

Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2024

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Committee Secretary
Education, Employment, Training and Skills Committee
Parliament House
George Street
Brisbane QLD 4000

Via email: EETSC@parliament.qld.gov.au

To the Proper Officer,

Re: United Workers Union's Submission on the Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2024

Acknowledgement of Country

We acknowledge and respect the continuing spirit, culture, and contribution of Traditional Custodians on the lands where we work, and pay respects to Elders, past and present. We extend our respects to Traditional Custodians of all the places that United Workers Union members live and work around the country.

About United Workers Union

United Workers Union (UWU) is a powerful union with 150,000 workers across the country from more than 45 industries and all walks of life, standing together to make a difference. Our work reaches millions of people every single day of their lives. We feed you, educate you, provide care for you, keep your communities safe and get you the goods you need. Without us, everything stops. We are proud of the work we do – our paramedic members work around the clock to save lives; early childhood educators are shaping the future of the nation one child at a time; supermarket logistics members pack food for your local supermarket and farms workers put food on Australian dinner tables; hospitality members serve you a drink on your night off; aged care members provide quality care for our elderly and cleaning and security members ensure the spaces you work, travel and educate yourself in are safe and clean.

UWU welcomes the opportunity to make a submission on the Working with Children Risk Management and Screening) and Other Legislation Amendment Bill 2024 ('The Bill'). UWU members across Queensland work in jobs that include contact with children, including in early childhood education and care, public sector and health work, disability support work and many more. Their reliance on the blue card system for their careers and livelihoods makes this Bill particularly relevant to our members. We note that the proposed changes to the Bill have origins in the Queensland Family and Child Commission's report (*Keeping Queensland's Children more than safe: Review of the blue card system*), which built on the earlier work undertaken by the Royal Commission into Institutional Responses to Child Sexual Abuse. We acknowledge that working with children checks and the Queensland blue card system play an important role in helping to ensure that the right people are selected to work with children.

UWU supports the key changes proposed by the Bill, including the amendment to the statutory test that must be applied when deciding whether the applicant is eligible to hold a blue card, and the removal of the requirement that kinship carers must have a blue card.

The current framework for working with children checks in Queensland disproportionately disadvantages First Nations people by limiting their career prospects and their kinship carer rights.¹ As acknowledged in the Queensland Government's 'Safe Children and Strong Communities' report:

*"Blue Card Services faces challenges in assessing complex histories for people who are seeking to engage in child-related employment. This has far-reaching impacts for Aboriginal and Torres Strait Islander peoples, where contact with the criminal justice system is at much higher rates than non-Indigenous people."*²

It is concerning that Aboriginal and Torres Strait Islander people make up to 5% of blue card applicants but 22% of rejected applicants.³ First Nations peoples remain disproportionately unlikely to be successful in their application for a blue card, compared to non-Indigenous applicants.⁴ These statistics, alongside other evidence, indicate that the current system fails to adequately differentiate between serious convictions that pose a threat to children and minor offences.⁵

First Nations people also experience compounding disadvantage arising from the fact that many live in rural and remote areas, which in general have fewer employers and limited job opportunities. Those who are excluded from the blue card system face the prospect of long-term unemployment. In addition, rural and remote areas may lack culturally appropriate support services for the blue card application process.⁶ Experiences with government organisations, processes and systems can have wide ranging impacts on First Nations peoples, particularly when coupled with intergenerational trauma.⁷ Indeed applying for blue cards can be "exhausting and re-traumatising" for Indigenous people due to intergenerational trauma, language barriers and complex ID requirements.⁸

Given this, UWU supports the amendments to the risk assessment criteria, specifically the inclusion of a statutory factor that requires a decision-maker to consider the effect of systemic disadvantage, intergenerational trauma and the historical content and limitations on access to justice. These are important considerations which are designed to counteract the current disadvantages and disproportionate impacts on First Nations people surrounding the blue card system. In addition, the adoption of a 'reasonable person' test shifts the balance towards more pragmatic considerations of whether an applicant actually poses a risk to the safety of children.

Further, the Bill duly recognises the benefit of Blue Card Liaison Officers ('BCLO'), who will work directly with First Nations applicants in their communities and on the ground, making targeted referrals to culturally appropriate support services. These amendments facilitate the sharing of information in a way that is culturally sensitive and is also a positive step designed to enable greater First Nations engagement with the blue card system.

The experience of intergenerational trauma faced by First Nations peoples has had a devastating effect upon First Nations children, families and communities.⁹ The consequences of intergenerational trauma can then affect parenting practices and contribute to family violence, harmful substance misuse, greater contact with the criminal justice system, socio-economic and emotional wellbeing issues such as mental illness and unemployment, and the devastating cycle of children and young people being placed in out-of-home care.¹⁰ The *Child Protection Act 1999* (QLD) prescribes that when an Aboriginal or Torres Strait Islander child is unable to remain in the care of their biological parent, that the preferred option is that they be placed within their families' cultural

kinship structure.¹¹ However, Queensland has the second lowest placement with First Nations kin in Australia at 21.7 per cent.¹²

The *Working with Children (Risk Management and Screening) Act 2000*, schedule 1, section 14, requires foster and kinship carers, and each adult person who meets the definition of an adult household member, to be issued with and maintain a current Blue Card or exemption card.¹³ However, negative notices essentially prevent the applicant from being a kinship carer. The implications of not approving a kinship carer are likely to result in the child residing with a stranger and/or in a residential care placement which compromises their family and cultural connections.¹⁴ It is problematic that the blue card process gives no consideration to the impact upon the child in relation to the negative blue card assessment.¹⁵ Lastly, kinship care is not an arrangement with respect to employment and should not be viewed as such.

It is for these reasons that UWU supports the changes in the Bill to remove the requirement that kinship carers must have a blue card. We hope that this measure will increase the number of First Nations children in kinship care and thereby reduce the number of children who need to be in residential care.

The proposed reforms contained in the Bill are vital for increasing First Nations participation in the blue card system. Not only does the proposed Bill increase awareness and recognition of First Nation disadvantage, the Bill also aims to facilitate greater employment opportunities and kinship access for First Nations people. For these reasons UWU supports the proposed Bill and looks forward to its implementation.

For more information about this submission, please contact [REDACTED], Research Analyst, at [REDACTED].

Your sincerely,

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¹ *How Queensland's blue card system 'disproportionately disadvantages' Indigenous people*, The Guardian, 27 July 2023, available at: <https://www.theguardian.com/australia-news/2023/jul/26/queensland-blue-card-system-indigenous-people-impacts>

² Safe Children and Strong Communities: A strategy and action plan for Aboriginal and Torres Strait Islander Peoples and organisations accessing the blue card system 2021-2025, Queensland Government, page 9,

³ Ibid, page 15.

⁴ Ibid

⁵ Ibid

⁶ Queensland Human Rights Commission, Submission to Legal Affairs and Safety Committee, 22 November 2021, available at: https://www.qhrc.qld.gov.au/data/assets/word_doc/0004/36715/Working-with-children-Indigenous-communities.docx

⁷ Safe Children and Strong Communities: A strategy and action plan for Aboriginal and Torres Strait Islander Peoples and organisations accessing the blue card system 2021-2025, Queensland Government, page 14, available at: <https://www.publications.qld.gov.au/ckan-publications-attachments-prod/resources/7bdda690-f23e-45f0-996b-08f5f33f1849/safe-children-and-strong-communities.pdf?ETag=740314a09eabb693702bee873aba4ead>

⁸ *Qld's blue card system a 'modern-day injustice' for Indigenous people*, Brisbane Times, 2 November 2022, available at: <https://www.brisbanetimes.com.au/national/queensland/qld-s-blue-card-system-a-modern-day-injustice-for-indigenous-people-20221102-p5bv1l.html>

⁹ Safe Children and Strong Communities: A strategy and action plan for Aboriginal and Torres Strait Islander Peoples and organisations accessing the blue card system 2021-2025, Queensland Government, page 14, available at: <https://www.publications.qld.gov.au/ckan-publications-attachments-prod/resources/7bdda690-f23e-45f0-996b-08f5f33f1849/safe-children-and-strong-communities.pdf?ETag=740314a09eabb693702bee873aba4ead>

¹⁰ Ibid

¹¹ *A thematic analysis of provisionally approved kinship carers who receive a subsequent Blue Card negative notice*, Queensland Family & Child Commission, October 2023, page 3, available at: https://www.qfcc.qld.gov.au/sites/default/files/2023-12/A%20thematic%20analysis%20of%20provisionally%20approved%20kinship%20carers%20who%20receive%20a%20subsequent%20Blue%20Card%20negative%20notice_updated.pdf

¹² Ibid

¹³ *Working with Children (Risk Management and Screening) Act 2000*, schedule 1, s 14.

¹⁴ *A thematic analysis of provisionally approved kinship carers who receive a subsequent Blue Card negative notice*, Queensland Family & Child Commission, October 2023, page 10, available at: https://www.qfcc.qld.gov.au/sites/default/files/2023-12/A%20thematic%20analysis%20of%20provisionally%20approved%20kinship%20carers%20who%20receive%20a%20subsequent%20Blue%20Card%20negative%20notice_updated.pdf

¹⁵ Ibid