

**Submission by**  
**YOUTH ADVOCACY CENTRE INC**  
**to the**  
**Community Support and Services Committee**  
**in relation to**  
***Child Protection and Other Legislation Amendment Bill 2020***



**December 2020**

The Youth Advocacy Centre Inc (YAC) is a community legal and social welfare agency for young people involved in, or at risk of involvement in, the youth justice and/or child protection systems (10-17 yrs) and/or who are homeless or at risk of homelessness (16-25 yrs depending on location). Our interest in the question of the use of adoption for children in the child protection system is driven by the experiences of some of our clients. Our lawyers not uncommonly see children with an adoption background in the youth justice system.

The Explanatory Notes commence by referring to the stated objectives of the Bill - which includes to:

- enhance the approach to permanency under the *Child Protection Act 1999*;

The Bill is to achieve this by clarifying that “adoption is the third preference in the order of priority for deciding whether an action or order best achieves permanency for a child”.

Over recent years YAC has had several clients who were adopted but whose family situations have broken down and who have become entrenched in the youth justice system, have become homeless, developed substance abuse and mental health issues and generally failed to thrive. Their adult lives look quite precarious because in the end they have no family to which they feel connected or supported by. At least one child was an overseas adoption. Another was a child in the child protection system in another jurisdiction who was adopted. Some have been adopted with siblings and the parents have rejected one and kept the other. One mother clearly could not cope with the fact that the baby she had so desperately wanted had become a teenager and was seeking some independence from her. A number of children have come back into contact with the child protection system.

It is also the case that in some situations the parents were not prepared for, or supported in managing, the behavioural problems which became more obvious over time as the result of the trauma which the adopted child had experienced previously:

...adoptive children are at an increased risk for reactive attachment disorder, which results from the disruption of the attachment process by neglect, physical abuse, sexual abuse, or frequent change in the primary caregivers in the first few years of the child’s life.<sup>1</sup>

Problem behaviours include the child often needing to be in control and throwing excessive temper tantrums, and being disobedient, defiant and argumentative.

Children adopted by their foster carers are likely to be more than a year old. Older children removed because of child abuse and neglect are more likely to have additional needs and require support with behavioural, emotional and physical health problems.

However, access to services and financial supports, such as foster carer payments, are generally removed when the adoption process is finalised. This may be a barrier to adoption in itself, but being cognisant of the fact that the child and their family may well experience challenges means that government should actively be putting in resources to assist with this. Failure to do so runs the real risk that problems will exacerbate to a point of breakdown of the adopting family and even more trauma is experienced by the child. The end result, as YAC has experienced it, is that these children become involved in the youth justice system. There must be a safety net of support for adopted children and adopting families.

The Explanatory Notes do not, in our view, provide balanced information in relation to the potential impacts of this Bill. They later state:

In circumstances when reunification of a child with their biological family is not possible, and when instability in a child’s living and care arrangements has long-term negative impacts on the child, the permanency and other benefits provided by adoption lead to these better outcomes.

Elevating these considerations in the various decision-making processes that relate to the management of children in care will mean that adoption is more routinely considered as an

<sup>1</sup><https://discoverymood.com/blog/reactive-attachment-disorder>

adoption/#:~:text=However%2C%20adoptive%20children%20are%20at,years%20of%20the%20child's%20life.

available option and increase the use of adoption to provide permanency for children in care, where appropriate.

However, no evidence is adduced to support the statement that permanency and other benefits provided by adoption lead to [these] better outcomes.

The 2018 Inquiry into Local Adoption by the House of Representatives Standing Committee on Social Policy and Legal Affairs (the Standing Committee) attracted a significant number of submissions. Many of these submissions expressed concern about the use of adoption. For example:

... adoptive placements do not necessarily produce better outcomes than long-term foster care, and can just as easily break down given that children traumatized by abuse and neglect may exhibit difficult and challenging behaviour that places carers under enormous stress. (Submission 4: Associate Professor Philip Mendes, Monash University)

The author of Submission 3 observed:

I don't see any longitudinal studies to show what happens to parents considering adoption who go on to parent and whether the parenting outcome is successful or not.

Submission 5 was from an adult adoptee:

As an adoptee, with the lived experience and ergo an expert on adoption, I find it inconceivable that this review has preceded a National inquiry into adoptee outcomes! There is a dearth of research in Australia on adoptee outcomes. In fact, no reliable data has been kept on our outcomes across the domains (e.g., physical, social or emotional health). Anecdotal data, and international research, reveals that adoptees are over-represented in areas of: attempted suicide, mental health, feelings of loss/disenfranchised grief, prison, addiction, trauma and identity issues (as already recognized by this committee). Please note this list of resources is not exhaustive.

Clearly, adoption is not a panacea....

There is an implied myth that adoption comes with a guarantee of stability and safety. However:

All families experience unexpected events. While adoptive parents undergo a considerable screening process, they are not immune to family breakdown, mental illness onset, disease, grief and death. Ultimately adoptive families are no different from any other family in the community in terms of experiencing hardship and breakdown. The experience of adopted people concerning their upbringing is variable, from growing up in families with long term stability to experiencing abuse, divorce, suicide and domestic violence. (Submission 13)

It is, of course, critical, that the views of the child are sought and actively listened to in terms of what they want in order to feel safe and valued. One submission to the Standing Committee told the story of a child who spent many years from the age of 11 years asking to be adopted by her foster parents because of her level of attachment to them but it only happened just before her eighteenth birthday.

YAC does not consider itself an expert in this area but we have seen the results of a breakdown in adoptive relationships and its impact on the lives of our young clients and we have read several of the submissions to the Standing Committee. There is clearly a diversity of lived experience with some being quite negative and some quite positive. Even where it was positive, there are still potential complications:

As an adopted person, there can be no doubt I was placed within a family that has given me permanency and stability. However there is a myriad of nuances and complexities that I was deprived of as a child (that has continued to adulthood) who was physically and legally separated from my birth family. Adoption assumes that "nurture" trumps "nature" and that legally placing a child in a family will completely provide for all the essentials necessary for an upbringing. As an adopted child, I was deprived of a family that looked like me, had my mannerisms, my interests, my personality traits, my job interests and my talents. As a thin and sensitive child who resented the way I looked, I did not have access to biological family

members that looked like me and could provide a frame of reference for my individual development. (Submission 13)

The breakdown in the family relationships can be both cause and effect of a disrupted adoption.

We understand that this Bill responds to the recommendation of Deputy State Coroner Bentley as a result of what can only be described as shocking of abuse of a defenceless child. However, it is unclear how adoption in itself would have prevented this situation. The Deputy Coroner's report describes a litany of failures on the part of those who should have been making closer inquiry about Mason and taking steps to protect him from the presenting harm which went on for some months, with a focus on the adults in the situation rather than the child. The department submitted that:

... the failures which led to Mason's death were the result of overworked, under-resourced and inexperienced staff which is the result of an increased demand for services i.e. an ever increasing number of children requiring protection.

The Deputy Coroner expressed the view that:

... the numbers of children on long term orders as compared to those on permanency orders or those who have been adopted reveals that the Carmody recommendation has not been implemented in any real sense.

With due respect to the Deputy Coroner, this would need further investigation: it is not simply a question of numbers. One submission to the Standing Committee noted:

... adoptive parents overwhelming desire to adopt healthy infants. Children in out of home care who are older, have experienced abuse or have disabilities are not typically desired by adoptive parents. Adoptive parents desire infants to make their family "complete" and typical of traditional family structures by bringing up a child from birth and having as little contact with the child's birth parents as possible. (Submission 13)

YAC would be keen to have clearer information on the views of Aboriginal and/or Torres Strait Islander children and families in relation to the proposal that adoption would be given a different priority as set out in the Bill. Clearly there must be a principle that a child's culture and cultural connections is a priority consideration in any decision, but every child should be dealt with as an individual with their individual needs and circumstances fully considered. Making decisions by list as per the legislation could arguably undermine this. There are also children who are not of Indigenous background but for whom the question of culture and cultural connection have similar meaning and importance.

Adoption is a very serious and significant step: it deletes a person's previous identity, family relationships and connections and seeks to impose a different narrative – irrespective of the concept of open adoption. The child in care is able to rely on the Charter of Rights listed in the *Child Protection Act 1999*. Children who have been adopted should have clearly articulated rights which are enforceable and this should include a right to the ongoing support of the State where they or their family need this.

We respectfully ask the Committee to recommend that the Queensland Government lead a whole of Australia project to support longitudinal research to better understand the experience of adoption, when and why it has or has not been a positive experience for child or parents and what supports should have been available which would have ensured a positive experience so that more robust criteria can be applied in relation to the placement of children for adoption, particularly those who have been involved in the child protection system.

Thank you for the opportunity to provide this comment and for the Committee's consideration.

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