



Speech By  
**Hon. Leanne Linard**


**MEMBER FOR NUDGE**

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Record of Proceedings, 15 September 2021

## **CHILD PROTECTION REFORM AND OTHER LEGISLATION AMENDMENT BILL**

### **Introduction**

 **Hon. LM LINARD** (Nudgee—ALP) (Minister for Children and Youth Justice and Minister for Multicultural Affairs) (11.23 am): I present a bill for an act to amend the Adoption Act 2009, the Child Protection Act 1999, the Child Protection Regulation 2011, the Disability Services Act 2006, the Working with Children (Risk Management and Screening) Act 2000 and the legislation mentioned in schedule 1 for particular purposes. I table the bill, the explanatory notes and a statement of compatibility with human rights. I nominate the Community Support and Services Committee to consider the bill.

*Tabled paper:* Child Protection Reform and Other Legislation Amendment Bill 2021 [\[1395\]](#).

*Tabled paper:* Child Protection Reform and Other Legislation Amendment Bill 2021, explanatory notes [\[1396\]](#).

*Tabled paper:* Child Protection Reform and Other Legislation Amendment Bill 2021, statement of compatibility with human rights [\[1397\]](#).

The Queensland government is committed to making the child protection and family support system as strong as it can possibly be, to support children and families now and into the future. We are over halfway through the 10-year Supporting Families Changing Futures reform program. The Queensland government has already delivered significant and meaningful reforms through this program, but the journey of improving our child safety system continues for our vulnerable children, young people and families. Indeed, it will never truly end.

We have listened and delivered on the recommendations from the Queensland Family and Child Commission's report titled *Keeping Queensland's children more than safe: review of the foster care system*, the 2013 Queensland Child Protection Commission of Inquiry and the Royal Commission into Institutional Responses to Child Sexual Abuse. Indeed, these recommendations shaped the options in the 2019 *Rethinking rights and regulation: towards a stronger framework for protecting children and supporting families* discussion paper. The discussion paper informed this bill.

The former department of child safety, youth and women held 10 targeted face-to-face consultation sessions to discuss the options in the paper. These sessions took place right across Queensland, including in the Torres Strait. Over 150 people attended these sessions, including children, young people, parents and families, carers, peak bodies, service providers and legal professionals. In total, the department received 54 written submissions and 391 online responses to the discussion paper. The outcome was clear. There was strong support from stakeholders for further legislative reform, particularly in relation to ensuring that children's rights are protected and promoted, and that children can participate in decisions that will impact their lives.

This bill responds to the feedback provided by our stakeholders. Combined with practical initiatives already underway within the Department of Children, Youth Justice and Multicultural Affairs, the bill will amend the Child Protection Act 1999 to: reinforce children's rights in the legislative framework; strengthen children's voices in decisions that affect them; and streamline, clarify and improve the regulation of care. The main principle for administering the Child Protection Act is that the

safety, wellbeing and best interests of a child, both through childhood and for the rest of the child's life, are paramount. During consultation, stakeholders strongly supported introducing specific matters in the act to be considered when determining what is in a child's best interests when making decisions under the act. We heard that, despite the current provisions in the act, it is not clear what is considered when determining a child's best interests. This highlighted a need to clarify how the other general principles in the act should be considered when thinking about a child's best interests.

The bill amends the act to clarify that the general principles in section 5B—for example, that the preferred way of ensuring a child's safety and wellbeing is through supporting the child's family, and that a child should be able to maintain relationships with the child's parents and kin, if appropriate for the child—are relevant to making decisions about what is in the best interests of the child. This bill also provides dignity and autonomy to children and young people by amending the general principles to provide that a child has the right to express a view about what is and is not in the child's best interests. This aligns closely with the bill's focus on ensuring that children are supported to have a voice and be listened to, which I will discuss shortly.

During consultation, children and young people told us the importance of knowing their rights and wanting to be heard when they speak up about their needs. They also told us about the rights that they wanted to see protected. This includes the right to be treated with respect, the right to be treated fairly and the right to be allowed to be a child. The right to be a child sits hand in hand with the right to do activities they enjoy such as sport or art.

This bill addresses that important feedback by proposing amendments to the charter of rights. The new rights include: the right to be treated fairly and with respect; the right to develop, maintain and enjoy a connection to the child's culture of origin; the right to religion and language and the right to engage in play and recreation; the right to develop, maintain and enjoy the child's identity, including, for example, the child's sexual orientation or gender identity; the right to keep and have a safe space to store personal belongings; and the right to make a complaint to the chief executive if the child considers that the charter of rights is not being complied with. The bill also places an obligation on the chief executive to ensure that children are regularly told about the charter of rights, the chief executive's duty to ensure that those rights are complied with and a child's right to contact the chief executive if the child has any questions or concerns about their protection and care needs.

The government's deep commitment to partnering with Aboriginal and Torres Strait Islander peoples, community representatives and organisations is also strengthened through the bill. We were the first state to legislate all five elements of the Aboriginal and Torres Strait Islander Child Placement Principle. The prevention element of the Aboriginal and Torres Strait Islander Child Placement Principle provides that a child has the right to be brought up within the child's own family and community. The partnership element currently provides that Aboriginal or Torres Strait Islander persons have the right to participate in significant decisions under this act about Aboriginal or Torres Strait Islander children. The placement element states that, if a child is to be placed in care, the child has a right to be placed with a member of the child's family group. The participation element states that a child and the child's parents and family members have a right to participate, and be enabled to participate, in an administrative or judicial process for making a significant decision about the child. Finally, the connection element provides that a child has a right to be supported to develop 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.

Currently, the act requires the chief executive, the Director of Child Protection Litigation and an authorised person—including, for example, a child safety officer—to 'have regard' to the five elements of the Aboriginal and Torres Strait Islander Child Placement Principle. One of the most significant amendments in the bill will now instead require the Aboriginal and Torres Strait Islander Child Placement Principle to be applied to the standard of active efforts. This means efforts that are purposeful, thorough and timely.

This is an important part of our government's continued commitment to taking action to eliminate the over-representation of Aboriginal and Torres Strait Islander peoples in the child protection system. It will ensure positive steps are consistently taken to apply the Aboriginal and Torres Strait Islander Child Placement Principle. It will also set a clear standard for the application of the principle, strengthen the rights recognised by the principle and support transparent and accountable processes. The strengthened provisions in the bill are consistent with the current guidance provided in departmental practice about applying active efforts to embed the Aboriginal and Torres Strait Islander Child Placement Principle.

The bill also amends the 'partnership' element of the Aboriginal and Torres Strait Islander Child Placement Principle to reflect the department's commitment to partnering with Aboriginal and Torres Strait Islander peoples not only in individual child protection case decision-making but also in the

development, design and delivery of policies, programs and services. We have also worked closely with our stakeholders to amend the definition of 'kin' within the act. The current definition, particularly the unrestricted inclusion of any person of significance to the child, may be distorting the intended operation of the provisions relating to kin, particularly for Aboriginal and Torres Strait Islander children.

The bill amends the definition of 'kin' to provide that kin means, for an Aboriginal child, a person who, under Aboriginal tradition, is regarded as kin of the child. For a Torres Strait Islander child, kin includes a person who, under island custom, is regarded as kin of the child. Kin for an Aboriginal or Torres Strait Islander child may also include a person of significance to the child and who has a cultural connection with the child. The amended definition is intended to ensure that the determination of who is kin for an Aboriginal or Torres Strait Islander child includes meaningful mapping, identification, support and enabling of people who have a legitimate cultural connection to the child.

In short, these initiatives pave a shared path forward for the department and community, implementing the commitment made through the Our Way strategy, that genuine partnerships with Aboriginal and Torres Strait Islander peoples are essential. Working in this genuinely collaborative way is something I am deeply committed to.

Another important message that we heard many times during consultation was that children want and need to be able to participate in decisions that will impact on their lives. We heard that the act could better reflect that children should be actively supported to participate in decisions that are important to them and not just in relation to decisions that the department or other adults think are significant.

Stakeholders also told us that how a child or young person would like to express their views and wishes is unique for each child and young person, depending on their individual experiences and wellbeing at the time and might not be the same for every decision. Reflecting this valuable feedback, the bill introduces child-centric participation principles and a new requirement for a person who makes a decision, or exercises a power under the act relating to a child, to ensure that the child is given meaningful and ongoing opportunities to participate.

The new principles acknowledge that children choose to participate in a variety of ways—for example, some may choose to participate verbally, while others would prefer to express their views by way of written statement or recorded video or audio. In some cases, children may wish to participate separately from certain people, including for example, parents or carers.

The new participation principles also recognise that children may choose not to participate, that children's views may change over time and that some children may need help to participate. This aligns with feedback from our stakeholders that care should be taken not to require a child to express a view or wish on a particular matter if they do not want to and that children and young people should have the freedom to change their mind and to have varied views and wishes.

The bill will also amend the act to make Queensland the first jurisdiction in Australia to require children to be given a voice in the child protection system itself. It will provide that one of the chief executive's functions under the act is to ensure that children are given the opportunity to participate in policy and program development and service design. These amendments significantly strengthen the act and ensure that children will be genuinely empowered and supported to participate in decisions about their lives and the child protection system more broadly.

The focus on participation within the bill also aligns with the findings of the Royal Commission into Institutional Responses to Child Sexual Abuse, which particularly highlighted that children being able to express their views, having opportunities to participate in decisions and being taken seriously are a core component of a child-safe organisation. The royal commission found that child-safe institutions value children's contributions to decision-making and listen to their concerns. It also found that policies and practices that are shaped by children's views can better prevent harm to children—for example, children may be able to identify risks that are less visible to adults.

This bill also proposes to streamline, clarify and improve the regulation of care through a range of measures. These include: allowing the chief executive to access interstate criminal history information to assess a person's suitability as a provisionally approved carer; streamlining carer assessment for existing kinship carers who have applied to care for an additional child; clarifying reporting requirements for carers; establishing a framework for a carer's register; renewing carer certificates every three rather than two years; strengthening the carer support framework; allowing a licence to be amended to add or remove a licensed facility; and ensuring carers and licensees are provided relevant information to make informed decisions about placements and provide appropriate care. These proposals will remove red tape, while improving transparency, clarity and consistency. This will allow carers to focus on the care of children, which is rightly where their focus should be.

In addition, the bill amends the Adoption Act 2009 to resolve technical issues relating to delegations under the Commonwealth Immigration (Guardianship of Children) Act 1946. The bill will also make amendments to the Working with Children (Risk Management and Screening) Act 2000. This

includes providing a legislative basis for Blue Card Services to request domestic violence information from the Queensland Police Commissioner for the purposes of assessing blue card applications.

The bill will enable Queensland's participation in the Working with Children Check national reference system. This is a national database which enables jurisdictions to identify persons who have been deemed ineligible to work with children in another state or territory. The bill also redesigns the category of regulated employment under the blue card system that deals with licensed care services to better reflect the contemporary service delivery model used by licensees in discharging their functions, including greater outsourcing to contractors and subcontractors.

Finally, the bill proposes a number of minor and technical amendments to the Child Protection Act including: clarifying that child protection information may be disclosed to a child's parent if the child dies; clarifying when a notifier's identity can be disclosed to a law enforcement agency; and providing that the court may dispense with the need to serve a notice of appeal in some cases.

The measures in this bill are the outcomes of extensive consultation with multiple stakeholders right across the state, including children and young people, parents and families, foster and kinship carers, peak bodies, service providers, legal professionals and departmental staff. Competing views have been carefully considered and weighed to reach the right balance for Queensland children and families. While the measures may not solve all of the problems we collectively face, the bill continues our efforts to improve a system that serves Queensland's most vulnerable children, young people and families. I commend the bill to the House.

### **First Reading**

**Hon. LM LINARD** (Nudgee—ALP) (Minister for Children and Youth Justice and Minister for Multicultural Affairs) (11.38 am): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

### **Referral to Community Support and Services Committee**

**Mr DEPUTY SPEAKER** (Mr Krause): In accordance with standing order 131, the bill is now referred to the Community Support and Services Committee.