2020).



QATSICPP contends that support service provision must be expanded to achieve better outcomes for Queensland's Aboriginal and Torres Strait Islander children and that the Act should create accountability for the availability of culturally safe and accessible services for Aboriginal and Torres Strait Islander families delivered by Aboriginal and Torres Strait Islander agencies.

To this end, QATSICPP proposes that further to the amendment of the Partnership element of the ATSICPP outlined in the previous section of this submission, that the description Prevention element of the ATSICPP at 5C (2) (a), be changed to:

- (a) the principle (the ***prevention principle***) that a child has the right to be brought up within the child's own family and community, *and that families are entitled to access appropriate services and supports that enable children to be raised safely at home.*

Culturally safe participation

QATSICPP broadly supports the proposals contained within Clause 11 of the Bill to outline the principles for children's participation in decisions that affect them. But we restate our position provided to DCYJMA previously, that Aboriginal and Torres Islander children and young people need to be provided opportunities to participate in decisions and express their views in a culturally safe way, including in a way that respects Aboriginal and Torres Strait Islander cultural protocols, ensures children can access cultural supports to aid participation, including access to interpreters to enable them to express themselves in language.

To this end we propose amending 5E (2) (a) further to state that

'the child is given meaningful, culturally safe and ongoing opportunities to participate'

To ensure alignment of the new section 5E with ATSICPP, QATSICPP also recommends that including a reference to the ATSICPP at the end of 5E, such as:

"for Aboriginal and Torres Strait Islander children, these principles operate under the broader framework provided by the ATSICPP as detailed in 5C"

Culturally safe review processes

Whilst QATSICPP supports the proposal contained within clause 24 of the Bill to ensure that children without a long term guardian have a right to request a review of their case plan and to provide that a decision by the chief executive to not conduct such a review is reviewable to the Queensland Civil and Administrative Tribunal (QCAT).

We believe there is an opportunity in the Bill to mandate practice which ensures reviews of case plans or decisions made about Aboriginal and Torres Strait Islander children by QCAT are culturally safe and provide Aboriginal and Torres Strait Islander children, families, and communities with the appropriate amount of cultural autonomy.

QATSICPP recommends that Section 51 of the Act should be amended to include the requirement for review processes to seek input from the child and their family through a variety of approaches, including engaging Aboriginal and Torres Strait Islander community-controlled organisations, and Cultural Practice Advisors in the department, to support the family to have a voice in the case plan review process. Section 51 of the Act should also refer to review processes including active efforts to adhere to the ATSICPP.



QATSICPP believes that this proposed inclusion is relevant to Aboriginal and Torres Strait Islander children and families participating in QCAT processes and recommends a similar inclusion to the above in Part 3 of the Act (Children in Tribunal proceedings, Sections 990 – 99X).

Carers being supported to uphold the ATSICPP

QATSICPP is seriously concerned that there is nothing within in the Bill or the current Act that supports carers to understand and undertake the critical role they play in upholding the ATSICPP.

While we acknowledge there are positive additions to Section 83A(2)(a) in the Act contained within Clause 32 of the Bill, we believe this section needs further development where the child is Aboriginal and Torres Strait Islander, and that a singular reference to carers being told about the 'cultural needs of the child' provides insufficient legislative imperative to carers in terms of their critical role in enabling meaningful cultural, family and community connection for the child.

To this end QATSICPP should propose the following addition to Section 83A of the Act:

- the carer/s **must** be given a copy of any current cultural support plan for an Aboriginal and Torres Strait Islander child and;
- the carer/s should receive information and training about their responsibilities with respect to the Aboriginal and Torres Strait Child Placement Principle and their responsibilities to support and care for the child in accordance with the principle as outlined in the child's case plan and cultural support plan
- if the carer is not an Aboriginal and Torres Strait Islander person, they must be linked with an appropriately resourced Aboriginal and Torres Strait Islander Community Controlled Organisation to provide support and guidance about their care for the child
- carers are required to adhere to the ATSICPP

The Importance of Kinship Care

Aboriginal Kinship refers to the biological bloodlines that have been passed on from generation to generation. For example, although not an immediate family member a father's cousin would be considered Aboriginal Kinship connection due to the bloodlines that they share.¹⁰ Consideration of who is kin to a child is also the decision and responsibility of family and those with cultural authority for the child, not the statutory agency.

QATSICPP is concerned that the current definition of kin in Clause 68 of the Bill continues to include "another person who is recognised by the child, or the child's family group, as a person of significance to the child" is highlighted in the bill prior to identification of kinship care as a priority and could cause confusion.

We acknowledge that people who are not kin, but who are significant and known to the child and the child's family, such as those in the child's network, play a critical role in supporting children's safety and wellbeing and reducing the trauma related to being removed from the family home.

Instead of the proposed change to Schedule 3 (definition of kinship care) outlined in the Bill, QATSICPP proposes the insertion of the following:

"kin, in relation to an Aboriginal and Torres Strait Islander child, means the following persons:

- a) a person recognised as kin by those with cultural authority for the child according to Aboriginal tradition or Torres Strait Islander custom.
- b) a member of the child's family group who is a person of significance to the child and their family;"

¹⁰ QATSICPP. (2021). Position Statement for Aboriginal Kinship Care:



If kinship carers are not immediately identifiable for children when they require out of home care, then families must be consulted to identify people in their network that they would feel confident and comfortable in caring for their children, especially people known to the family and child who could offer safe and supported care whilst kin are located rather than foster care.

More community-controlled support for pregnant mothers

QATSI CPP is supportive of amendments to the Act that place a positive obligation on the Chief Executive to enable the pregnant woman to access support services from the period of three months into the child's gestation period to prevent statutory intervention.

While the intention to remove 21A (3)(b) of the Act is understood as being an attempt to avoid undue responsibility on Aboriginal and Torres Strait Islander entities to directly *deliver* support they may not be funded to deliver, it is recognised that entities *facilitate* support for the pregnant woman (such as by referral). As such, QATSI CPP recommends that the amendment in Clause of the Bill 18 be changed, so that Section 21A (3) states

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 - (a) facilitate the participation of the pregnant woman and the child's family in relation to a matter mentioned in subsection (2); and

(b) facilitate the provision of help and support to the pregnant woman

To achieve increased implementation of the ATSI CPP, Section 21A of the Act would also benefit from sufficient safeguards so that the response to unborn notifications is adequately prioritising early intervention and prevention over investigation and statutory intervention.

QATSI CPP proposes that 21A be amended to include not only those instances where the Chief Executive reasonably suspects a child may be in need of protection after he or she is born, but that a section be added that stipulates where the Chief Executive receives a child concern report, that if the child is an Aboriginal or Torres Strait Islander child, the Chief Executive or an authorised officer must refer the matter to an Aboriginal and Torres Strait Islander organisation to provide advice, services and support to the mother of the unborn child.

Conclusion

Legislation has a vital role to play in ensuring that Aboriginal and Torres Strait Islander children and young people and their families are able to exercise their rights, including their right to grow up safely in their culture. Whilst amendments to bills may be seen solely as administrative, they are an opportunity for legislators to demonstrate their ongoing commitment to transforming their relationship with Aboriginal and Torres Strait Islander communities.

This includes ensuring that government departments are supported to deliver on their commitments including ensuring that at every opportunity the Aboriginal and Torres Strait Islander child placement principle is implemented to the level of active efforts.

Without legislative focus on driving this practice we will continue to have to work harder to achieve this goal. We therefore urge you to implement our recommended amendments to ensure that the obligations the Queensland government has made to self-determination for Aboriginal and Torres Strait Islander children and families within the child protection system can be strengthened.



Contact Details

Please contact Mr Garth Morgan, Chief Executive Officer, for further information on [REDACTED] or via email [REDACTED]



Appendix 1 – Summary of proposed amendments

Clause in Bill	Section of Act	Proposed amendment
12	6AA	<p>Replace proposed insertion to 6AA with the following (additions to proposed insertion are in bold):</p> <p>“In this section— active efforts, to comply with the Aboriginal and Torres Strait Islander child placement principle, means purposeful, thorough and timely efforts intended primarily to maintain connection or reunite an Aboriginal or Torres Strait Islander child with his or her family.”</p>
13	6AB (2)(b)	<p>Replace proposed insertion to 6AB (2) (b) with the following:</p> <p>“whether active efforts have been made to apply the Aboriginal and Torres Strait Islander Child Placement Principle. If the decision involves the removal or placement of an Aboriginal and Torres Strait Islander child, the court must be satisfied that active efforts have been made to provide services and support to prevent the break-up of an Aboriginal and Torres Strait Islander family and that such efforts have proven unsuccessful”</p>
8	5B	<p>That the current proposed change of “are relevant to making decisions relating to” be replaced with “must be considered as relevant to”.</p>
8	5B	<p>In addition to the amendments proposed in Clause 8, it is proposed further amend 5B with the following addition:</p> <p>“n) the cultural rights of the Aboriginal and Torres Strait Islander child and his or her need to exercise such rights collectively with members of their group. The Aboriginal and Torres Strait Islander community should be consulted and given an opportunity to participate in the process on how the best interests of Aboriginal and Torres Strait Islander children can be decided in a culturally sensitive way.”</p>
7	4	<p>Omitting “to the extent that is appropriate” from the Clause, so that a stated purpose for the Act is simply “to support families caring for children.”</p>
9 (2)	5C (2) (b)	<p>Replace the current insertion to 5C in the Bill with the following:</p> <p>“participate in—</p> <p>(a) significant decisions under this Act about Aboriginal or Torres Strait Islander children at intake, assessment, intervention, placement and care and judicial decision-making processes through a variety of mechanisms (including but not limited to</p>



		<p>family led decision making, and legal representation for children and families); and</p> <p>(b) decisions relating to the development and delivery of services, provided by the department, that—</p> <p>(i) support Aboriginal or Torres Strait Islander families; or</p> <p>(ii) provide for the care or protection of Aboriginal or Torres Strait Islander children. “</p>
	5C (2) (a)	<p>Propose to replace current 5C (2) (a) in Act with the following:</p> <p>(a) the principle (the prevention principle) that a child has the right to be brought up within the child's own family and community, <i>and that families are entitled to access appropriate services and supports that enable children to be raised safely at home.</i></p>
11	5E (2) (a)	<p>Propose amending 5E (2) (a) further to state that (additions to proposed insertion are in bold):</p> <p>“the child is given meaningful, culturally safe and ongoing opportunities to participate”</p>
11	5E (2)	<p>Add the following to 5E (2):</p> <p>“i) for Aboriginal and Torres Strait Islander children, these principles operate under the broader framework provided by the ATSICPP as detailed in 5C of this Act”</p>
24	51V (4A)	<p>Proposed insertion to 51V (4A):</p> <p>“ ...Review processes must involve seeking input from the child and their family through a variety of approaches, to support the family to have a voice in case plan review processes. Review processes must also involve active efforts to adhere to the ATSICPP as detailed in 5C of the Act.”</p>
32	83A	<p>Proposed addition to Section 83A of the Act:</p> <ul style="list-style-type: none"> the carer/s must be given a copy of any current cultural support plan for an Aboriginal and Torres Strait Islander child and; the carer/s must receive information and training about their responsibilities with respect to the Aboriginal and Torres Strait Child Placement Principle and their responsibilities to support and care for the child in accordance with the principle as outlined in the child's case plan and cultural support plan If the carer is not an Aboriginal and Torres Strait Islander person, they must be linked with an appropriately resourced Aboriginal and Torres Strait Islander Community Controlled Organisation to provide support and guidance about their care for the child Carers must be told they are required to adhere to the ATSICPP.



68	Schedule 3 (a)	<p>Instead of the proposed change to Schedule 3 (definition of kinship care) outlined in the Bill, insert the following:</p> <p>“kin, in relation to an Aboriginal and Torres Strait Islander child, means the following persons :</p> <ul style="list-style-type: none"> c) a person recognised as kin by those with cultural authority for the child according to Aboriginal tradition or Torres Strait Islander custom. d) a member of the child’s family group who is a person of significance to the child and their family;
18	21A (3)	<p>Replace the proposed change to Section 21A (3) with the following (additions are in bold) :</p> <p>“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 - (a)facilitate the participation of the pregnant woman and the child’s family in relation to a matter mentioned in subsection (2); and</p> <p>(b)facilitate the provision of help and support to the pregnant woman</p>
18	21 A	<p>QATSICPP proposes the following addition to 21A</p> <p>“where the Chief Executive has receives a child concern report, that if the the child is an Aboriginal or Torres Strait Islander child, the Chief Executive or an authorised officer must refer the matter to a Aboriginal and Torres Strait Islander organisation to provide advice, services and support to the mother of the unborn child.”</p>



Appendix 2– Examples of Active Efforts

1. Conducting a comprehensive assessment of the circumstances of the Aboriginal or Torres Strait Islander child's family, with a focus on safe reunification as the most desirable goal
2. Identifying appropriate services and helping parents to overcome barriers, including actively assisting the parents in obtaining such services
3. Identifying, notifying, and enabling Independent Aboriginal and Torres Strait Islander Entities for the child to participate in the provision of support to enhance the family's participation in decision making processes
4. Utilising processes such as Aboriginal and Torres Strait Islander Family Led Decision Making models to empower and promote optimal participation of families in decisions made regarding the safety and wellbeing of their children
5. Conducting or causing to be conducted a diligent mapping of the child's Aboriginal kinship system, to identify and meaningful engage extended family and people of cultural significance to the child in the provision of support for the child and their family and to promote preservation or restoration of connection to kin, culture and country
6. Offering and employing all available and culturally appropriate family preservation strategies and facilitating the use of remedial and rehabilitative services provided by the child's community and local service system
7. Taking steps to keep siblings together whenever possible
8. Supporting regular visits with parents or kin in the most natural setting possible as well as trial home visits of the child during any period of removal, consistent with the need to ensure the health, safety, and welfare of the child
9. Identifying community resources including housing, financial, transportation, mental health, substance abuse, and peer support services and actively assisting the Aboriginal or Torres Strait Islander child's parents or, when appropriate, the child's family, in utilising and accessing those resources
10. Monitoring progress and participation in services
11. Considering alternative ways to address the needs of the Aboriginal or Torres Strait Islander child's parents and, where appropriate, the family, if the optimum services do not exist or are not available
12. Providing post-reunification services and monitoring



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