

Modernising the *Children and Young People Act 2008*

Information for Aboriginal and Torres Strait Islander families and community

Aboriginal and Torres Strait Islander children are over-represented in child protection and out-of-home care services compared to non-Indigenous children. The reasons for this are complex and are connected to past policies and the legacy of colonisation. Poverty, assimilation policies, intergenerational trauma, discrimination and forced child removals have all contributed to the over-representation of Aboriginal and Torres Strait Islander children in care, as has a lack of understanding of the cultural differences in child-rearing practices and family structure.¹

Recent inquiries, reviews and research, along with complaints received by the Community Services Directorate from children, families and carers, have highlighted the need for changes to the *Children and Young People Act 2008* (the CYP Act). Reform specific to Aboriginal and Torres Strait Islander children, young people and their families to reduce over-representation in the child protection system are central to these changes to the CYP Act.

The reform of the CYP Act will be completed in 2 stages:

- > Stage 1 – Open now – The Children and Young People Amendment Bill 1 2023 (Bill 1).
- > Stage 2 – Opens second half of 2023 – The Children and Young People Amendment Bill 2 (Bill 2).

What changes in Bill 1 will have an impact for Aboriginal and Torres Strait Islander families?

The *Our Booris, Our Way* Review recommended embedding the Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP) into the CYP Act.

In 2022, SNAICC completed a report about how the Community Services Directorate should embed the ATSICPP in the CYP Act. The Community Services Directorate accepts SNAICC's recommendations.

In response to these recommendations, Bill 1 inserts the 5 elements of the ATSICPP: *prevention, partnership, placement, participation* and *connection*. Bill 1 also adds a clear acknowledgment that the ATSICPP must be considered in the best interests of Aboriginal and Torres Strait Islander children.

Bill 1 recognises self-determination for Aboriginal and Torres Strait Islander peoples as Australia's first peoples and is specified as a principle at Section 10A with proposed wording of:

'Aboriginal and Torres Strait Islander people should participate in the care and protection of their children and young people with as much self-determination as is possible'.

Finally, Bill 1 inserts a requirement that Child and Youth Protection Services (CYPS) must attempt to understand and accurately record whether a child or young person is Aboriginal or Torres Strait Islander at the earliest opportunity in their work with a family, to ensure all elements of the ATSICPP are applied for each family and child.

¹ [Child protection and Aboriginal and Torres Strait Islander children | Australian Institute of Family Studies \(aifs.gov.au\)](https://aifs.gov.au/child-protection-and-aboriginal-and-torres-strait-islander-children)

What other changes are in Bill 1?

Bill 1 will make other changes to the CYP Act to allow better and earlier support for families and keep them away from the child protection system.

These changes include:

- > Reorganising concepts of *'abuse'* and *'neglect'* toward a focus on *'risk of significant harm'* to children and young people. This will provide a broader, less prescriptive definition of when and how child protection services can support families. The intention of this change is to provide families with services and support to assist them in caring for a child that might be at risk of significant harm, within their family unit.
- > Streamlining the current two-stage intake process of child concern reports and child protection reports into one intake assessment. This will allow workers to have more time to work closely with families and keep families out of the system.
- > Further guidance on how to determine a child or young person's *'best interests'* when making a decision, including that the most important consideration is that the child or young person is safe.
- > Increasing the timeframe for filing applications with the ACT Childrens Court after Emergency Action is taken from 2 to 3 days to allow children, young people and their families more time to obtain legal advice and representation.

How will this impact Aboriginal and Torres Strait Islander children, young people and their families?

Bill 1 reflects the ACT Government's commitment to partnering with Aboriginal and Torres Strait Islander people and reducing the over-representation of Aboriginal and Torres Strait Islander children and young people in the child protection system.

The changes in Bill 1 will allow the child protection system to focus on improved processes to apply:

- > the ATSICPP to decision making
- > better intake assessments
- > provision of earlier support to families in need and less involvement with the child protection system for Aboriginal and Torres Strait Islander children and families.

What will happen next?

Following the stage one consultation process, we expect to provide a revised Children and Young People Amendment Bill 1 2023 to the ACT Government to consider in mid-2023, with the amendments to come into effect in early 2024.

Work has already commenced on Bill 2, and it is anticipated it will be introduced in early 2024.

Bill 2 will include further work to embed the rest of the SNAICC report's recommendations into the CYP Act, including:

- > further embedding the ATSICPP throughout the CYP Act
- > requiring the Community Services Directorate to make *'active efforts'* when applying the ATSICPP
- > allowing Aboriginal Community Controlled Organisations (ACCOs) to hold more responsibility for children
- > and considering restoration early when a child has been removed.

The Community Services Directorate will release more information and opportunities for you to have your say on Bill 2 in the second half of 2023 through the YourSay platform.

How can I tell you what I think?

The Community Services Directorate is currently asking for comments and feedback on Bill 1 through the ACT Government's YourSay Conversations platform.

There are two ways you can have a say:

- > Complete an online survey – a simplified way to provide feedback.
- > Make a submission – allows you to provide more detailed feedback in response to the questions in the discussion paper.

The survey and submissions close at 11.59pm on 27 July 2023.

Access these plus more information about the reforms at [YourSay Conversations – Changing the Children and Young People Act 2008](#).