




Speech By
Hon. Leanne Linard

MEMBER FOR NUDGE

Record of Proceedings, 10 May 2022

CHILD PROTECTION REFORM AND OTHER LEGISLATION AMENDMENT BILL

Second Reading

 **Hon. LM LINARD** (Nudgee—ALP) (Minister for Children and Youth Justice and Minister for Multicultural Affairs) (11.17 am): I move—

That the bill be now read a second time.

All Queenslanders want to see vulnerable children and families provided with support and assistance when needed to keep all Queensland children safe. The Child Protection Reform and Other Legislation Amendment Bill 2021, if passed, will make Queensland a national leader. It will give Queensland one of the strongest legislative frameworks in Australia to support the participation of children and young people, whereby they must be listened to and engaged with and where active attempts must be made to understand their viewpoint. This bill will make Queensland one of the first jurisdictions to mandate that child safety officers must make active efforts in meeting the Aboriginal and Torres Strait Islander Child Placement Principle. Both of these important elements are already part of contemporary child safety practice, but this bill will enshrine them in legislation.

On 15 September last year the bill was introduced to the parliament and referred to the Community Support and Services Committee for consideration, and the committee tabled its report on 12 November. The committee made three recommendations: firstly, that the bill be passed; secondly, that the Department of Children, Youth Justice and Multicultural Affairs establish a process to ensure customary and age-appropriate participation of children in care in decision-making that affects them; and, thirdly, that the Department of Justice and Attorney-General investigate the barriers facing First Nations people obtaining blue cards to access employment. I thank the committee for its examination of the bill and its recommendations. I would also like to thank the chair, the member for Mansfield, for her strong stewardship of this bill and all matters that come before her committee and all committee members.

The government response, which I tabled on 10 February this year, states our acceptance and support of recommendations 2 and 3. In respect of recommendations 2 and 3, the Department of Children, Youth Justice and Multicultural Affairs will continue to undertake consultation with young people and key stakeholders to support the implementation of recommendation 2 of the bill. Likewise, the Department of Justice and Attorney-General will continue to implement the Safe Children and Strong Community Strategy and Action Plan and address barriers experienced by First Nations people applying for blue cards, as outlined in recommendation 3.

I thank the many people who made submissions to the committee and the many stakeholders who provided valuable input during the consultation. I wish to thank the Create Foundation for its assistance and particularly the young people who shared their stories and experiences of being in care. Their contributions have been instrumental in shaping the reforms and in creating meaningful change

in the child safety system. My regular meetings with these young Create consultants and other young people with a current or past experience in care are always thought provoking and challenging. The system can and must always improve and evolve with their interests and voices at the centre.

The consultation process preceding this bill was extensive and far reaching. In 2019 my predecessor, Minister Di Farmer, released a discussion paper titled *Rethinking rights and regulation: towards a stronger framework for protecting children and supporting families*. The discussion paper outlined options for legislative reform in three focus areas: children's rights, children's voices and the regulation of care. Some 54 submissions were received, including from PeakCare Queensland, the Queensland Aboriginal and Torres Strait Islander Child Protection Peak—QATSICPP—the Office of the Public Guardian, Queensland Law Society and Legal Aid Queensland.

In addition to the discussion paper, surveys were available online. Almost 400 people from across Queensland responded to these surveys, including over 200 young people. Workshops were facilitated with children and young people, parents and families, carers, peak bodies, service providers, legal professionals and frontline departmental staff. More than 150 people attended these workshops. Meetings also took place with the truth, healing and reconciliation task force, the Queensland First Children and Families Board, the Quality Collaboration Network and QATSICPP.

We heard from children and young people about how important it was for them to be listened to and supported to participate in the decisions that affect them—decisions such as who they live with, how often they see the people they care about and day-to-day matters. They told us that the legislation needed to recognise and acknowledge that all children are unique and different; therefore, how they choose to participate will be different, for example through letters, verbally or through an adult they trust. One stakeholder emphasised: 'It is important to know what is significant for a young person.' We were also told that some children do not want to participate or feel responsible for making decisions. We heard time and time again that children need to be given meaningful and ongoing opportunities to participate and engage in a way that is not tokenistic and that they need to be genuinely listened to. We also heard from children, young people and other stakeholders about how important it is for children to understand their rights and how these rights should be protected. This included rights that are not currently found in the charter of rights in the act.

Further consultation with our key stakeholders occurred in March, July and August last year during the development of the bill. We heard that the proposals relating to children's rights and voices should be made a priority. For the amendments to the Working with Children (Risk Management and Screening) Act 2000, the Department of Justice and Attorney-General consulted with key stakeholders, including peak bodies and community legal services. The amendments relate to Queensland's participation in the working with children check national reference system and the sharing of domestic violence information.

I now turn to the detail of the bill. This bill makes amendments to the Child Protection Act in three areas: reinforcing children's rights in the legislative framework; strengthening children's voices in decisions that affect them; and streamlining, clarifying and improving the regulation of care. To begin, I will discuss the reforms that reinforce children's rights. The Aboriginal and Torres Strait Islander Child Placement Principle provides safeguards to protect the rights and interests of Aboriginal and Torres Strait Islander children and families. The bill explains that a person involved in administering the act must make active efforts to apply the Aboriginal and Torres Strait Islander Child Placement Principle. Active efforts are efforts that are thorough, purposeful and timely in applying the five elements of the principle. This entrenches the current practice of the department to make active efforts a statutory requirement for decision-makers when applying the child placement principle.

Active efforts can include: strategies to ensure Aboriginal and Torres Strait Islander children are connected to family, culture, community and country such as supporting families to access culturally appropriate support, assessing placement options with the preferred option of placing a child with their family, or creating cultural support plans for every Aboriginal and Torres Strait Islander child in care. By changing the wording of 'partnership' in the child placement principle, the bill embeds the government's commitment to partnering with First Nations peoples, community representatives and organisations in policy and program development, service design and delivery as well as with decision-making in individual child protection cases. These amendments support the government's commitment to eliminate the disproportionate representation of First Nations children and families in the child protection system. Queensland will continue to promote in legislation the safe care and connection of Aboriginal and Torres Strait Islander children.

The bill also amends the Child Protection Act by broadening the purpose to include the additional purposes of promoting the safety of children as well as providing support for families. In consultation with stakeholders in 2019 we heard that a broader purpose could include support for families within the child protection system to safely care for and protect their children. We also heard that the purpose

should reflect the rights of children in care. Children's rights have been protected with amendments to include additional rights within the charter of rights. These additional rights further enshrine the United Nations Convention on the Rights of the Child and complement those protected under Queensland's Human Rights Act. Examples include the right to engage in play and recreational activities, the right to choose and practise a religion, the right to enjoy and develop their identity and the right to maintain their culture.

In 2019 children and young people told us that the right to be treated with respect, the right to be treated fairly, the right to be allowed to be a child and the right to do activities that they enjoy such as sport or art were all important to them. In response, the bill includes additional rights to engage in play, to have a safe place to store belongings and to make a complaint to the chief executive if the charter is not being complied with. Enabling children to raise concerns is reflected in the amendments. The chief executive will be required to regularly inform children of their rights under the charter and explain how they can make a complaint if they feel their rights are not being complied with. We want children to feel more confident in raising their concerns and to understand how they can exercise their right to contact the chief executive about their protection and care needs.

Additionally, the importance of recognising and protecting children's rights and ensuring children are aware of them has been a consistent theme in various inquiries and reviews, including the Royal Commission into Institutional Responses to Child Sexual Abuse. To quote one young person who was involved in the consultation process: 'If you don't know what your rights are, you can't say what you want in your case plan.'

The bill promotes equality and review rights for children and young people without long-term guardians. They can seek a review by the Queensland Civil and Administrative Tribunal if the chief executive decides not to review their case plan when they request it. The amendment aligns the existing review rights of children without a long-term guardian with those children who do have a long-term guardian.

In respect of strengthening children's voices in this legislation, we received feedback from children, young people and child protection stakeholders about the importance of children's voices being heard in decisions that affect them. The amendments in the bill will provide Queensland with the strongest child participation framework within child protection legislation in Australia. It will require anyone who is exercising power under the Child Protection Act that will or may affect a child to ensure that the child is given opportunities to participate. That person must make a genuine attempt to understand and consider any views expressed by the child.

Children and young people who were a part of the consultation process said they would prefer to tell their views directly to the decision-maker, while others wanted to write down their views or tell someone else who can tell the person making the decision. The bill therefore ensures that the child is allowed to decide whether to participate and is given support to participate in decisions where needed. These new participation principles also flexibly consider the many ways in which children may choose to participate. For example, a child can be provided with the support of a trusted sibling at a meeting to help ensure their views are heard.

The bill also supports the systemic participation of children. The chief executive must ensure that children have meaningful and ongoing opportunities to participate in decisions about the design and delivery of child protection programs and services. During the committee consultations, stakeholders supported this saying that this will improve outcomes for children and young people by empowering them to have a say in decisions that impact their lives.

I turn now to the reforms which seek to streamline, clarify and improve the regulation of care. I would like to acknowledge the incredible work and contribution that carers in Queensland make to care for children and young people experiencing vulnerability. Carers are instrumental in supporting children and young people in challenging circumstances. This bill will clarify the information and support framework under the Child Protection Act to ensure carers and licensees receive information about a child and can make informed decisions about accepting placements and providing appropriate care for a child. This may include providing information about a child's medical or behavioural needs, cultural support or disability needs. It may also mean that other contextual information about a child's life before coming into care is also provided to the carer. As we heard through the committee's consideration of the bill, stakeholders supported the amendments to strengthen the carer information and support framework. The bill includes provisions that will require the chief executive of the Department of Children, Youth Justice and Multicultural Affairs to provide access to support and to training to ensure carers can fulfil their role in protecting and caring for a child.

The bill proposes amendments to the Child Protection Act that address several recommendations made by the Royal Commission into Institutional Responses to Child Sexual Abuse as well as the Queensland Family and Child Commission's report titled *Keeping Queensland's children more than*

safe: review of the foster care system. The royal commission found that nationally consistent carers registers could act as a mechanism that prevents unsuitable people from being approved as carers. The bill will support the royal commission recommendations by creating a legislative framework for a carers register under the Child Protection Act.

We have strengthened the mandatory reporting framework to further protect children from harm, irrespective of their care arrangements. If foster carers, kinship carers and out-of-home care placement support staff reasonably suspect harm against a child in care, it must be reported to the chief executive of the Department of Children, Youth Justice and Multicultural Affairs.

We have included amendments to deliver recommendation 11 of the Queensland Family and Child Commission's report. These amendments support the department's nomination to become the first child protection agency to be a participating screening unit of the intergovernmental agreement for a national exchange of criminal history information for people working with children. The bill enables the department to obtain and assess the circumstances of interstate charges and convictions against a person who may be provisionally approved to care for a child. This will enhance the screening process carried out by the department to ensure that persons who receive provisional approval to become carers for Queensland's vulnerable children and young people are suitable and not a risk to a child. The bill supports operational efficiencies including streamlining the carer assessment process, extending the term of a renewed carer certificate and removing the requirement for the return of paper licences.

The bill includes minor and technical amendments to improve the operation of the Child Protection Act and deliver on the royal commission's recommendations. For example, recommendation 8 of the royal commission's criminal justice report recommended that state and territory legislation be amended to authorise a person to disclose the identity of a notifier to a law enforcement agency. This was intended to safeguard the wellbeing and safety of children, assist investigators to reach conclusions quickly and increase the ability of police and prosecutors to successfully prosecute persons who have committed crimes against children.

The bill proposes to amend the Child Protection Act so that a notifier's details can be released to a senior police officer. Safeguards are in place to ensure the continued protection of a notifier's details such as enabling disclosure only where the information is required for the prevention, detection, investigation, prosecution or punishment of a criminal offence against a child; and where it is necessary to ensure the safety, wellbeing or best interests of a child. A notifier must also be informed that their details have been disclosed where it is practical and not prejudicial to proceedings. They also cannot have their details disclosed in proceedings without leave of the court or tribunal. Further minor amendments include the disclosure of child protection information with the consent of the person to whom it relates or upon the request of a parent following the death of their child who was an adult at the time of their passing.

The bill makes other amendments to confirm and clarify the role of independent Aboriginal or Torres Strait Islander entities and their role in decision-making. The role of an independent Aboriginal or Torres Strait Islander entity is to facilitate the participation of an Aboriginal or Torres Strait Islander child. An independent entity is chosen by the family and can only participate when the family agrees. This will ensure our First Nations families are supported by independent entities for child protection decisions or court proceedings when they wish to have that support.

Additionally, the bill seeks to recognise Aboriginal tradition and Torres Strait Islander custom as it relates to who is considered kin for a child. Our key stakeholders identified that the current definition of kin within the act may have had the effect of including any person of significance to an Aboriginal or Torres Strait Islander child, which was not the intent of the definition. Therefore, the bill clarifies the definition of kin as a person who is regarded as such under Aboriginal tradition or Torres Strait Islander custom. Another person may be considered kin where they are recognised by the child or their family as significant to the child and have a cultural connection to the child.

This amendment was informed by the Queensland Aboriginal and Torres Strait Islander Child Protection Peak's position statement for Aboriginal kinship care. It seeks to ensure meaningful mapping and identification is conducted by the department to determine who may become a kinship carer to an Aboriginal or Torres Strait Islander child.

The bill includes other technical amendments to support the effective and efficient operation of the Child Protection Act within court proceedings. When there are immediate safety concerns regarding the child who is the subject of the appeal, the bill seeks to enable the court to dispense with the service of a notice of appeal and to hear the appeal in the absence of a respondent. This will allow the court to make timely decisions when any delay to proceedings could place a child at risk of harm. An additional technical amendment is included in the bill to enable existing orders to continue until the Children's Court decides on an application to extend or replace the order by the litigation director or chief executive. This ensures there is no gap in the protection of a child while court proceedings are ongoing.

The bill also makes priority amendments to the Working with Children (Risk Management and Screening) Act which aim to increase the safety of Queensland children by enhancing the working with children check system. The amendments provide a legislative basis for Blue Card Services to request domestic violence information from the Queensland Police Commissioner when undertaking a blue card assessment.

Amendments also facilitate Queensland's participation in the working with children check national reference system, which enables jurisdictions to identify persons who have been deemed ineligible to work with children in another state or territory. When conducting a blue card assessment, Blue Card Services will also be able to consider adverse outcomes of applicants in other jurisdictions.

The amendments also redesign the category of regulated employment that deals with licensed care services to better reflect the contemporary service delivery model used by licensees in discharging their functions. This is supported by an expansion of the definition of notifiable person, which enables a licensee to link to and receive updates on any changes to the blue card status of any person performing a risk assessed role for a licensed care service.

I will now conclude by talking to the amendments to the Adoption Act within the bill. The bill proposes technical amendments to the Adoption Act. This will enable the chief executive to make an application for a final intercountry adoption order to be made for non-citizen children placed with prospective adoptive parents by the relevant Commonwealth minister. The Adoption Act enables the chief executive to apply to the Children's Court for a final intercountry adoption order for a child when the child has been in the custody of the prospective adoptive parents for at least one year. This includes circumstances where the chief executive placed the child in the prospective adoptive parents' care.

The chief executive of the Department of Children, Youth Justice and Multicultural Affairs is usually responsible for the placement of children in Queensland. This is part of Australia's intercountry adoption program because of an instrument of delegation by the Australian government Minister for Home Affairs under Commonwealth legislation. This instrument of delegation, made under the Commonwealth Immigration (Guardianship of Children) Act 1946, refers to specific agencies, work areas and positions.

This can have a significant impact on the operation of the Adoption Act in the event of machinery-of-government changes that result in changes to the names of agencies or work areas. Following the 2020 Queensland election, machinery-of-government changes occurred that resulted in the forming of a new department. As the instrument of delegation referred to a previous department name, the delegations conferred on Queensland were unable to be exercised until a new delegation had been approved by the Commonwealth minister.

The Child Protection and Other Legislation Amendment Act 2021, which was passed on 23 March 2021, included amendments that were limited to enabling adoptions to be finalised for a small number of children in a specific time frame due to issues with the instrument of delegation at that time. Further technical issues with the instrument of delegation have since been identified that impact the operation of the Adoption Act for intercountry adoptions.

To address the issues, the bill seeks to amend the Adoption Act to enable the chief executive to apply to the court for a final adoption order for the non-citizen children. This provision is intended to apply retrospectively to support the department's supervision of non-citizen children who were placed with their prospective adoptive parents by the Commonwealth minister. This will avoid any uncertainty for these children and their families.

Again I would like to extend my thanks to the Community Support and Services Committee for its thorough consideration of the bill. The bill builds on our government's ongoing commitment to vulnerable children and families by delivering significant reforms as part of the 10-year Supporting Families Changing Futures reform program. We want every child to be empowered and their voice amplified in the decisions that affect them. This bill seeks to do just that. I commend the bill to the House.