A new legislative framework: Children and Young People (Safety and Support) Bill 2024

Government of South Australia
Department for Child Protection

	KEY MESSAGES FROM THE REVIEW	WHAT'S CHANGED IN RESPONSE
Principles for Aboriginal Children, Young People and Families	• The majority of stakeholders indicated an exceptionally high level of support for embedding all five elements of the Aboriginal and Torres Strait Islander Child Placement Principle, to the standard of active efforts • A significant number of stakeholders said the Principle should include the element of 'Identification' as a pre-cursor to its application • There were a range of views on whether the Principle, best interests or safety should be the paramount consideration for Aboriginal children and young people • There were high levels of support for explicit recognition of a right to self-determination • There was significant support to embed the principle of Family Led Decision Making and make available Family Group Conferencing to Aboriginal families • The majority of stakeholders agreed the importance of provisions for the progressive delegation of legislative authority to Aboriginal entities	• Discrete provisions for Aboriginal children and young people • New statements in the purpose and additional objects specifically in relation to Aboriginal children and young people • The Aboriginal and Torres Strait Islander Child Placement Principle is more fully articulated and embedded as the key decision-making framework for Aboriginal children, while retaining safety as paramount • Requires the Principle be applied to the standard of *active efforts* with an embedded accountability mechanism • Introduces *Identification* as the precursor to applying the Principle • Recognises, respects and supports self-determination and embeds the principle of family-led decision-making • Enables the progressive delegation of legislative authority to Recognised Aboriginal Entities • Requires the Chief Executive to offer Family Group Conferencing to Aboriginal families • Provides for a new scheme for the involvement of Respected Persons in Court proceedings to support Aboriginal children and young people
Getting the Settings Right	• There was overwhelming support for a public health approach to child protection as a general principle, with a range of views on how to include this in the legislation • Many people suggested the legislation should recognise the UN Convention on the Rights of the Child and the Declaration on the Rights of Indigenous Peoples • A significant number of people stated it was important to acknowledge the role and responsibility of the broader child and family support system in keeping children safe • There was overwhelming support to include the best interests of a child as a key principle to consider in decision-making about children and young people • Many stakeholders supported a change in the reporting threshold, and a change in the requirements for mandatory reporting	• New provisions to support a public health approach to child protection, including: – requiring the development of a State Strategy for children and young people – recognising the role of agencies in providing service responses that address child abuse and neglect – introducing a power to direct CEs of prescribed State authorities - Health, Education, Human Services - to meet to enable an interagency support response • Recognition of the UN Convention on the Rights of the Child and Declaration on the Rights of Indigenous Peoples • Introduction of best interests as a guiding principle in decision-making, whilst retaining safety as paramount • Changing the requirements for *mandatory reporting* including where no significant change in circumstances
Children at the Centre	• There was overwhelming support for child-focused legislation privileging the voices of children and young people in decision-making. • Many suggested the commitment to child-centred practice be demonstrated across the Act, including through enabling timely decision-making, and supporting active participation in decision making • Some stakeholders cautioned that the emphasis on timely decision-making and permanency should not limit the ability to flexibly respond to the needs and circumstances of the individual child and their families • The legislation has a clear role in protecting children's rights and interests, with many suggesting a higher onus to provide services and supports, including when transitioning to adulthood	• Additional provisions elevating the voice of children and young people • Requires provision of a copy of the Charter of Rights to children • Specifies matters to be considered in a leaving care plan including access to personal information • Requires the case plan to be considered as part of a child's annual review • Requires a panel of the SACAT to include at least one member with social work and/or child protection experience, and one member to be Aboriginal where the matter relates to an Aboriginal child • Requires the Contact Arrangements Review Panel (CARP) to have regard to submissions made by the child • Strengthens provisions to prevent the publication of material that identifies a child as being under guardianship • Enables interagency panel to undertake timely, clinical assessments of certain incidents and to make recommendations for improvement
Supporting Our Partners	• Many stakeholders supported the Statement of Commitment being embedded in the legislation, and greater recognition of the invaluable role carers play • A significant number of carers and carer advocates called for greater independence and transparency in complaints processes, reviews of decisions and in care concern processes • Most agreed the need to ensure the focus of the legislation remains on the safety and wellbeing of children	• Requires the Statement of Commitment be published and regularly reviewed • Provides for an independent complaints pathway to the Health and Community Services Complaints Commissioner • Introduces a specific pathway for assessing reports of harm to children in care (formerly 'care concerns') • Ensures carers are offered the opportunity to attend the annual review of the child in their care • Explicitly enables payments to carers to support eligible care leavers up to 25 years • Introduces new provisions for the CARP, including provisions relating to new timeframes, independence of the presiding member and requirements for Panel membership where a matter relates to an Aboriginal child • Ensures the reverse onus of proof applies to Specified Person Guardianship Orders *only* • Specifies which decisions may be the subject of internal and external reviews