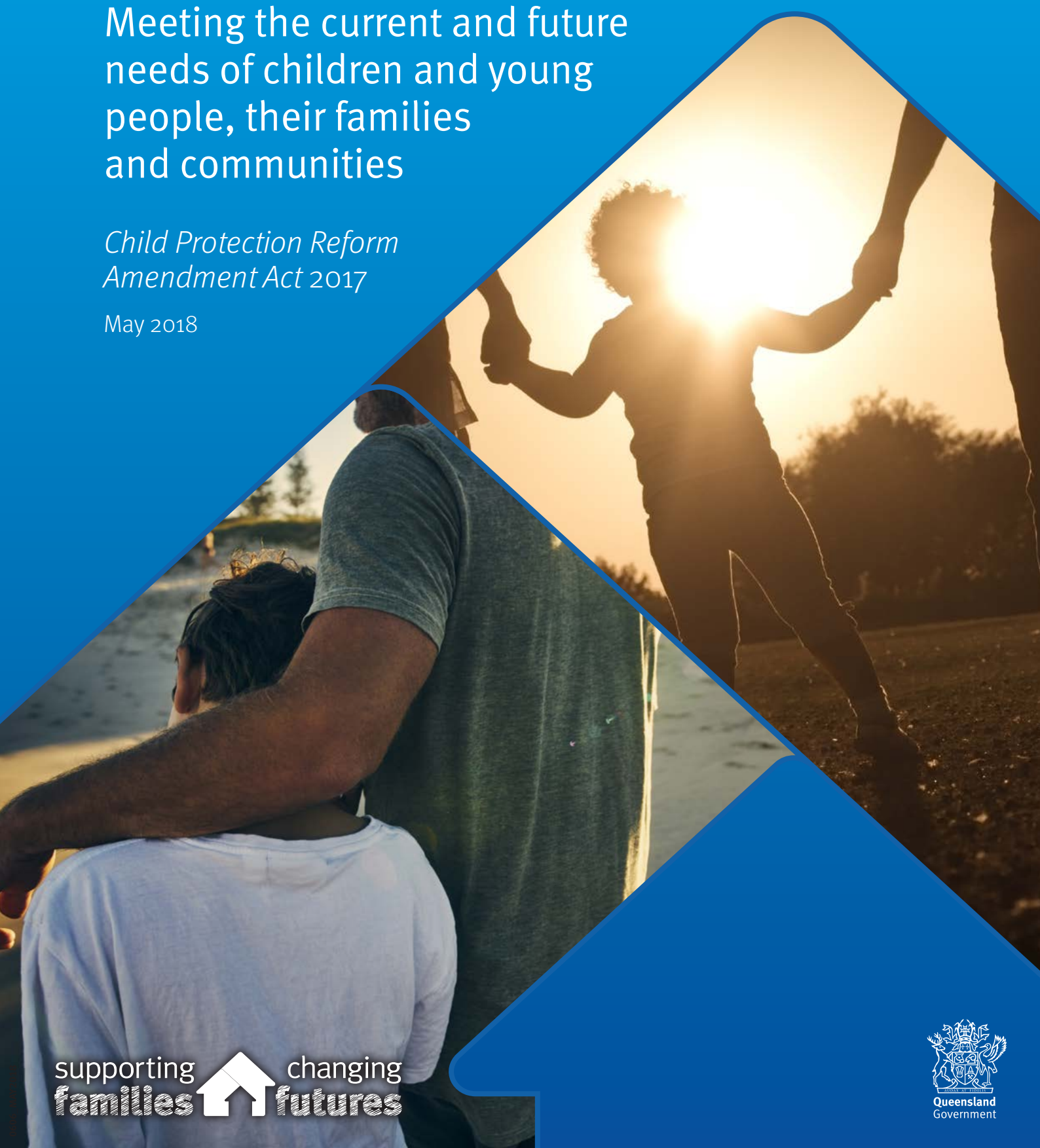


# Queensland's child protection legislation –

Meeting the current and future needs of children and young people, their families and communities

*Child Protection Reform Amendment Act 2017*

May 2018



## Introduction

The Queensland Government is building a new child protection and family support system to meet the needs of Queensland children, young people and families, now and into the future. Following a significant review and consultation process, in October 2017 the Queensland Legislative Assembly passed the *Child Protection Reform Amendment Act 2017* (the Amendment Act). The Amendment Act:

- promotes the safe care and connection of Aboriginal and Torres Strait Islander children and young people with their families, communities and cultures
- promotes permanency and stability for children and young people, now and throughout their lives, including support when they leave care
- provides a contemporary information sharing framework focused on children and young people's safety and wellbeing
- makes other key changes to support the Supporting Families Changing Futures reforms.

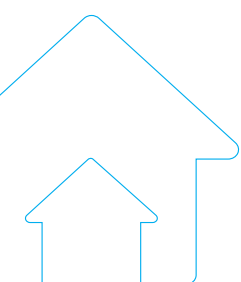
The Department of Child Safety, Youth and Women (the department) is taking a staged approach to the implementation of these legislative changes. On 29 January 2018, some of the changes commenced operation to allow the department to disclose information to:

- people who are, or have been, living in out-of-home care
- a parent or guardian, if a deceased child or young person was subject to a child protection order
- the police, if an investigation is being conducted following a child or young person's death
- child welfare authorities in other jurisdictions to respond to child protection concerns.

The remaining changes will come into effect later in 2018. The department is also continuing to progress other key reforms identified as part of the review of the *Child Protection Act 1999* (the Act), and investigate whether further legislative amendments are required.

## The safe care and connection of Aboriginal and Torres Strait Islander children with family, community and culture

The Amendment Act represents a significant shift in how the department supports the connection of Aboriginal and Torres Strait Islander children and young people with their family, community and culture, acknowledging that stronger connections result in better outcomes for Aboriginal and Torres Strait Islander children and young people. The changes also recognise the significant and long-term effect of decisions on a child or young person, their family and community; and acknowledges the role of family and community as the primary source of cultural knowledge.



Ensuring the safe care and connection of Aboriginal and Torres Strait Islander children and young people is also vital to achieving the intent of the Supporting Families Changing Futures Reforms, the Our Way Strategy and the Changing Tracks Action Plan.

Implementing the changes effectively requires active efforts from all levels of government, funded services and community so we can collectively apply the values of family and community connection, cultural integrity strengths and solutions that support self-determination for Aboriginal and Torres Strait Islander families.

## Self-determination

The Amendment Act inserts a new principle into the Act to recognise the right of Aboriginal and Torres Strait Islander people to self-determination. One way the amendments support the principle of self-determination will be through the introduction of a new power for the chief executive of the department to delegate some or all of their functions and powers in relation to an Aboriginal or Torres Strait Islander child or young person to an appropriate Aboriginal or Torres Strait Islander entity. This change contributes to the implementation of Action 4.2 of the Changing Tracks Action Plan. The department is working with government and non-government partners to support implementation of this change.

## Child Placement Principle

The changes embed all five elements of the Aboriginal and Torres Strait Islander Child Placement Principle – prevention, partnership, placement, participation and connection – as a set of principles for working with Aboriginal and Torres Strait Islander children and families.

Anyone who undertakes functions under the Act, whether that is the department, funded services, or the court system will be required to apply the five elements of the Child Placement Principle.

## Cultural advice about Aboriginal and Torres Strait Islander children

The Amendment Act introduces the new concept of an independent Aboriginal or Torres Strait Islander entity, effectively replacing and broadening the existing role of ‘recognised entities’ under the Act. This will enable the family to choose the person or organisation best placed to facilitate their meaningful participation in decision-making. The introduction of the independent entity helps to respect and protect the rights of families to take an active part in decision-making. This change recognises that Aboriginal and Torres Strait Islander children, young people and families have the best knowledge of the strengths and needs that exist in their own families and communities, and are the primary source from which cultural advice should be sought to inform decisions that affect them.



## Cultural support planning

The changes require a case plan for an Aboriginal or Torres Strait Islander child or young person to include details about how the child or young person will be supported to develop and maintain connections with their family, community and culture.

## Permanency and stability for children, now and throughout their lives

Research shows that achieving stability through permanency is one of the most important aspects contributing to positive outcomes for children and young people, and is critically important for a child's or young person's development and long-term wellbeing. More than 60 per cent of children and young people in care are on long-term orders until they turn 18 years old. It is crucial that we make timely decisions for children and young people, and make meaningful plans for their future, to promote positive life-long outcomes. The Amendment Act introduces a new permanency framework to promote timely decision-making, stability and positive developmental outcomes for children and young people.

## New and expanded principles

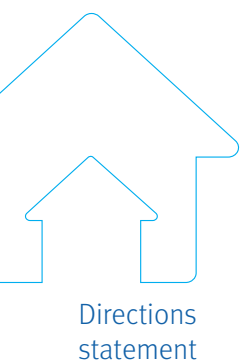
The changes make it clear the paramount principle of the Act is the safety, wellbeing and best interests of a child, both throughout childhood and for the rest of the child or young person's life. The changes introduce new permanency principles, including preferences about the best way to achieve permanency for a child or young person, with the first preference being for the child or young person to be with his or her family. The changes also introduce and define the concept of permanency, with explicit reference to the three dimensions of permanency – physical, relational and legal.

## Permanency planning

The changes require a child or young person's case plan to include permanency goals and actions for achieving those goals. If the permanency goal for a child or young person is to support the family to enable the child or young person to return home safely, the case plan must also include an alternative goal in the event that family reunification is not possible. This will better support timely permanency decision-making so children and young people are provided with long-term, stable care, whether they return home or require alternative care arrangements.

## Child protection orders

The changes introduce a new permanent care order to provide a child or young person in long-term care with a more stable and secure family arrangement beyond what a long-term guardianship order may offer. The order will grant a person the guardianship of the child or young person until they reach 18 years of age. This order will not sever the child or young person's legal relationship with their family or change their legal identity.



The changes limit making consecutive short-term child protection orders to a maximum of two years, unless the court is satisfied it is in the best interests of the child or young person. This addresses the concerns raised by the Queensland Child Protection Commission of Inquiry regarding children and young people being in care for significant periods of time under short-term orders, without a realistic prospect of returning home safely. The two year limit on short-term orders will further promote timely permanency decision-making for children and young people.

The changes also simplify court processes for changing a child or young person's guardian from being the chief executive to being another suitable person, such as a member of the child's extended family or the child's long-term carer, with the court not required to reconsider previous findings that the child or young person is in need of protection.

## Transition to adulthood

The changes clarify the department's responsibility for planning for a child or young person's transition to adulthood from the time they turn 15 years of age. They also clarify the department's responsibility to ensure help is available to support a young person in their transition to adulthood, up to 25 years of age.

## A contemporary information sharing framework

The changes provide an information sharing regime that will improve the ability of individuals and organisations to protect children and young people, and enhance the efficiency and effectiveness of service delivery, while protecting people's privacy and safeguarding sensitive information.

Simplifying the provisions will make them clearer and easier to use. Together with the new information sharing guideline that will be published by the department, frontline officers and services will have a better understanding of when and how they can share and protect information.

Non-government entities play an increasing role in delivering services to support children and young people and their families. The changes allow specialist service providers that are funded by the Queensland or Commonwealth Governments to share particular information with each other about children and young people and their families they are supporting and to whom they are providing services. This will enable support to be better coordinated by the services involved with a family and improve the continuity of support. It also allows services that are funded by the Queensland or Commonwealth Governments to share information with each other to meet the needs of children and young people who might become in need of protection if preventative support is not provided to them or their families.



## Unborn children and pregnant women

The changes clarify that information can be shared about an unborn child and their family to help the department determine if an unborn child may be in need of protection after their birth and to take necessary action, such as offering help and support to the pregnant woman.

## Other changes

Queensland's child protection laws have also been changed to:

- improve to the department's capacity to participate in research projects that will help improve outcomes for children and young people in out-of-home care and the design of services
- extend of protections for a child or young person who is or is reasonably likely to be a witness in criminal proceedings involving offences of a violent or sexual nature
- clarify that the treatment medical practitioners may provide to children and young people in the chief executive's custody includes giving them emergency or routine vaccinations without parental consent where it is reasonable to do so
- clarify that the provisions of the Act enable a child abduction or amber alert to be issued by the Queensland Police Service when a child or young person in care is missing
- create additional requirements for the department and parents when entering an Intervention with Parental Agreement
- clarify that a temporary custody order can be applied for to provide for the immediate safety of a child or young person while the Director of Child Protection Litigation considers whether or not they will apply for an order.

## Implementation

Throughout 2018, the department is working to prepare the child protection system for the amendments. Although some changes are straightforward, others represent transformational changes to how child protection services are delivered in Queensland. Importantly, there is no provision that enables a transitional period for the legislative amendments to come into effect, meaning changes will commence from the date set by proclamation.

The department will focus on building individual and system capability to support the changes and will also undertake communication activities so those who work in and with the child protection sector, as well as children and families, are aware of the changes and when they come into effect.

For more information about the proposed changes to Queensland's child protection laws, go to [www.csyw.qld.gov.au/child-safety-legislation-reform](http://www.csyw.qld.gov.au/child-safety-legislation-reform) or email [CPAreform@communities.qld.gov.au](mailto:CPAreform@communities.qld.gov.au).

