

Submission to: **Legislative Scrutiny Committee, Legislative Assembly of the Northern Territory.**

Response to call for submissions – Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026

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I make this submission as an academic who has conducted research on child protection in the Northern Territory and other Australian jurisdictions for over ten years. This submission is informed by the findings from research, specific to the Northern Territory, of which I am lead or co-author (listed in the appendix), as well as other Australian and international evidence.

In making this submission I acknowledge, and offer my deep respect, to Elders, Aboriginal leaders and experts on child protection and child and family wellbeing in the Northern Territory. I also respectfully acknowledge the unceded sovereignty of all the clans throughout the Northern Territory.

In my view, any future legislative change relating to the Care and Protection of Children Act 2007 should incorporate genuine collaboration, codesign, power sharing, and principles of self-determination to develop relevant and beneficial legislation.

Below I present my response to some of the proposed legislative amendments.

Legislative change: The introduction of a two-year limit on short-term protection orders (Section 12D(2))

Effect:

- Children are more likely to be placed on permanent orders that keep a child under the care of the CEO of DCF until 18 years of age
- Children are fast tracked into permanent care arrangements
- After a permanent care arrangement is implemented, there is no opportunity to reunify children and young people with family if family safety issues are no longer apparent nor meet legislative definition of child maltreatment

Outcomes:

- Aboriginal children are less likely to be reunified with family and returned to community and country
- The total number of children in OOHC will increase leading to poorer outcomes for children and the community, as well as greater costs for government

Parents, guardians and caregivers need flexibility and intensive support to navigate short-term protection orders and resolve safety issues that impact their children. In some circumstances, parents need longer than two years. This approach has been implemented and now abandoned in other Australian jurisdictions. For example, Victoria has recently removed strict 24-month time limits for family reunification orders, to prevent unwarranted disruption to family units, and to focus on flexible decision making in the best-interests of children as well as placement stability over permanency (Legal Aid Victoria, 2026).

Currently, the NTs child protection system already does not support parents with children on short term orders to the degree and intensity required to support the reunification of their children. In our current study examining the criminalisation of children in OOHC in the NT (Roche, Maidment and Robinson, under review), participants held major concerns around the lack of work and engagement with families to assist to reunify children back to their biological parents and the impact this could have on outcomes for children, who are more likely to become entrenched in the OOHC system with limited opportunity to be reunified with their parents. Stakeholders reported that work with parents and guardians of children who have been newly removed on short term orders, to support them to build capacity and create suitable and safe family environment and have their children reunified back to them, was a low priority for DCF. This led to children and young people spending longer in OOHC placements, increased the likelihood of repeated short-term orders, as well as the likelihood of permanent removals, and could drastically impact their level of ongoing connection to family, their community and culture. Children on short term orders could be placed in entirely new and unfamiliar locations, in some circumstances, thousands of kilometres from their home. A participant (P41) stated:

“Often it's seen as an easier thing to remove the children and then look at those other things later. But you know, even with the department's obligations, when there's a two year protection order in place, like a short term order, they're meant to actually be working on reunification plans and ... continuing to have a relationship with the family so that they're ensuring that the family's been linked with services to support them through whatever the concerns were that they've identified. And then they're also meant to be ensuring that, the children, when they've been removed, that they're following those child placement principles and they're ensuring that the families remain connected to their children. But those things don't happen, there's like a huge disconnect and it's like our families just have this expectation that that's what's going to happen, that all the kids will get taken away from us. But later on they'll come back, like, later on down the track.

You see it in all the cases that we work with... I think the biggest thing is that disconnection from their families, like they can go into the system and have no contact with the family for years.

Often what happens is there is no contact [during a short-term order] with a family until it's too late, like within that last six months space you're meant to be working on that reunification plan or long-term planning like you know, the long-term safety planning for the children.

And if the family hasn't had that engagement with the department in that first year and a half, for example, like they're coming last minute to work with the family and it's an unrealistic expectation for the families to be even ready to have any sort of, you know, preventative or prevention or intervention work provided to them in that small time frame before that it's ready to go to court again to apply for another order. And then, you know, even though some of our families who are working hard to try to get their kids back and their children return to their care, they often aren't provided with the right supports”

Our findings in this study (Roche, Maidment and Robinson, under review) reveal that in many cases, parents are left without support to improve the safety or wellbeing issues in their home that lead to children being removed. There is also a lack of support interventions with firm evidence that can be used with families to improve safety concerns. The consequence is that children become more entrenched in OOHC, kinship care options are not explored, and parents are not supported to address safety issues and have their children reunified back to them, creating even greater cultural disconnection to family, community, country and culture.

This legislative amendment will also likely lead to higher numbers of children in OOHC in the NT. OOHC is delivered at a substantial cost to the NT Government, with OOHC service delivery costing \$137 million in 2024/25 (Northern Territory Government, 2025). Recent budget information for the 23/24 financial year details costs to the NT Government for various OOHC placement types, including: Purchased home-based care (\$34.9 million); kinship care services (\$4.1 million); foster

care services (\$8.3 million); and the Foster and Kinship Carers Association NT (\$1.1 million) (NTG Legislative Assembly, 2023).

The OOHC system in the NT is under stress and placing more children into OOHC may further compromise the health and wellbeing of these children. For example, a sample of 304 children in OOHC in Central Australia (most residing in the NT) found significant health needs and a high level of developmental, behavioural and mental health concerns (Woon, Kilpatrick and McLean, 2025). They identified that 43% had mental health concerns and just 18% of children were up to date with immunisations, while over half of primary school aged children had diagnosed or suspected attention-deficit/hyperactivity disorder (ADHD) and Foetal Alcohol Spectrum Disorder (FASD) was diagnosed or suspected in 43% of high-school aged children (Woon, Kilpatrick and McLean, 2026).

In addition, ***OOHC placements can limit First Nations children's cultural connections and the positive identity and wellbeing that cultural connections support*** (Krakouer et al., 2018), long regarded as protective factors for children. Additionally, where Aboriginal children are placed with non-Indigenous carers, their exposure to Aboriginal family, community and culture can be limited (Krakouer et al., 2022) and reduce the wellbeing and protective factors these provide. For example, the Productivity Commission reports on the proportion of Aboriginal and Torres Strait Islander children aged 0-17 in OOHC who have current documented and approved cultural care plans. In the NT in 2023, 84.6% of Aboriginal children in OOHC had a cultural care plan, a large increase from just 23.2% in 2022, indicating a large cohort of children potentially without adequate cultural care for lengthy periods of time, indicating recent break down in these practices (Productivity Commission, 2025).

Another reason to reduce the number of children in OOHC is the lack of support, and at times harmful experience that children in residential care in the NT can experience. The Office of the Children's Commissioner NT (OCC-NT), in a residential care monitoring report undertaken in 2022 (OCC-NT, 2024), identified practices in Intensive Therapeutic Residential Care (ITRC) that could contribute to the criminalisation of children, including minimal engagement with the Department of Children and Families case managers, incomplete, outdated, and untimely leaving care plans, care plans frequently without specific detail of the health and trauma experiences and needs of children, care plans not clearly articulating the complex needs of children, some children not being aware of their own skin names indicating a lack of cultural awareness and safety, as well as a failure to develop appropriate cultural planning to all Aboriginal children in residential care.

Legislative change: **Removal of provisions relating to the Aboriginal Child Placement Principle (Section 12C).**

- **Effect:**
 - This reduces the priority of placing Aboriginal children with Aboriginal caregivers (kinship care)
 - It weakens the use and application of the Aboriginal Child Placement Principle
- **Outcome:**
 - Fewer Aboriginal children will be placed in kinship care arrangements
 - The cultural safety and overall wellbeing of Aboriginal children in OOHC is reduced
 - The NTs child protection system moves away from current evidence and long-standing policy consensus on the distinct value of kinship care for Aboriginal and Torres Strait Islander children, young people and families

The Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP) is a nationally accepted and guiding principle in policy and legislation across all Australian jurisdictions that aims to keep children connected to their families, communities, cultures and country (SNAICC, 2025). This principle is currently incorporated into the NT Government's policy on OOHC placements which states that all placement decisions must demonstrate a commitment to the ATSICPP (NTG, 2020a). Currently, this principle is also reflected in NT legislation which prioritises Aboriginal children to be placed with family members, with an Aboriginal person in their community, or any other Aboriginal person, before placements with a non-Indigenous carer (Care and Protection Care and Protection of Children Act 2007, Section 12, 2D (3)). It includes an OOHC cultural hierarchy for placements for Aboriginal and Torres Strait Islander children, which prioritises kinship placements and recommends the use of non-Indigenous carers only as a last resort (SNAICC, 2025). The proposed legislative amendments seek to change this approach to placing Aboriginal children in OOHC.

A range of evidence highlights the benefits of kinship care over other OOHC placement types. An international scoping review of kinship care and child protection in high-income countries (Hallett, Garstang and Taylor, 2023, 633) found that “rates of re-abuse, and particularly rates of physical and sexual abuse, appear to be lower in kinship care settings”. Another major study found that children placed into kinship care had fewer behavioural problems in the next three years, compared children placed into foster care (Rubin, et al., 2008). A systematic review of academic studies that compare kinship and foster care placements across, safety, permanency and wellbeing domains identified that children in kinship care experience fewer overall behavioural problems, fewer mental health disorders, better well-being and higher placement stability (Winokur, Holtan and Batchelder, 2014).

In addition, ***this proposed legislative change diverges from Australia's National Framework for Protecting Australia's Children*** (Commonwealth of Australia, 2021) which is underpinned by 'Principle 6 - Embedding the 5 elements of the Aboriginal and Torres Strait Islander Child Placement Principle – Prevention, Partnership, Placement, Participation and

Connection’. In addition, it is also moving away from Article 30 of the United Nations Convention on the Rights of the Child (1990) which states that “a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language” which is best achieved in kinship care, over other placement types.

The NT is already going backwards on kinship care placements. In 2024, just 23.8% of Aboriginal and Torres Strait Islander children in OOHC were living with Aboriginal and Torres Strait Islander relatives or kin or Aboriginal and Torres Strait Islander carers, the lowest of any Australian jurisdiction (Productivity Commission, 2025). This is a decline from 36.8% in 2019 (Productivity Commission, 2025). In addition, AIHW data details that no households commenced ‘relative/kinship care’ in 2023/24 (AIHW, 2025).

In my view, this change to Section 12C should not go ahead, and instead the NT Government should find ways to invest in and expand kinship care placements for children in the OOHC system.

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Appendix: Relevant research undertaken by Dr Roche

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