

Shaping a Better Child Protection System: Overview of legislative reforms

The *Children and Young Persons (Care and Protection) Amendment Act 2018* will commence on 4 February 2019.

The Act amends the *Children and Young Persons (Care and Protection) Act 1998* and the *Adoption Act 2000* to support current child protection reforms. The amendments will strengthen services to keep children safely at home with their families and restore children to their families when it is safe to do so. When this is not possible, a safe and loving home will be secured for children through guardianship or open adoption.

The amendments aim to support further reductions in the number of children and young people in out-of-home care (OOHC) and improve the timeliness and quality of services for these children and their families.

Key amendments:

Earlier family preservation and restoration

- Alternative dispute resolution such as Family Group Conferencing must be offered to a family before orders are sought from the Children's Court (unless there are exceptional circumstances). This empowers families to work together to develop their own plan to keep their children safe.
- The Department of Family and Community Services (FACS) can ask an agency or funded service provider to give prioritised access to services for children at risk of significant harm and their family.
- The Children's Court is able to assess the realistic possibility of restoration in a 24 month period, allowing the Court to consider whether restoration will be possible into the future.
- Children will be able to be restored to their parents up to 12 months before a court order involving restoration expires (the current limit is up to 6 months).

Focus on permanency for children and young people

- Shorter term court orders will focus casework planning to secure long term permanency outcomes sooner and reduce the time children spend in OOHC.
 - For care plans involving restoration, guardianship or adoption, the maximum period of an order giving parental responsibility to the Minister will be 24 months, unless the Children's Court is satisfied that special circumstances exist.
- Currently the Supreme Court can approve a child's adoption by authorised carers, without parental consent. This authorisation now extends to a child's guardian.

Streamlined court processes

- Court processes have been streamlined to focus on each child's experience and what is in their best interest. These changes are designed to minimise lengthy litigation processes and respond to a child's need quickly.
- The Children's Court will be able to:
 - make a guardianship order where both parents consent, without the need to make a finding that there is no realistic possibility of restoration of the child to their parents
 - make contact orders for longer than 12 months where a guardianship order is made and it is in the child's best interest
 - relist a matter and review progress in implementing the care plan if the Court is not satisfied that proper arrangements have been made for the child's care and protection
 - prioritise the views of children in applications for leave to vary or rescind a care order
 - dismiss an application for leave to vary or rescind a care order if the Court is satisfied that it is frivolous, vexatious, an abuse of process, or one of a series of unsuccessful attempts by the applicant
 - vary an interim order on an application by a party during proceedings if the Court is satisfied that it is appropriate to do so.

Other changes

- When a guardian or carer with full parental responsibility dies, care responsibility for a child will now sit with the FACS Secretary for 21 days. This will give FACS time to ensure appropriate care arrangements have been made.
- The publication or broadcast of the names of children in a way that identifies them as being in OOHC will be prohibited in most situations.
- Supported OOHC (other than temporary care arrangements) will only be provided for the placement of a child in care with a relative or kin where a relevant court order exists, consistent with existing practice.

Monitoring and reporting

- FACS will monitor and report on the changes to ensure that they are supporting better outcomes for children, families and Aboriginal communities.