

1 October 2021

Community Support and Services Committee
Parliament House
George Street
Brisbane QLD 400

By email: CSSC@parliament.qld.gov.au

Dear Committee Members,

Child Protection Reform and Other Legislation Amendment Bill 2021 ('the Bill')

Thank you for the opportunity to provide feedback on the Bill.

About QCOSS

QCOSS (Queensland Council of Social Service) is the peak body for the social service sector in Queensland. Our vision is to achieve equality, opportunity and wellbeing for every person, in every community.

QCOSS congratulates the Queensland Government on the Bill and welcomes this significant step towards better protection of the human rights of children who are interacting with the child protection system and improving adherence to the Aboriginal and Torres Strait Islander Child Placement Principle ('CPP'). We also acknowledge the significant contribution made by specialist peak bodies and the social services sector in the development of the Bill.

QCOSS' position

QCOSS is broadly supportive of the Bill on the basis that it has the potential to improve the human rights protections of children who are interacting with the child protection system. The importance of the views and wishes of children being taken into consideration when decisions are made about them cannot be understated. The Bill will provide additional opportunities for this to occur.

QCOSS has been consulted in the development of the Bill and through this process, has had the opportunity to develop an understanding of the perspectives of some of our members and other important stakeholders. This submission has been informed by these perspectives.

QCOSS acknowledges the expertise of the Aboriginal and Torres Strait Islander Child Protection Peak and Peak Care and asks that the Committee gives particular attention to the views of these specialist peak bodies.



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Opportunities

While we are broadly supportive of this reform, we have identified several opportunities to strengthen the Bill to ensure the legislative intent of reinforcing and strengthening children's rights and voices, improving adherence to the CPP and ensuring adequate supports are provided to families is achieved. We have outlined these opportunities below:

1. The welcomed introduction of 'active efforts' in relation to the CPP should be strengthened by preventing a decision-maker, including the Childrens Court, from making a decision in relation to an Aboriginal or Torres Strait Islander child unless the decision-maker is satisfied that active efforts have been made to apply the CPP.
2. In relation to all children, a section should be included so that the Childrens Court is prevented from making an order unless it is satisfied that an authorised decision-maker has discharged a positive duty to take active efforts to provide the family of the child with the supports they need to keep the child/ren in the care of their family.
3. To ensure that the views and wishes of children are appropriately influential in decision-making:
 - a. a section should be inserted in the Bill to prevent the Childrens Court from making a decision unless it is satisfied that proper attempts were made to apply the principles for participation of children and, if the child's views have been obtained, those views are available to the court.
 - b. a section should be inserted to ensure that unless the principles of participation of children are applied, a decision cannot be made by any authorised decision-maker.
4. To reflect that it is always appropriate to support families caring for children, the purpose of the Act in section 4 should be amended to omit words "to the extent that it is appropriate".
5. The definition of 'parent' is not sufficient prescriptive, is not consistent with section 15 of the *Human Rights Act 2019* and does not reflect the diversity of Queensland's families. Parents may be non-biological and include stepparents and grandparents and other extended family members. The language appears to assume heterosexual parentage and should be amended to reflect the potential for motherss and fatherss to be considered parents.
6. To strengthen the ability of children to understand their rights and express their views and wishes, they should have access to legal advice and representation. Section 5E(2) of the Bill should be amended to ensure that children are given information, and provided assistance, to access legal advice and representation.
7. To be consistent with section 15 of the *Human Rights Act 2019*, the Charter of Rights should apply to all children interacting with the child protection system, not only 'a child in care'.
8. Best interests should be defined in the Bill so that it is a less subjective concept. Decision-makers should be required provide an explanation of how they applied the concept of 'best interests' of the child to their decision and actions.



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9. The Bill should specify that children should be informed that there is a case plan and given a copy where appropriate. This should be an ongoing requirement – not information that should only be provided once.
10. The Bill should include a requirement to provide the carer with information about the child's views as well as including a right for the child to access information about the carer and for the free, prior and informed consent of the child to be sought in relation to placement decisions.

Conclusion

QCOSS welcomes the passage of the Bill as a significant step toward proper protection of the rights of children interacting with the child protection system. It is hoped that the Bill will lead to better adherence to the CPP and ensure that sufficient support is provided to maximise the potential for children to stay with their families. However, opportunities remain to ensure that the Bill is compatible with the Human Rights Act 2019 and to ensure that decision-makers do take the views and wishes of children into account and that active efforts to adhere to the CPP are properly enforced.

Thank you again for the opportunity to provide our submission to the Committee.

Sincerely



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