

1. Commonwealth

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>ARTICLE 3:</p> <p>1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.</p> <p>2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.</p> <p>3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.</p>	<p>Australian Human Rights Commission Act 1986</p>	Cth	Schedule 3, Principle 2	This principle states that the child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose, the best interests of the child shall be the paramount consideration.
				Schedule 3, Principle 7, second stanza
	<p>Crimes Act 1914</p>	Cth	23XWU	<p>This section sets out the circumstances where a magistrate may order the carrying out of a forensic procedure on a child.</p> <p>In determining whether to make such an order, the magistrate is to take into account a variety of factors including, under section 23XWU(2)(c), the best interests of the child.</p>
	<p>Family Law Act 1975</p>	Cth	60A	<p>Division A of the Act generally contains provisions dealing with:</p> <p>(a) the best interests of the child in court proceedings; and</p> <p>(b) provisions dealing with an adviser's obligations in relation to the best interests of the child in court proceedings.</p>

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			60B	<p>60B Objects of Part and principles underlying it</p> <p>(1) The objects of this Part are to ensure that the best interests of children are met by:</p> <p>(a) ensuring that children have the benefit of both of their parents having a meaningful involvement in their lives, to the maximum extent consistent with the best interests of the child; and</p> <p>(b) protecting children from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or family violence; and</p> <p>(c) ensuring that children receive adequate and proper parenting to help them achieve their full potential; and</p> <p>(d) ensuring that parents fulfil their duties, and meet their responsibilities, concerning the care, welfare and development of their children.</p> <p>(2) The principles underlying these objects are that (except when it is or would be contrary to a child's best interests):</p> <p>(a) children have the right to know and be cared for by both their parents, regardless of whether their parents are married, separated, have never married or have never lived together; and</p> <p>(b) children have a right to spend time on a regular basis with, and communicate on a regular basis with, both their parents and other people significant to their care, welfare and</p>

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				<p>development (such as grandparents and other relatives); and</p> <p>(c) parents jointly share duties and responsibilities concerning the care, welfare and development of their children; and</p> <p>(d) parents should agree about the future parenting of their children; and</p> <p>(e) children have a right to enjoy their culture (including the right to enjoy that culture with other people who share that culture).</p> <p>(3) For the purposes of subparagraph (2)(e), an Aboriginal child's or Torres Strait Islander child's right to enjoy his or her Aboriginal or Torres Strait Islander culture includes the right:</p> <p>(a) to maintain a connection with that culture; and</p> <p>(b) to have the support, opportunity and encouragement necessary:</p> <p>(i) to explore the full extent of that culture, consistent with the child's age and developmental level and the child's views; and</p> <p>(ii) to develop a positive appreciation of that culture.</p> <p>(4) An additional object of this Part is to give effect to the Convention on the Rights of the Child done at New York on</p>

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				20 November 1989.
			60CA	<p>60CA Child’s best interests paramount consideration in making a parenting order</p> <p>In deciding whether to make a particular parenting order in relation to a child, a court must regard the best interests of the child as the paramount consideration.</p>
			60CB	<p>60CB Proceedings to which Subdivision applies</p> <p>(1) This Subdivision applies to any proceedings under this Part in which the best interests of a child are the paramount consideration.</p> <p>Note: Division 10 also allows a court to make an order for a child’s interests to be independently represented by a lawyer in proceedings under this Part in which the best interests of a child are the paramount consideration.</p> <p>(2) This Subdivision also applies to proceedings, in relation to a child, to which subsection 60G(2), 63F(2) or 63F(6) or section 68R applies.</p>
			60CC	<p>60CC How a court determines what is in a child’s best interests</p> <p><i>Determining child’s best interests</i></p> <p>(1) Subject to subsection (5), in determining what is in the child’s best interests, the court must consider the matters set out in subsections (2) and (3).</p>

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				<p><i>Primary considerations</i></p> <p>(2) The primary considerations are:</p> <p>(a) the benefit to the child of having a meaningful relationship with both of the child’s parents; and</p> <p>(b) the need to protect the child from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or family violence.</p> <p>Note: Making these considerations the primary ones is consistent with the objects of this Part set out in paragraphs 60B(1)(a) and (b).</p> <p>(2A) In applying the considerations set out in subsection (2), the court is to give greater weight to the consideration set out in paragraph (2)(b).</p> <p><i>Additional considerations</i></p> <p>(3) Additional considerations are:</p> <p>(a) any views expressed by the child and any factors (such as the child’s maturity or level of understanding) that the court thinks are relevant to the weight it should give to the child’s views;</p> <p>(b) the nature of the relationship of the child with:</p> <p>(i) each of the child’s parents; and</p> <p>(ii) other persons (including any grandparent or other</p>

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				<p>relative of the child);</p> <p>(c) the extent to which each of the child’s parents has taken, or failed to take, the opportunity:</p> <p>(i) to participate in making decisions about major long-term issues in relation to the child; and</p> <p>(ii) to spend time with the child; and</p> <p>(iii) to communicate with the child;</p> <p>(ca) the extent to which each of the child’s parents has fulfilled, or failed to fulfil, the parent’s obligations to maintain the child; and</p> <p>(d) the likely effect of any changes in the child’s circumstances, including the likely effect on the child of any separation from:</p> <p>(i) either of his or her parents; or</p> <p>(ii) any other child, or other person (including any grandparent or other relative of the child), with whom he or she has been living; or</p> <p>(e) the practical difficulty and expense of a child spending time with and communicating with a parent and whether that difficulty or expense will substantially affect the child’s right to maintain personal relations and direct contact with both parents on a regular basis;</p>

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				<p>(f) the capacity of:</p> <ul style="list-style-type: none"> (i) each of the child’s parents; and (ii) any other person (including any grandparent or other relative of the child); and <p>to provide for the needs of the child, including emotional and intellectual needs; and</p> <p>(g) the maturity, sex, lifestyle and background (including lifestyle, culture and traditions) of the child and of either of the child’s parents, and any other characteristics of the child that the court thinks are relevant; and</p> <p>(h) if the child is an Aboriginal child or a Torres Strait Islander child:</p> <ul style="list-style-type: none"> (i) the child’s right to enjoy his or her Aboriginal or Torres Strait Islander culture (including the right to enjoy that culture with other people who share that culture); and (ii) the likely impact any proposed parenting order under this Part will have on that right; and <ul style="list-style-type: none"> (i) the attitude to the child, and to the responsibilities of parenthood, demonstrated by each of the child’s parents; and (j) any family violence involving the child or a member of the child’s family; and (k) if a family violence order applies, or has applied, to the

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				<p>child or a member of the child’s family—any relevant inferences that can be drawn from the order, taking into account the following:</p> <ul style="list-style-type: none"> (i) the nature of the order; and (ii) the circumstances in which the order was made; and (iii) any evidence admitted in proceedings for the order; and (iv) any findings made by the court in, or in proceedings for, the order; and (v) any other relevant matter; and (l) whether it would be preferable to make the order that would be least likely to lead to the institution of further proceedings in relation to the child; and (m) any other fact or circumstance that the court thinks is relevant. <p><i>Consent orders</i></p> <p>(5) If the court is considering whether to make an order with the consent of all the parties to the proceedings, the court may, but is not required to, have regard to all or any of the matters set out in subsection (2) or (3).</p> <p><i>Right to enjoy Aboriginal or Torres Strait Islander culture</i></p> <p>(6) For the purposes of paragraph (3)(h), an Aboriginal</p>

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				<p>child's or a Torres Strait Islander child's right to enjoy his or her Aboriginal or Torres Strait Islander culture includes the right:</p> <ul style="list-style-type: none"> (a) to maintain a connection with that culture; and (b) to have the support, opportunity and encouragement necessary: <ul style="list-style-type: none"> (i) to explore the full extent of that culture, consistent with the child's age and developmental level and the child's views; and (ii) to develop a positive appreciation of that culture.
			60CD	<p>60CD How the views of a child are expressed</p> <p>(1) Paragraph 60CC(3)(a) requires the court to consider any views expressed by a child in deciding whether to make a particular parenting order in relation to the child. This section deals with how the court informs itself of views expressed by a child.</p> <p>(2) The court may inform itself of views expressed by a child:</p> <ul style="list-style-type: none"> (a) by having regard to anything contained in a report given to the court under subsection 62G(2); or (b) by making an order under section 68L for the child's interests in the proceedings to be independently represented

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				<p>by a lawyer; or</p> <p>(c) subject to the applicable Rules of Court, by such other means as the court thinks appropriate.</p> <p>Note 1: Paragraph (a)—subsection 62G(3A) generally requires the person giving the report to ascertain the child’s views and include those views in the report.</p> <p>Note 2: Paragraph (b)—paragraph 68LA(5)(b) requires the independent children’s lawyer for the child to ensure that the child’s views are fully put before the court.</p>
			60CE	<p>60CE Children not required to express views</p> <p>Nothing in this Part permits the court or any person to require the child to express his or her views in relation to any matter.</p>
			60CF	<p>60CF Informing court of relevant family violence orders</p> <p>(1) If a party to the proceedings is aware that a family violence order applies to the child, or a member of the child’s family, that party must inform the court of the family violence order.</p> <p>(2) If a person who is not a party to the proceedings is aware that a family violence order applies to the child, or a member of the child’s family, that person may inform the court of the family violence order.</p> <p>(3) Failure to inform the court of the family violence order does not affect the validity of any order made by the court.</p>

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			60CG	<p>60CG Court to consider risk of family violence</p> <p>(1) In considering what order to make, the court must, to the extent that it is possible to do so consistently with the child’s best interests being the paramount consideration, ensure that the order:</p> <p>(a) is consistent with any family violence order; and</p> <p>(b) does not expose a person to an unacceptable risk of family violence.</p> <p>(2) For the purposes of paragraph (1)(b), the court may include in the order any safeguards that it considers necessary for the safety of those affected by the order.</p>
			60CH	<p>60CH Informing court of care arrangements under child welfare laws</p> <p>(1) If a party to the proceedings is aware that the child, or another child who is a member of the child’s family, is under the care (however described) of a person under a child welfare law, that party must inform the court of the matter.</p> <p>(2) If a person who is not a party to the proceedings is aware that the child, or another child who is a member of the child’s family, is under the care (however described) of a person under a child welfare law, that person may inform the court of the matter.</p> <p>(3) Failure to inform the court of the matter does not affect the validity of any order made by the court. However, this</p>

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				subsection does not limit the operation of section 69ZK (child welfare laws not affected).
			60CI	<p>60CI Informing court of notifications to, and investigations by, prescribed State or Territory agencies</p> <p>(1) If:</p> <p>(a) a party to the proceedings is aware that the child, or another child who is a member of the child’s family, is or has been the subject of:</p> <p>(i) a notification or report (however described) to a prescribed State or Territory agency; or</p> <p>(ii) an investigation, inquiry or assessment (however described) by a prescribed State or Territory agency; and</p> <p>(b) the notification, report, investigation, inquiry or assessment relates to abuse, or an allegation, suspicion or risk of abuse;</p> <p>that party must inform the court of the matter.</p> <p>(2) If:</p> <p>(a) a person who is not a party to the proceedings is aware that the child, or another child who is a member of the child’s family, is or has been the subject of:</p> <p>(i) a notification or report (however described) to a</p>

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				<p>prescribed State or Territory agency; or</p> <p>(ii) an investigation, inquiry or assessment (however described) by a prescribed State or Territory agency; and</p> <p>(b) the notification, report, investigation, inquiry or assessment relates to abuse, or an allegation, suspicion or risk of abuse; and</p> <p>that person may inform the court of the matter.</p> <p>(3) Failure to inform the court of the matter does not affect the validity of any order made by the court.</p> <p>(4) In this section:</p> <p>'prescribed State or Territory agency' means an agency that is a prescribed State or Territory agency for the purpose of section 69ZW.</p>
			60D	<p>60D Adviser's obligations in relation to best interests of the child</p> <p>(1) If an adviser gives advice or assistance to a person about matters concerning a child and this Part, the adviser must:</p> <p>(a) inform the person that the person should regard the best interests of the child as the paramount consideration; and</p> <p>(b) encourage the person to act on the basis that the child's best interests are best met:</p>

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				<p>(i) by the child having a meaningful relationship with both of the child’s parents; and</p> <p>(ii) by the child being protected from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or family violence; and</p> <p>(iii) in applying the considerations set out in subparagraphs (i) and (ii)—by giving greater weight to the consideration set out in subparagraph (ii).</p> <p>(2) In this section:</p> <p>'Adviser' means a person who is:</p> <p>(a) a legal practitioner; or</p> <p>(b) a family counsellor; or</p> <p>(c) a family dispute resolution practitioner; or</p> <p>(d) a family consultant.</p>
			60J	<p>60J Family dispute resolution not attended because of child abuse or family violence</p> <p>(1) If:</p> <p>(a) subsections 60I(7) to (12) apply to an application for a Part VII order (see subsections 60I(5) and (6)); and</p> <p>(b) subsection 60I(7) does not apply to the application because the court is satisfied that there are reasonable</p>

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				<p>grounds to believe that:</p> <ul style="list-style-type: none"> (i) there has been abuse of the child by one of the parties to the proceedings; or (ii) there has been family violence by one of the parties to the proceedings; or <p>a court must not hear the application unless the applicant has indicated in writing that the applicant has received information from a family counsellor or family dispute resolution practitioner about the services and options (including alternatives to court action) available in circumstances of abuse or violence.</p> <p>(2) Subsection (1) does not apply if the court is satisfied that there are reasonable grounds to believe that:</p> <ul style="list-style-type: none"> (a) there would be a risk of abuse of the child if there were to be a delay in applying for the order; or (b) there is a risk of family violence by one of the parties to the proceedings. <p>(3) The validity of:</p> <ul style="list-style-type: none"> (a) proceedings on an application for a Part VII order; or (b) any order made in those proceedings; or <p>is not affected by a failure to comply with subsection (1) in</p>

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				<p>relation to those proceedings.</p> <p>(4) If:</p> <p>(a) the applicant indicates in writing that the applicant has not received information about the services and options (including alternatives to court action) available in circumstances of abuse or violence; and</p> <p>(b) subsection (2) does not apply; and</p> <p>the principal executive officer of the court concerned must ensure that the applicant is referred to a family counsellor or family dispute resolution practitioner in order to obtain information about those matters.</p>
			61DA	<p>61DA Presumption of equal shared parental responsibility when making parenting orders</p> <p>(1) When making a parenting order in relation to a child, the court must apply a presumption that it is in the best interests of the child for the child's parents to have equal shared parental responsibility for the child.</p> <p>Note: The presumption provided for in this subsection is a presumption that relates solely to the allocation of parental responsibility for a child as defined in section 61B. It does not provide for a presumption about the amount of time the child spends with each of the parents (this issue is dealt with in section 65DAA).</p> <p>(2) The presumption does not apply if there are reasonable grounds to believe that a parent of the child (or a person who</p>

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				<p>lives with a parent of the child) has engaged in:</p> <p>(a) abuse of the child or another child who, at the time, was a member of the parent's family (or that other person's family); or</p> <p>(b) family violence.</p> <p>(3) When the court is making an interim order, the presumption applies unless the court considers that it would not be appropriate in the circumstances for the presumption to be applied when making that order.</p> <p>(4) The presumption may be rebutted by evidence that satisfies the court that it would not be in the best interests of the child for the child's parents to have equal shared parental responsibility for the child.</p>
			62G	<p>62G Reports by family consultants</p> <p>(1) This section applies if, in proceedings under this Act, the care, welfare and development of a child who is under 18 is relevant.</p> <p>(2) The court may direct a family consultant to give the court a report on such matters relevant to the proceedings as the court thinks desirable.</p> <p>(3) If the court makes a direction under subsection (2), it may, if it thinks it necessary, adjourn the proceedings until the report has been given to the court.</p>

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				<p>(3A) A family consultant who is directed to give the court a report on a matter under subsection (2) must:</p> <p>(a) ascertain the views of the child in relation to that matter; and</p> <p>(b) include the views of the child on that matter in the report.</p> <p>Note: A person cannot require a child to express his or her views in relation to any matter (see section 60CE).</p> <p>(3B) Subsection (3A) does not apply if complying with that subsection would be inappropriate because of:</p> <p>(a) the child's age or maturity; or</p> <p>(b) some other special circumstance.</p> <p>(4) The family consultant may include in the report, in addition to the matters required to be included in it, any other matters that relate to the care, welfare or development of the child.</p> <p>(5) For the purposes of the preparation of the report, the court may make any other orders, or give any other directions, that the court considers appropriate (including orders or directions that one or more parties to the proceedings attend, or arrange for the child to attend, an appointment or a series of appointments with a family consultant).</p> <p>Note: Before making orders under this section, the court must</p>

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				<p>consider seeking the advice of a family consultant about the services appropriate to the parties' needs (see section 11E).</p> <p>(6) If:</p> <p>(a) a person fails to comply with an order or direction under subsection (5); or</p> <p>(b) a child fails to attend an appointment with a family consultant as arranged in compliance with an order or direction under subsection (5);</p> <p>the family consultant must report the failure to the court.</p> <p>(7) On receiving a report under subsection (6), the court may give such further directions in relation to the preparation of the report as it considers appropriate.</p> <p>(8) A report given to the court pursuant to a direction under subsection (2) may be received in evidence in any proceedings under this Act.</p>
			63B	<p>63B Parents encouraged to reach agreement</p> <p>The parents of a child are encouraged:</p> <p>(a) to agree about matters concerning the child; and</p> <p>(b) to take responsibility for their parenting arrangements and for resolving parental conflict; and</p> <p>(c) to use the legal system as a last resort rather than a first</p>

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				<p>resort; and</p> <p>(d) to minimise the possibility of present and future conflict by using or reaching an agreement; and</p> <p>(e) in reaching their agreement, to regard the best interests of the child as the paramount consideration.</p> <p>Note: Parents are encouraged to reach an informal agreement between themselves about matters concerning their children by entering into a parenting plan. Parents who seek enforceable arrangements require court orders. These can be obtained by consent.</p>
			63C	Section 63C sets out the meaning of <i>parenting plan</i> and related terms
			63DA	<p>63DA Obligations of advisers</p> <p>(1A) The obligations of an adviser under this section are in addition to the adviser’s obligations under section 60D.</p> <p>Note: Section 60D deals with an adviser’s obligations in relation to the best interests of the child.</p> <p>(1) If an adviser gives advice or assistance to people in relation to parental responsibility for a child following the breakdown of the relationship between those people, the adviser must:</p> <p>(a) inform them that they could consider entering into a parenting plan in relation to the child; and</p> <p>(b) inform them about where they can get further assistance</p>

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				<p>to develop a parenting plan and the content of the plan.</p> <p>(2) If an adviser gives advice to people in connection with the making by those people of a parenting plan in relation to a child, the adviser must:</p> <p>(a) inform them that, if the child spending equal time with each of them is:</p> <p>(i) reasonably practicable; and</p> <p>(ii) in the best interests of the child; and</p> <p>they could consider the option of an arrangement of that kind; and</p> <p>(b) inform them that, if the child spending equal time with each of them is not reasonably practicable or is not in the best interests of the child but the child spending substantial and significant time with each of them is:</p> <p>(i) reasonably practicable; and</p> <p>(ii) in the best interests of the child; and</p> <p>they could consider the option of an arrangement of that kind; and</p> <p>(d) inform them of the matters that may be dealt with in a parenting plan in accordance with subsection 63C(2); and</p> <p>(e) inform them that, if there is a parenting order in force in</p>

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				<p>relation to the child, the order may (because of section 64D) include a provision that the order is subject to a parenting plan they enter into; and</p> <p>(f) inform them about the desirability of including in the plan:</p> <p>(i) if they are to share parental responsibility for the child under the plan—provisions of the kind referred to in paragraph 63C(2)(d) (which deals with the form of consultations between the parties to the plan) as a way of avoiding future conflicts over, or misunderstandings about, the matters covered by that paragraph; and</p> <p>(ii) provisions of the kind referred to in paragraph 63C(2)(g) (which deals with the process for resolving disputes between the parties to the plan); and</p> <p>(iii) provisions of the kind referred to in paragraph 63C(2)(h) (which deals with the process for changing the plan to take account of the changing needs or circumstances of the child or the parties to the plan); and</p> <p>(g) explain to them, in language they are likely to readily understand, the availability of programs to help people who experience difficulties in complying with a parenting plan; and</p> <p>(h) inform them that section 65DAB requires the court to have regard to the terms of the most recent parenting plan in relation to the child when making a parenting order in relation to the child if it is in the best interests of the child to</p>

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				<p>do so.</p> <p>Note: Paragraphs (a) and (b) only require the adviser to inform the people that they could consider the option of the child spending equal time, or substantial and significant time, with each of them. The adviser may, but is not obliged to, advise them as to whether that option would be appropriate in their particular circumstances.</p> <p>(3) For the purposes of paragraph (2)(b), a child will be taken to spend <i>substantial and significant time</i> with a parent only if:</p> <p>(a) the time the child spends with the parent includes both:</p> <p>(i) days that fall on weekends and holidays; and</p> <p>(ii) days that do not fall on weekends or holidays; and</p> <p>(b) the time the child spends with the parent allows the parent to be involved in:</p> <p>(i) the child’s daily routine; and</p> <p>(ii) occasions and events that are of particular significance to the child; and</p> <p>(c) the time the child spends with the parent allows the child to be involved in occasions and events that are of special significance to the parent.</p> <p>(4) Subsection (3) does not limit the other matters to which regard may be had in determining whether the time a child</p>

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				<p>spends with a parent would be substantial and significant.</p> <p>(5) In this section:</p> <p>'Adviser' means a person who is:</p> <p>(a) a legal practitioner; or</p> <p>(b) a family counsellor; or</p> <p>(c) a family dispute resolution practitioner; or</p> <p>(d) a family consultant.</p>
			63E	<p>63E Registration of a revocation of a registered parenting plan</p> <p>(1) This section applies to a registered parenting plan.</p> <p>(2) To apply for registration of an agreement (<i>revocation agreement</i>) revoking a registered parenting plan:</p> <p>(a) an application for registration of the revocation agreement must be lodged in accordance with the applicable Rules of Court; and</p> <p>(b) the application must be accompanied by:</p> <p>(i) a copy of the revocation agreement; and</p> <p>(ii) the information required by the applicable Rules of Court; and</p>

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				<p>(iii) a statement, in relation to each party, that is to the effect that the party has been provided with independent legal advice as to the meaning and effect of the revocation agreement and that is signed by the practitioner who provided that advice.</p> <p>(3) The court may register the revocation agreement if it considers it appropriate to do so having regard to the best interests of the child to whom the agreement relates. In determining whether it is appropriate to register the revocation agreement, the court:</p> <p>(a) must have regard to the information accompanying the application for registration; and</p> <p>(b) may, but is not required to, have regard to all or any of the matters set out in subsections 60CC(2) and (3).</p>
			63F	<p>63F Child welfare provisions of registered parenting plans</p> <p><i>Application of section</i></p> <p>(1) This section applies to a registered parenting plan that contains child welfare provisions.</p> <p>(2) The court may, by order, vary the child welfare provisions in the plan if it considers the variation is required in the best interests of a child.</p> <p>(3) The child welfare provisions have effect, subject to subsections (5) and (6), as if they were provisions of a</p>

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				<p>parenting order.</p> <p>Note: Provisions of this Act relevant to the child welfare provisions having effect as provided in this subsection include:</p> <p>(a) Subdivisions C, D and E of Division 6 of this Part (dealing with obligations created by parenting orders (other than child maintenance orders)) and</p> <p>(b) Division 13A of this Part and Part XIII (dealing generally with enforcement of orders and sanctions for contravening orders); and</p> <p>(c) subsection 65D(2) (providing for discharge, variation, suspension and revival of parenting orders other than child maintenance orders); and</p> <p>(d) other provisions of this Act (including subsection 64B(6)) that refer to parenting orders.</p> <p>(4) If provisions of the plan have effect under subsection (3) as a court order, a person who is a party to the plan is taken (for example, for the purposes of section 65Y) to be a party to the proceedings in which the order was made.</p> <p>(5) Subsection (3) does not apply to the plan (whenever registered) to the extent (if at all) that the plan purports to determine that the child concerned is to live with a person who is not a parent of the child.</p> <p>(6) Even though the plan is registered, the court, or another</p>

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				<p>court having jurisdiction under this Part, must not enforce the child welfare provisions if it considers that to do so would be contrary to the best interests of a child.</p> <p>Note: Sections 60CB to 60CG deal with how a court determines a child's best interests.</p>
			63H	<p>63H Court's powers to set aside, discharge, vary, suspend or revive registered parenting plans</p> <p>(1A) This section applies to a registered parenting plan.</p> <p>(1) The court in which the plan was registered may set aside the plan, and its registration, if the court is satisfied:</p> <p>(a) that the concurrence of a party was obtained by fraud, duress or undue influence; or</p> <p>(b) that the parties want the plan set aside; or</p> <p>(c) that it is in the best interests of a child to set aside the plan.</p> <p>(2) In proceedings under subsection (1), to the extent that they are proceedings on the ground mentioned in paragraph (1)(c), the best interests of the child concerned are the paramount consideration.</p> <p>Note: Sections 60CB to 60CG deal with how a court determines a child's best interests.</p> <p>(3) Other provisions of this Act under which provisions of</p>

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				<p>the parenting plan may be set aside or otherwise affected are:</p> <p>(a) subsection 63F(2)—under that subsection a court may vary child welfare provisions in the plan; and</p> <p>(b) subsection 65D(2)—under that subsection a court may make a parenting order that discharges, varies, suspends or revives provisions of the plan that have effect as if they were a parenting order (other than a child maintenance order); and</p> <p>(c) section 66S—under that section a court may discharge, vary, suspend or revive provisions of the plan that have effect as if they were a child maintenance order.</p> <p>(4) Except as permitted by subsection (1) or by a provision mentioned in subsection (3), a court must not set aside, discharge, vary, suspend or revive the whole or a part of the parenting plan.</p>
			65AA	<p>65AA Child’s best interests paramount consideration in making a parenting order</p> <p>Section 60CA provides that in deciding whether to make a particular parenting order in relation to a child, a court must regard the best interests of the child as the paramount consideration.</p>
			65DAA	<p>65DAA Court to consider child spending equal time or substantial and significant time with each parent in certain circumstances</p>

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				<p><i>Equal time</i></p> <p>(1) Subject to subsection (6), if a parenting order provides (or is to provide) that a child's parents are to have equal shared parental responsibility for the child, the court must:</p> <p>(a) consider whether the child spending equal time with each of the parents would be in the best interests of the child; and</p> <p>(b) consider whether the child spending equal time with each of the parents is reasonably practicable; and</p> <p>(c) if it is, consider making an order to provide (or including a provision in the order) for the child to spend equal time with each of the parents.</p> <p>Note 1: The effect of section 60CA is that in deciding whether to go on to make a parenting order for the child to spend equal time with each of the parents, the court will regard the best interests of the child as the paramount consideration.</p> <p>Note 2: See subsection (5) for the factors the court takes into account in determining what is reasonably practicable.</p> <p><i>Substantial and significant time</i></p> <p>(2) Subject to subsection (6), if:</p> <p>(a) a parenting order provides (or is to provide) that a child's parents are to have equal shared parental</p>

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				<p>responsibility for the child; and</p> <p>(b) the court does not make an order (or include a provision in the order) for the child to spend equal time with each of the parents; and</p> <p>the court must:</p> <p>(c) consider whether the child spending substantial and significant time with each of the parents would be in the best interests of the child; and</p> <p>(d) consider whether the child spending substantial and significant time with each of the parents is reasonably practicable; and</p> <p>(e) if it is, consider making an order to provide (or including a provision in the order) for the child to spend substantial and significant time with each of the parents.</p> <p>Note 1: The effect of section 60CA is that in deciding whether to go on to make a parenting order for the child to spend substantial time with each of the parents, the court will regard the best interests of the child as the paramount consideration.</p> <p>Note 2: See subsection (5) for the factors the court takes into account in determining what is reasonably practicable.</p> <p>(3) For the purposes of subsection (2), a child will be taken to spend <i>substantial and significant time</i> with a parent only</p>

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				<p>if:</p> <p>(a) the time the child spends with the parent includes both:</p> <p>(i) days that fall on weekends and holidays; and</p> <p>(ii) days that do not fall on weekends or holidays; and</p> <p>(b) the time the child spends with the parent allows the parent to be involved in:</p> <p>(i) the child’s daily routine; and</p> <p>(ii) occasions and events that are of particular significance to the child; and</p> <p>(c) the time the child spends with the parent allows the child to be involved in occasions and events that are of special significance to the parent.</p> <p>(4) Subsection (3) does not limit the other matters to which a court can have regard in determining whether the time a child spends with a parent would be substantial and significant.</p> <p><i>Reasonable practicality</i></p> <p>(5) In determining for the purposes of subsections (1) and (2) whether it is reasonably practicable for a child to spend equal time, or substantial and significant time, with each of the child’s parents, the court must have regard to:</p>

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				<p>(a) how far apart the parents live from each other; and</p> <p>(b) the parents' current and future capacity to implement an arrangement for the child spending equal time, or substantial and significant time, with each of the parents; and</p> <p>(c) the parents' current and future capacity to communicate with each other and resolve difficulties that might arise in implementing an arrangement of that kind; and</p> <p>(d) the impact that an arrangement of that kind would have on the child; and</p> <p>(e) such other matters as the court considers relevant.</p> <p>Note: Paragraph (c) reference to future capacity—the court has power under section 13C to make orders for parties to attend family counselling or family dispute resolution or participate in courses, programs or services.</p> <p><i>Consent orders</i></p> <p>(6) If:</p> <p>(a) the court is considering whether to make a parenting order with the consent of all the parties to the proceedings; and</p> <p>(b) the order provides (or is to provide) that a child's parents are to have equal shared parental responsibility for the child; and</p>

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				<p>the court may, but is not required to, consider the matters referred to in paragraphs (1)(a) to (c) or (if applicable) the matters referred to in paragraphs (2)(c) to (e).</p> <p>(7) To avoid doubt, subsection (6) does not affect the application of section 60CA in relation to a parenting order.</p> <p>Note: Section 60CA requires the best interests of the child to be the paramount consideration in a decision whether to make a particular parenting order.</p>
			65DAB	<p>65DAB Court to have regard to parenting plans</p> <p>When making a parenting order in relation to a child, the court is to have regard to the terms of the most recent parenting plan (if any) that has been entered into between the child's parents (to the extent to which that plan relates to the child) if doing so would be in the best interests of the child.</p>
			65L	<p>65L Family consultants may be required to supervise or assist compliance with parenting orders</p> <p>(1) If a court makes a parenting order in relation to a child, the court may also, subject to subsection (2), make either or both of the following orders:</p> <p>(a) an order requiring compliance with the parenting order, as far as practicable, to be supervised by a family consultant; and</p> <p>(b) an order requiring a family consultant to give any party to the parenting order such assistance as is reasonably</p>

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				<p>requested by that party in relation to compliance with, and the carrying out of, the parenting order.</p> <p>(2) In deciding whether to make a particular order under subsection (1) in relation to a child, a court must regard the best interests of the child as the paramount consideration.</p> <p>Note: Sections 60CB to 60CG deal with how a court determines a child's best interests.</p>
			65LA	<p>65LA Court may order attendance at a post-separation parenting program</p> <p>(1) In proceedings for a parenting order, the court may make an order directing a party to the proceedings to attend a post-separation parenting program.</p> <p>Note: Before making an order under this section, the court must consider seeking the advice of a family consultant about the services appropriate to the party's needs (see section 11E).</p> <p>(2) In deciding whether to make a particular order under subsection (1), a court must regard the best interests of the child as the paramount consideration.</p> <p>Note: Sections 60CB to 60CG deal with how a court determines a child's best interests.</p> <p>(3) In this section:</p>

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				<p><i>proceedings for a parenting order</i> includes:</p> <p>(a) proceedings for the enforcement of a parenting order; and</p> <p>(b) any other proceedings in which a contravention of a parenting order is alleged.</p>
			66F	<p>66F Who may apply for a child maintenance order</p> <p>(1) Unless subsection (2) applies, a child maintenance order in relation to a child may be applied for by:</p> <p>(a) either or both of the child’s parents; or</p> <p>(b) the child; or</p> <p>(ba) a grandparent of the child; or</p> <p>(c) any other person concerned with the care, welfare or development of the child.</p> <p>(2) A child maintenance order in relation to a child who is under the guardianship, or in the care (however described), of a person under a child welfare law may only be applied for by:</p> <p>(a) the child; or</p> <p>(b) a parent of the child who has the daily care of the child; or</p> <p>(c) a relative of the child who has the daily care of the child;</p>

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				or (d) a child welfare officer of the relevant State or Territory.
			66G	<p>66G Court’s power to make child maintenance order</p> <p>In proceedings for a child maintenance order, the court may, subject to this Division and to section 111AA, make such child maintenance order as it thinks proper.</p>
			66H	<p>66H Approach to be taken in proceedings for child maintenance order</p> <p>In proceedings for the making of a child maintenance order in relation to a child, the court must:</p> <p>(a) consider the financial support necessary for the maintenance of the child (this is expanded on in section 66J); and</p> <p>(b) determine the financial contribution, or respective financial contributions, towards the financial support necessary for the maintenance of the child, that should be made by a party, or by parties, to the proceedings (this is expanded on in section 66K).</p>
			66J	<p>66J Matters to be taken into account in considering financial support necessary for maintenance of child</p> <p>(1) In considering the financial support necessary for the maintenance of a child, the court must take into account these</p>

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				<p>(and no other) matters:</p> <ul style="list-style-type: none"> (a) the matters mentioned in section 66B; and (b) the proper needs of the child (this is expanded on in subsection (2)); and (c) the income, earning capacity, property and financial resources of the child (this is expanded on in subsection (3)). <p>(2) In taking into account the proper needs of the child the court:</p> <ul style="list-style-type: none"> (a) must have regard to: <ul style="list-style-type: none"> (i) the age of the child; and (ii) the manner in which the child is being, and in which the parents expected the child to be, educated or trained; and (iii) any special needs of the child; and (b) may have regard, to the extent to which the court considers appropriate in the circumstances of the case, to any relevant findings of published research in relation to the maintenance of children. <p>(3) In taking into account the income, earning capacity, property and financial resources of the child, the court must:</p> <ul style="list-style-type: none"> (a) have regard to the capacity of the child to earn or derive income, including any assets of, under the control of or held

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				<p>for the benefit of the child that do not produce, but are capable of producing, income; and</p> <p>(b) disregard:</p> <p>(i) the income, earning capacity, property and financial resources of any other person unless, in the special circumstances of the case, the court considers it appropriate to have regard to them; and</p> <p>(ii) any entitlement of the child or any other person to an income tested pension, allowance or benefit.</p> <p>(4) Subsections (2) and (3) do not limit, by implication, the matters to which the court may have regard in taking into account the matters referred to in subsection (1).</p>
			66K	<p>66K Matters to be taken into account in determining contribution that should be made by party etc.</p> <p>(1) In determining the financial contribution, or respective financial contributions, towards the financial support necessary for the maintenance of a child that should be made by a party, or by parties, to the proceedings, the court must take into account these (and no other) matters:</p> <p>(a) the matters mentioned in sections 66B, 66C and 66D; and</p> <p>(b) the income, earning capacity, property and financial resources of the party or each of those parties (this is</p>

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				<p>expanded on in subsection (2)); and</p> <p>(c) the commitments of the party, or each of those parties, that are necessary to enable the party to support:</p> <p>(i) himself or herself; or</p> <p>(ii) any other child or another person that the person has a duty to maintain; and</p> <p>(d) the direct and indirect costs incurred by the parent or other person with whom the child lives in providing care for the child (this is expanded on in subsection (3)); and</p> <p>(e) any special circumstances which, if not taken into account in the particular case, would result in injustice or undue hardship to any person.</p> <p>(2) In taking into account the income, earning capacity, property and financial resources of a party to the proceedings, the court must have regard to the capacity of the party to earn and derive income, including any assets of, under the control of or held for the benefit of the party that do not produce, but are capable of producing, income.</p> <p>(3) In taking into account the direct and indirect costs incurred by the parent or other person with whom the child lives in providing care for the child, the court must have regard to the income and earning capacity forgone by the parent or other person in providing that care.</p> <p>(4) In determining the financial contribution, or respective</p>

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				<p>financial contributions, that should be made by a party, or by parties, to the proceedings, the court must disregard:</p> <p>(a) any entitlement of the child, or the person with whom the child lives, to an income tested pension, allowance or benefit; and</p> <p>(b) the income, earning capacity, property and financial resources of any person who does not have a duty to maintain the child, or has such a duty but is not a party to the proceedings, unless, in the special circumstances of the case, the court considers it appropriate to have regard to them.</p> <p>(5) In determining the financial contribution, or respective financial contributions, that should be made by a party, or by parties, to the proceedings, the court must consider the capacity of the party, or each of those parties, to provide maintenance by way of periodic payments before considering the capacity of the party, or each of those parties, to provide maintenance:</p> <p>(a) by way of lump sum payment; or</p> <p>(b) by way of transfer or settlement of property; or</p> <p>(c) in any other way.</p> <p>(6) Subsections (2) to (5) do not limit, by implication, the matters to which the court may have regard in taking into account the matters referred to in subsection (1).</p>

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			67L	<p>67L Child’s best interests paramount consideration in making a location order</p> <p>In deciding whether to make a location order in relation to a child, a court must regard the best interests of the child as the paramount consideration.</p> <p>Note: Sections 60CB to 60CG deal with how a court determines a child’s best interests.</p>
			67V	<p>67V Child’s best interests paramount consideration in making a recovery order</p> <p>In deciding whether to make a recovery order in relation to a child, a court must regard the best interests of the child as the paramount consideration.</p> <p>Note: Sections 60CB to 60CG deal with how a court determines a child’s best interests.</p>
			67Z	<p>67Z Where interested person makes allegation of child abuse</p> <p>(1) This section applies if an interested person in proceedings under this Act alleges that a child to whom the proceedings relate has been abused or is at risk of being abused.</p> <p>(2) The interested person must file a notice in the prescribed form in the court hearing the proceedings, and serve a true copy of the notice upon the person who is alleged to have abused the child or from whom the child is alleged to be at</p>

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				<p>risk of abuse.</p> <p>(3) If a notice under subsection (2) is filed in a court, the Registry Manager must, as soon as practicable, notify a prescribed child welfare authority.</p> <p>(4) In this section:</p> <p>'interested person' in proceedings under this Act, means:</p> <p>(a) a party to the proceedings; or</p> <p>(b) an independent children's lawyer who represents the interests of a child in the proceedings; or</p> <p>(c) any other person prescribed by the regulations for the purposes of this paragraph.</p> <p>'prescribed form' means the form prescribed by the applicable Rules of Court.</p> <p>'Registry Manager' means:</p> <p>(a) in relation to the Family Court—the Registry Manager of the Registry of the Court; and</p> <p>(b) in relation to the Family Court of Western Australia—the Principal Registrar, a Registrar or a Deputy Registrar, of the court; and</p> <p>(c) in relation to any other court—the principal officer of that court.</p>

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			67ZA	<p>67ZA Where member of the Court personnel, family counsellor, family dispute resolution practitioner or arbitrator suspects child abuse etc.</p> <p>(1) This section applies to a person in the course of performing duties or functions, or exercising powers, as:</p> <p>(a) the Registrar or a Deputy Registrar of a Registry of the Family Court of Australia; or</p> <p>(b) the Registrar or a Deputy Registrar of the Family Court of Western Australia; or</p> <p>(c) a Registrar of the Federal Magistrates Court; or</p> <p>(d) a family consultant; or</p> <p>(e) a family counsellor; or</p> <p>(f) a family dispute resolution practitioner; or</p> <p>(g) an arbitrator; or</p> <p>(h) a lawyer independently representing a child's interests.</p> <p>(2) If the person has reasonable grounds for suspecting that a child has been abused, or is at risk of being abused, the person must, as soon as practicable, notify a prescribed child welfare authority of his or her suspicion and the basis for the suspicion.</p> <p>(3) If the person has reasonable grounds for suspecting that a</p>

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				<p>child:</p> <p>(a) has been ill-treated, or is at risk of being ill-treated; or</p> <p>(b) has been exposed or subjected, or is at risk of being exposed or subjected, to behaviour which psychologically harms the child;</p> <p>the person may notify a prescribed child welfare authority of his or her suspicion and the basis for the suspicion.</p> <p>Note: The obligation under subsection (2) to notify a prescribed child welfare authority of a suspicion that a child has been abused or is at risk of being abused must be complied with, regardless of whether this subsection also applies to the same situation.</p> <p>(4) The person need not notify a prescribed child welfare authority of his or her suspicion that a child has been abused, or is at risk of being abused, if the person knows that the authority has previously been notified about the abuse or risk under subsection (2) or subsection 67Z(3), but the person may notify the authority of his or her suspicion.</p> <p>(5) If notice under this section is given orally, written notice confirming the oral notice is to be given to the prescribed child welfare authority as soon as practicable after the oral notice.</p> <p>(6) If the person notifies a prescribed child welfare authority under this section or subsection 67Z(3), the person may make such disclosures of other information as the person</p>

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				reasonably believes are necessary to enable the authority to properly manage the matter the subject of the notification.
			67ZB	<p>67ZB No liability for notification under section 67Z or 67ZA</p> <p>(1) A person:</p> <p>(a) must give notice under subsection 67Z(3) or 67ZA(2); or</p> <p>(b) may give notice under subsection 67ZA(3) or (4); or</p> <p>(c) may disclose other information under subsection 67ZA(6);</p> <p>in spite of any obligation of confidentiality imposed on the person by this Act, another Act, another law or anything else (including a contract or professional ethics).</p> <p>(2) A person is not liable in civil or criminal proceedings, and is not to be considered to have breached any professional ethics, in respect of a notification under subsection 67Z(3) or 67ZA(2).</p> <p>(3) A person is not liable in civil or criminal proceedings, and is not to be considered to have breached any professional ethics, in respect of a notification under subsection 67ZA(3) or (4), or a disclosure under subsection 67ZA(6), if the notification or disclosure is made in good faith.</p> <p>(4) Evidence of a notification under subsection 67Z(3) or subsection 67ZA(2), (3) or (4), or a disclosure under</p>

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				<p>subsection 67ZA(6), is not admissible in any court except where that evidence is given by the person who made the notification or disclosure.</p> <p>(5) In this section:</p> <p>'court' means a court (whether or not exercising jurisdiction under this Act) and includes a tribunal or other body concerned with professional ethics.</p>
			67ZBA	<p>67ZBA Where interested person makes allegation of family violence</p> <p>(1) This section applies if an interested person in proceedings for an order under this Part in relation to a child alleges, as a consideration that is relevant to whether the court should make or refuse to make the order, that:</p> <p>(a) there has been family violence by one of the parties to the proceedings; or</p> <p>(b) there is a risk of family violence by one of the parties to the proceedings.</p> <p>(2) The interested person must file a notice in the prescribed form in the court hearing the proceedings, and serve a true copy of the notice upon the party referred to in paragraph (1)(a) or (b).</p> <p>(3) If the alleged family violence (or risk of family violence) is abuse of a child (or a risk of abuse of a child):</p>

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				<p>(a) the interested person making the allegation must either file and serve a notice under subsection (2) of this section or under subsection 67Z(2) (but does not have to file and serve a notice under both those subsections); and</p> <p>(b) if the notice is filed under subsection (2) of this section, the Registry Manager must deal with the notice as if it had been filed under subsection 67Z(2).</p> <p>Note: If an allegation of abuse of a child (or a risk of abuse of a child) relates to a person who is not a party to the proceedings, the notice must be filed in the court and served on the person in accordance with subsection 67Z(2).</p> <p>(4) In this section:</p> <p>'interested person' in proceedings for an order under this Part in relation to a child, means:</p> <p>(a) a party to the proceedings; or</p> <p>(b) an independent children's lawyer who represents the interests of the child in the proceedings; or</p> <p>(c) any other person prescribed by the regulations for the purposes of this paragraph.</p> <p>'prescribed form' means the form prescribed by the applicable Rules of Court.</p> <p>'Registry Manager' has the same meaning as in section 67Z.</p>

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			67ZBB	<p>67ZBB Court to take prompt action in relation to allegations of child abuse or family violence</p> <p>(1) This section applies if:</p> <p>(a) a notice is filed under subsection 67Z(2) or 67ZBA(2) in proceedings for an order under this Part in relation to a child; and</p> <p>(b) the notice alleges, as a consideration that is relevant to whether the court should make or refuse to make the order, that:</p> <p>(i) there has been abuse of the child by one of the parties to the proceedings; or</p> <p>(ii) there would be a risk of abuse of the child if there were to be a delay in the proceedings; or</p> <p>(iii) there has been family violence by one of the parties to the proceedings; or</p> <p>(iv) there is a risk of family violence by one of the parties to the proceedings.</p> <p>(2) The court must:</p> <p>(a) consider what interim or procedural orders (if any) should be made:</p> <p>(i) to enable appropriate evidence about the allegation to be</p>

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				<p>obtained as expeditiously as possible; and</p> <p>(ii) to protect the child or any of the parties to the proceedings; and</p> <p>(b) make such orders of that kind as the court considers appropriate; and</p> <p>(c) deal with the issues raised by the allegation as expeditiously as possible.</p> <p>(3) The court must take the action required by paragraphs (2)(a) and (b):</p> <p>(a) as soon as practicable after the notice is filed; and</p> <p>(b) if it is appropriate having regard to the circumstances of the case—within 8 weeks after the notice is filed.</p> <p>(4) Without limiting subparagraph (2)(a)(i), the court must consider whether orders should be made under section 69ZW to obtain documents or information from State and Territory agencies in relation to the allegation.</p> <p>(5) Without limiting subparagraph (2)(a)(ii), the court must consider whether orders should be made, or an injunction granted, under section 68B.</p> <p>(6) A failure to comply with a provision of this section does not affect the validity of any order made in the proceedings for the order.</p>

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			67ZC	<p>67ZC Orders relating to welfare of children</p> <p>(1) In addition to the jurisdiction that a court has under this Part in relation to children, the court also has jurisdiction to make orders relating to the welfare of children.</p> <p>Note: Division 4 of Part XIII AA (International protection of children) may affect the jurisdiction of a court to make an order relating to the welfare of a child.</p> <p>(2) In deciding whether to make an order under subsection (1) in relation to a child, a court must regard the best interests of the child as the paramount consideration.</p> <p>Note: Sections 60CB to 60CG deal with how a court determines a child's best interests.</p>
			68L	<p>68L Court order for independent representation of child's interests</p> <p>(1) This section applies to proceedings under this Act in which a child's best interests are, or a child's welfare is, the paramount, or a relevant, consideration.</p> <p>(2) If it appears to the court that the child's interests in the proceedings ought to be independently represented by a lawyer, the court:</p> <p>(a) may order that the child's interests in the proceedings are to be independently represented by a lawyer; and</p> <p>(b) may make such other orders as it considers necessary to</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>secure that independent representation of the child's interests.</p> <p>(3) However, if the proceedings arise under regulations made for the purposes of section 111B, the court:</p> <p>(a) may order that the child's interests in the proceedings be independently represented by a lawyer only if the court considers there are exceptional circumstances that justify doing so; and</p> <p>(b) must specify those circumstances in making the order.</p> <p>Note: Section 111B is about the Convention on the Civil Aspects of International Child Abduction.</p> <p>(4) A court may make an order for the independent representation of the child's interests in the proceedings by a lawyer:</p> <p>(a) on its own initiative; or</p> <p>(b) on the application of:</p> <p>(i) the child; or</p> <p>(ii) an organisation concerned with the welfare of children; or</p> <p>(iii) any other person.</p> <p>(5) Without limiting paragraph (2)(b), the court may make an order under that paragraph for the purpose of allowing the</p>

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				<p>lawyer who is to represent the child's interests to find out what the child's views are on the matters to which the proceedings relate.</p> <p>Note: A person cannot require a child to express his or her views in relation to any matter, see section 60CE.</p> <p>(6) Subsection (5) does not apply if complying with that subsection would be inappropriate because of:</p> <p>(a) the child's age or maturity; or</p> <p>(b) some other special circumstance.</p>
			68LA	<p>68LA Role of independent children's lawyer</p> <p><i>When section applies</i></p> <p>(1) This section applies if an independent children's lawyer is appointed for a child in relation to proceedings under this Act.</p> <p><i>General nature of role of independent children's lawyer</i></p> <p>(2) The independent children's lawyer must:</p> <p>(a) form an independent view, based on the evidence available to the independent children's lawyer, of what is in the best interests of the child; and</p> <p>(b) act in relation to the proceedings in what the independent children's lawyer believes to be the best interests</p>

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				<p>of the child.</p> <p>(3) The independent children’s lawyer must, if satisfied that the adoption of a particular course of action is in the best interests of the child, make a submission to the court suggesting the adoption of that course of action.</p> <p>(4) The independent children’s lawyer:</p> <p>(a) is not the child’s legal representative; and</p> <p>(b) is not obliged to act on the child’s instructions in relation to the proceedings.</p> <p><i>Specific duties of independent children’s lawyer</i></p> <p>(5) The independent children’s lawyer must:</p> <p>(a) act impartially in dealings with the parties to the proceedings; and</p> <p>(b) ensure that any views expressed by the child in relation to the matters to which the proceedings relate are fully put before the court; and</p> <p>(c) if a report or other document that relates to the child is to be used in the proceedings:</p> <p>(i) analyse the report or other document to identify those matters in the report or other document that the independent children’s lawyer considers to be the most significant ones</p>

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				<p>for determining what is in the best interests of the child; and</p> <p>(ii) ensure that those matters are properly drawn to the court's attention; and</p> <p>(d) endeavour to minimise the trauma to the child associated with the proceedings; and</p> <p>(e) facilitate an agreed resolution of matters at issue in the proceedings to the extent to which doing so is in the best interests of the child.</p> <p><i>Disclosure of information</i></p> <p>(6) Subject to subsection (7), the independent children's lawyer:</p> <p>(a) is not under an obligation to disclose to the court; and</p> <p>(b) cannot be required to disclose to the court;</p> <p>any information that the child communicates to the independent children's lawyer.</p> <p>(7) The independent children's lawyer may disclose to the court any information that the child communicates to the independent children's lawyer if the independent children's lawyer considers the disclosure to be in the best interests of the child.</p> <p>(8) Subsection (7) applies even if the disclosure is made</p>

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				against the wishes of the child.
			68M	<p>68M Order that child be made available for examination</p> <p>(1) This section applies if an independent children’s lawyer is appointed to independently represent a child’s interests in relation to proceedings under this Act.</p> <p>(2) The court may, on application by the independent children’s lawyer, order a person mentioned in subsection (3) to make the child available, as specified in the order, for an examination to be made for the purpose of preparing a report about the child for use by the independent children’s lawyer in connection with the proceedings.</p> <p>(3) The order may be directed to:</p> <p>(a) a parent of the child; or</p> <p>(b) a person with whom the child is to live under a parenting order; or</p> <p>(c) a person with whom the child is to spend time under a parenting order; or</p> <p>(d) a person with whom the child is to communicate under a parenting order; or</p> <p>(e) a person who has parental responsibility for the child.</p>
			68R	<p>68R Power of court making a family violence order to revive, vary, discharge or suspend an existing order,</p>

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				<p>injunction or arrangement under this Act</p> <p><i>Power</i></p> <p>(1) In proceedings to make or vary a family violence order, a court of a State or Territory that has jurisdiction in relation to this Part may revive, vary, discharge or suspend:</p> <p>(a) a parenting order, to the extent to which it provides for a child to spend time with a person, or expressly or impliedly requires or authorises a person to spend time with the child; or</p> <p>(b) a recovery order (as defined in section 67Q) or any other order under this Act, to the extent to which it expressly or impliedly requires or authorises a person to spend time with a child; or</p> <p>(c) an injunction granted under section 68B or 114, to the extent to which it expressly or impliedly requires or authorises a person to spend time with a child; or</p> <p>(d) to the extent to which it expressly or impliedly requires or authorises a person to spend time with a child:</p> <p>(i) an undertaking given to, and accepted by, a court exercising jurisdiction under this Act; or</p> <p>(ii) a registered parenting plan within the meaning of subsection 63C(6); or</p> <p>(iii) a recognisance entered into under an order under this</p>

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				<p>Act.</p> <p>(2) The court may do so:</p> <p>(a) on its own initiative; or</p> <p>(b) on application by any person.</p> <p><i>Limits on power</i></p> <p>(3) The court must not do so unless:</p> <p>(a) it also makes or varies a family violence order in the proceedings (whether or not by interim order); and</p> <p>(b) if the court proposes to revive, vary, discharge or suspend an order or injunction mentioned in paragraph (1)(a), (b) or (c)—the court has before it material that was not before the court that made that order or injunction.</p> <p>(4) The court must not exercise its power under subsection (1) to discharge an order, injunction or arrangement in proceedings to make an interim family violence order or an interim variation of a family violence order.</p> <p><i>Relevant considerations</i></p> <p>(5) In exercising its power under subsection (1), the court must:</p> <p>(a) have regard to the purposes of this Division (stated in</p>

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				<p>section 68N); and</p> <p>(b) have regard to whether contact with both parents is in the best interests of the child concerned; and</p> <p>(c) if varying, discharging or suspending an order or injunction mentioned in paragraph (1)(a), (b) or (c) that, when made or granted, was inconsistent with an existing family violence order—be satisfied that it is appropriate to do so because a person has been exposed, or is likely to be exposed, to family violence as a result of the operation of that order or injunction.</p> <p>Note: Sections 60CB to 60CG deal with how a court determines a child’s best interests.</p> <p><i>Registration of revival, variation, discharge or suspension of orders and other arrangements</i></p> <p>(6) The regulations may require a copy of the court’s decision to revive, vary, discharge or suspend an order, injunction or arrangement to be registered in accordance with the regulations. Failure to comply with the requirement does not affect the validity of the court’s decision.</p>
			68S	<p>68S Application of Act and Rules when exercising section 68R power</p> <p>(1) The following provisions do not apply to a court exercising the power under section 68R:</p>

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				<p>(a) section 65C (who may apply for a parenting order);</p> <p>(b) subsection 65F(2) (parenting order not to be made unless parties attend family counselling);</p> <p>(c) section 60CG (court to consider risk of family violence);</p> <p>(d) section 69N (requirement to transfer certain proceedings);</p> <p>(e) any provisions (for example, section 60CA) that would otherwise make the best interests of the child the paramount consideration;</p> <p>Note: Even though the best interests of the child are not paramount, they must still be taken into account under paragraph 68R(5)(b).</p> <p>(f) any provisions of this Act or the applicable Rules of Court specified in the regulations.</p> <p>(2) If a court is exercising the power under section 68R in proceedings to make an interim family violence order or an interim variation of a family violence order:</p> <p>(a) the court has a discretion about whether to apply paragraph 60CC(3)(a) (about taking into account a child's views etc.); and</p> <p>(b) any provisions of this Act or the applicable Rules of Court specified in the regulations do not apply.</p>

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				(3) A court exercising the power under section 68R may, as it thinks appropriate, dispense with any otherwise applicable Rules of Court.
			69ZN	<p>69ZN Principles for conducting child-related proceedings</p> <p><i>Application of the principles</i></p> <p>(1) The court must give effect to the principles in this section:</p> <p>(a) in performing duties and exercising powers (whether under this Division or otherwise) in relation to child-related proceedings; and</p> <p>(b) in making other decisions about the conduct of child-related proceedings.</p> <p>Failure to do so does not invalidate the proceedings or any order made in them.</p> <p>(2) Regard is to be had to the principles in interpreting this Division.</p> <p><i>Principle 1</i></p> <p>(3) The first principle is that the court is to consider the needs of the child concerned and the impact that the conduct of the proceedings may have on the child in determining the conduct of the proceedings.</p>

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				<p><i>Principle 2</i></p> <p>(4) The second principle is that the court is to actively direct, control and manage the conduct of the proceedings.</p> <p><i>Principle 3</i></p> <p>(5) The third principle is that the proceedings are to be conducted in a way that will safeguard:</p> <p>(a) the child concerned from being subjected to, or exposed to, abuse, neglect or family violence; and</p> <p>(b) the parties to the proceedings against family violence.</p> <p><i>Principle 4</i></p> <p>(6) The fourth principle is that the proceedings are, as far as possible, to be conducted in a way that will promote cooperative and child-focused parenting by the parties.</p> <p><i>Principle 5</i></p> <p>(7) The fifth principle is that the proceedings are to be conducted without undue delay and with as little formality, and legal technicality and form, as possible.</p>
			69ZQ	<p>69ZQ General duties</p> <p>(1) In giving effect to the principles in section 69ZN, the court must:</p>

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				<p>(aa) ask each party to the proceedings:</p> <p>(i) whether the party considers that the child concerned has been, or is at risk of being, subjected to, or exposed to, abuse, neglect or family violence; and</p> <p>(ii) whether the party considers that he or she, or another party to the proceedings, has been, or is at risk of being, subjected to family violence; and</p> <p>(a) decide which of the issues in the proceedings require full investigation and hearing and which may be disposed of summarily; and</p> <p>(b) decide the order in which the issues are to be decided; and</p> <p>(c) give directions or make orders about the timing of steps that are to be taken in the proceedings; and</p> <p>(d) in deciding whether a particular step is to be taken—consider whether the likely benefits of taking the step justify the costs of taking it; and</p> <p>(e) make appropriate use of technology; and</p> <p>(f) if the court considers it appropriate—encourage the parties to use family dispute resolution or family counselling; and</p> <p>(g) deal with as many aspects of the matter as it can on a</p>

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				<p>single occasion; and</p> <p>(h) deal with the matter, where appropriate, without requiring the parties' physical attendance at court.</p> <p>(2) Subsection (1) does not limit subsection 69ZN(1).</p> <p>(3) A failure to comply with subsection (1) does not invalidate an order.</p>
			69ZS	<p>69ZS Use of family consultants</p> <p>At any time during child-related proceedings, the court may designate a family consultant as the family consultant in relation to the proceedings.</p> <p>Note 1: Family consultants have the functions described in section 11A. These include assisting and advising people involved in proceedings, and this assistance and advice may involve helping people to better understand the effect of things on the child concerned. Family consultants can also inform people about other services available to help them.</p> <p>Note 2: The court may also order parties to proceedings to attend, or arrange for a child to attend, appointments with a family consultant. See section 11F.</p>
			69ZV	<p>69ZV Evidence of children</p> <p>(1) This section applies if the court applies the law against hearsay under subsection 69ZT(2) to child-related</p>

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				<p>proceedings.</p> <p>(2) Evidence of a representation made by a child about a matter that is relevant to the welfare of the child or another child, which would not otherwise be admissible as evidence because of the law against hearsay, is not inadmissible in the proceedings solely because of the law against hearsay.</p> <p>(3) The court may give such weight (if any) as it thinks fit to evidence admitted under subsection (2).</p> <p>(4) This section applies despite any other Act or rule of law.</p> <p>(5) In this section:</p> <p>'Child' means a person under 18.</p> <p>'Representation' includes an express or implied representation, whether oral or in writing, and a representation inferred from conduct.</p>
			69ZW	<p>69ZW Evidence relating to child abuse or family violence</p> <p>(1) The court may make an order in child-related proceedings requiring a prescribed State or Territory agency to provide the court with the documents or information specified in the order.</p> <p>(2) The documents or information specified in the order must be documents recording, or information about, one or more of these:</p>

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				<p>(a) any notifications to the agency of suspected abuse of a child to whom the proceedings relate or of suspected family violence affecting the child;</p> <p>(b) any assessments by the agency of investigations into a notification of that kind or the findings or outcomes of those investigations;</p> <p>(c) any reports commissioned by the agency in the course of investigating a notification.</p> <p>(3) Nothing in the order is to be taken to require the agency to provide the court with:</p> <p>(a) documents or information not in the possession or control of the agency; or</p> <p>(b) documents or information that include the identity of the person who made a notification.</p> <p>(4) A law of a State or Territory has no effect to the extent that it would, apart from this subsection, hinder or prevent an agency complying with the order.</p> <p>(5) The court must admit into evidence any documents or information, provided in response to the order, on which the court intends to rely.</p> <p>(6) Despite subsection (5), the court must not disclose the identity of the person who made a notification, or information that could identify that person, unless:</p>

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				<p>(a) the person consents to the disclosure; or</p> <p>(b) the court is satisfied that the identity or information is critically important to the proceedings and that failure to make the disclosure would prejudice the proper administration of justice.</p> <p>(7) Before making a disclosure for the reasons in paragraph (6)(b), the court must ensure that the agency that provided the identity or information:</p> <p>(a) is notified about the intended disclosure; and</p> <p>(b) is given an opportunity to respond.</p>
			69ZX	<p>69ZX Court's general duties and powers relating to evidence</p> <p>(1) In giving effect to the principles in section 69ZN, the court may:</p> <p>(a) give directions or make orders about the matters in relation to which the parties are to present evidence; and</p> <p>(b) give directions or make orders about who is to give evidence in relation to each remaining issue; and</p> <p>(c) give directions or make orders about how particular evidence is to be given; and</p> <p>(d) if the court considers that expert evidence is required—</p>

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				<p>give directions or make orders about:</p> <ul style="list-style-type: none"> (i) the matters in relation to which an expert is to provide evidence; and (ii) the number of experts who may provide evidence in relation to a matter; and (iii) how an expert is to provide the expert's evidence; and (e) ask questions of, and seek evidence or the production of documents or other things from, parties, witnesses and experts on matters relevant to the proceedings. <p>(2) Without limiting subsection (1) or section 69ZR, the court may give directions or make orders:</p> <ul style="list-style-type: none"> (a) about the use of written submissions; or (b) about the length of written submissions; or (c) limiting the time for oral argument; or (d) limiting the time for the giving of evidence; or (e) that particular evidence is to be given orally; or (f) that particular evidence is to be given by affidavit; or (g) that evidence in relation to a particular matter not be presented by a party; or (h) that evidence of a particular kind not be presented by a

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				<p>party; or</p> <p>(i) limiting, or not allowing, cross-examination of a particular witness; or</p> <p>(j) limiting the number of witnesses who are to give evidence in the proceedings.</p> <p>(3) The court may, in child-related proceedings:</p> <p>(a) receive into evidence the transcript of evidence in any other proceedings before:</p> <p>(i) the court; or</p> <p>(ii) another court; or</p> <p>(iii) a tribunal;</p> <p>and draw any conclusions of fact from that transcript that it thinks proper; and</p> <p>(b) adopt any recommendation, finding, decision or judgment of any court, person or body of a kind mentioned in any of subparagraphs (a)(i) to (iii).</p> <p>Note: This subsection may be particularly relevant for Aboriginal or Torres Strait Islander children.</p> <p>(4) In proceedings under this Part in which the court is required to regard the best interests of the child as the paramount consideration:</p>

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				<p>(a) subsection 126H(1) of the <i>Evidence Act 1995</i> does not apply in relation to information that would:</p> <ul style="list-style-type: none"> (i) reveal the identity of a journalist's source; or (ii) enable that identity to be discovered; <p>if the court considers that it is in the best interests of the child for the information to be disclosed; and</p> <p>(b) the court must not direct, under a law of a State or Territory relating to professional confidential relationship privilege specified in the regulations, that evidence not be adduced if the court considers that adducing the evidence would be in the best interests of the child.</p>
			70J	<p>70J Effect of registration on exercise of jurisdiction</p> <p>(1) A court in Australia that is aware that an overseas child order is registered under section 70G must not exercise jurisdiction in proceedings for the making of a Subdivision C parenting order in relation to the child concerned unless:</p> <ul style="list-style-type: none"> (a) each person: <ul style="list-style-type: none"> (i) with whom the child is supposed to live; or (ii) who is to spend time with the child; or (iii) who is to have contact with the child; or (iv) who has rights of custody or access in relation to the

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				<p>child;</p> <p>under the overseas order consents to the exercise of jurisdiction by the court in the proceedings; or</p> <p>(b) the court is satisfied that there are substantial grounds for believing that the child's welfare requires that the court exercise jurisdiction in the proceedings.</p> <p>(2) If a court exercises jurisdiction in proceedings for a Subdivision C parenting order in relation to a child who is the subject of an overseas child order, the court must not make a Subdivision C parenting order in relation to the child unless it is satisfied:</p> <p>(a) that the welfare of the child is likely to be adversely affected if the order is not made; or</p> <p>(b) that there has been such a change in the circumstances of the child since the making of the overseas child order that the Subdivision C parenting order ought to be made.</p>
			70NBD	<p>70NDB Order compensating person for time lost</p> <p>(1) If:</p> <p>(a) the primary order is a parenting order in relation to a child; and</p> <p>(b) the current contravention resulted in a person not spending time with the child (or the child not living with a</p>

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				<p>person for a particular period);</p> <p>the court:</p> <p>(c) may make a further parenting order that compensates the person for time the person did not spend with the child (or the time the child did not live with the person) as a result of the current contravention; and</p> <p>(d) must consider making that kind of order.</p> <p>Note: If the person does not have a reasonable excuse for a contravention, the court has the power to make an order compensating a person for time lost under paragraph 70NEB(1)(b) or 70NFB(2)(c).</p> <p>(2) The court must not make an order under paragraph (1)(c) if it would not be in the best interests of the child for the court to do so.</p>

2. New South Wales

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>ARTICLE 3:</p> <p>1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.</p> <p>2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.</p> <p>3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.</p>	<p>Adoption Act 2000</p>	<p>NSW</p>	<p>7</p>	<p>7 What are the objects of this Act?</p> <p>The objects of this Act are as follows:</p> <p>(a) to emphasise that the best interests of the child concerned, both in childhood and later life, must be the paramount consideration in adoption law and practice,</p> <p>(b) to make it clear that adoption is to be regarded as a service for the child concerned,</p> <p>(c) to ensure that adoption law and practice assist a child to know and have access to his or her birth family and cultural heritage,</p> <p>(d) to recognise the changing nature of practices of adoption,</p> <p>(e) to ensure that equivalent safeguards and standards to those that apply to children from New South Wales apply to children adopted from overseas,</p> <p>(f) to ensure that adoption law and practice complies with Australia's obligations under treaties and other international agreements,</p> <p>(g) to encourage openness in adoption,</p>

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				<p>(h) to allow access to certain information relating to adoptions,</p> <p>(i) to provide for the giving in certain circumstances of post-adoption financial and other assistance to adopted children and their birth and adoptive parents.</p>
			8	<p>8 What principles are to be applied by persons making decisions about the adoption of a child?</p> <p>(1) In making a decision about the adoption of a child, a decision maker is to have regard (as far as is practicable or appropriate) to the following principles:</p> <p>(a) the best interests of the child, both in childhood and in later life, must be the paramount consideration,</p> <p>(b) adoption is to be regarded as a service for the child,</p> <p>(c) no adult has a right to adopt the child,</p> <p>(d) if the child is able to form his or her own views on a matter concerning his or her adoption, he or she must be given an opportunity to express those views freely and those views are to be given due weight in accordance with the developmental capacity of the child and the circumstances,</p> <p>(e) the child's given name or names, identity, language and cultural and religious ties should, as far as possible, be identified and preserved,</p> <p>(e1) undue delay in making a decision in relation to the</p>

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				<p>adoption of a child is likely to prejudice the child’s welfare,</p> <p>(f) if the child is Aboriginal—the Aboriginal child placement principles are to be applied,</p> <p>(g) if the child is a Torres Strait Islander—the Torres Strait Islander child placement principles are to be applied.</p> <p>(2) In determining the best interests of the child, the decision maker is to have regard to the following:</p> <p>(a) any wishes expressed by the child,</p> <p>(b) the child’s age, maturity, level of understanding, gender, background and family relationships and any other characteristics of the child that the decision maker thinks are relevant,</p> <p>(c) the child’s physical, emotional and educational needs, including the child’s sense of personal, family and cultural identity,</p> <p>(d) any disability that the child has,</p> <p>(e) any wishes expressed by either or both of the parents of the child,</p> <p>(f) the relationship that the child has with his or her parents and siblings (if any) and any significant other people (including relatives) in relation to whom the decision maker considers the question to be relevant,</p>

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				<p>(g) the attitude of each proposed adoptive parent to the child and to the responsibilities of parenthood,</p> <p>(h) the nature of the relationship of the child with each proposed adoptive parent,</p> <p>(i) the suitability and capacity of each proposed adoptive parent, or any other person, to provide for the needs of the child, including the emotional and intellectual needs of the child,</p> <p>(j) the need to protect the child from physical or psychological harm caused, or that may be caused, by being subjected or exposed to abuse, ill-treatment, violence or other behaviour, or being present while a third person is subjected or exposed to abuse, ill-treatment, violence or other behaviour,</p> <p>(k) the alternatives to the making of an adoption order and the likely effect on the child in both the short and longer term of changes in the child's circumstances caused by an adoption, so that adoption is determined among all alternative forms of care to best meet the needs of the child.</p>
			29	<p>29 Adoption by relative</p> <p>The Court must not make an adoption order in favour of a relative of a child unless:</p> <p>(a) specific consent to the adoption of the child by the relative has been given in accordance with this Act by the</p>

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				<p>appropriate person or persons specified in section 53 (b), and</p> <p>(b) the child has established a relationship of at least 2 years' duration with the relative, and</p> <p>(c) the Court is satisfied that the making of the adoption order is clearly preferable in the best interests of the child to any other action that could be taken by law in relation to the child.</p> <p>Note. Examples of other action that may be taken by law are the making of a care order under the <i>Children and Young Persons (Care and Protection) Act 1998</i> or a parenting order under the <i>Family Law Act 1975</i> of the Commonwealth.</p>
			30	<p>30 Adoption by step parent</p> <p>(1) The Court must not make an adoption order in favour of a step parent of a child unless:</p> <p>(a) the child is at least 5 years old, and</p> <p>(b) the step parent has lived with the child and the child's birth or adoptive parent for a continuous period of not less than 2 years immediately before the application for the adoption order, and</p> <p>(c) specific consent to the adoption of the child by the step parent has been given in accordance with this Act by the appropriate persons, and</p> <p>(d) the Court is satisfied that the making of the adoption order is clearly preferable in the best interests of the child to</p>

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				<p>any other action that could be taken by law in relation to the child.</p> <p>Note. Examples of other action that may be taken by law are the making of a care order under the <i>Children and Young Persons (Care and Protection) Act 1998</i> or a parenting order under the <i>Family Law Act 1975</i> of the Commonwealth.</p> <p>(2) Subsection (1) (b) does not apply to the adoption of a child who is 18 years of age or more at the time of the application for the adoption order.</p>
			35	<p>35 Aboriginal child placement principles</p> <p>(1) General principle It is a principle to be applied in the administration of this Act that Aboriginal people should be given the opportunity to participate with as much self-determination as possible in decisions relating to the placement for adoption of Aboriginal children (which is a concept that is absent in customary Aboriginal child care arrangements).</p> <p>(2) The general order for placement The Aboriginal child placement principles are as follows:</p> <p>(a) The first preference for placement of an Aboriginal child is for the child to be placed for adoption with a prospective adoptive parent or parents belonging to the Aboriginal community, or one of the communities, to which the birth parent or birth parents of the child belongs; and</p> <p>(b) If it is not practicable or in the best interests of the child</p>

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				<p>for the child to be placed in accordance with paragraph (a), the child is to be placed with a prospective adoptive parent or parents from another Aboriginal community; and</p> <p>(c) If it is not practicable or in the best interests of the child for the child to be placed in accordance with paragraph (a) or (b), the child is to be placed with a non-Aboriginal prospective adoptive parent or parents.</p> <p>(3) Placement of child with person who is not Aboriginal An Aboriginal child is not to be placed with a non-Aboriginal prospective adoptive parent unless the Court is satisfied that the prospective adoptive parent:</p> <p>(a) has the capacity to assist the child to develop a healthy and positive cultural identity; and</p> <p>(b) has knowledge of or is willing to learn about, and teach the child about, the child's Aboriginal heritage and to foster links with that heritage in the child's upbringing; and</p> <p>(c) has the capacity to help the child if the child encounters racism or discrimination in the wider community, and that the Aboriginal child placement principles have been properly applied.</p> <p>Note. Placement with a non-Aboriginal prospective adoptive parent requires an application to the Court for a preliminary hearing—see section 80.</p> <p>(4) Child with one Aboriginal parent and one non-Aboriginal parent. If a child has one Aboriginal parent and</p>

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				<p>one non-Aboriginal parent, the child may be placed with the person with whom the best interests of the child will be served having regard to the objects of this Act.</p> <p>(5) If a child to whom subsection (4) applies:</p> <p>(a) is placed with a person who is not within an Aboriginal family or community, an adoption plan must provide for the child to have the opportunity to develop an identity with the Aboriginal community to which the child belongs; or</p> <p>(b) is placed with a person who is within an Aboriginal community, an adoption plan must provide for the child to have the opportunity to develop an identity with the non-Aboriginal community to which the child belongs.</p>
			36	<p>36 Alternatives to placement for adoption to be considered</p> <p>An Aboriginal child is not to be placed for adoption unless the Director-General is satisfied that the making of the adoption order is clearly preferable in the best interests of the child to any other action that could be taken by law in relation to the care of the child.</p> <p>Note. Examples of other action that may be taken by law are the making of a care order under the <i>Children and Young Persons (Care and Protection) Act 1998</i> or a parenting order under the <i>Family Law Act 1975</i> of the Commonwealth.</p>
			39	<p>39 Torres Strait Islander child placement principles</p>

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				<p>(1) The general order for placement The Torres Strait Islander child placement principles are as follows:</p> <p>(a) The first preference for placement of a Torres Strait Islander child is for the child to be placed for adoption with a prospective adoptive parent or parents within the child's extended family; and</p> <p>(b) If it is not practicable or in the best interests of the child for the child to be placed in accordance with paragraph (a), the child is to be placed with a prospective adoptive parent or parents within the community, or one of the communities, to which the birth parent or birth parents of the child belongs; and</p> <p>(c) If it is not practicable or in the best interests of the child for the child to be placed in accordance with paragraph (a) or (b), the child is to be placed with a prospective adoptive parent or parents from another Torres Strait Islander community; and</p> <p>(d) If it is not practicable or in the best interests of the child for the child to be placed in accordance with paragraph (a), (b) or (c), the child is to be placed with a non-Torres Strait Islander prospective adoptive parent or parents.</p> <p>(2) A Torres Strait Islander child is not to be placed with a prospective adoptive parent who is not a Torres Strait Islander unless the Court is satisfied that the prospective parent:</p>

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				<p>(a) has the capacity to assist the child to develop a healthy and positive cultural identity; and</p> <p>(b) is willing to learn about, and teach the child about, the child’s Torres Strait Islander heritage and foster links with that heritage in the child’s upbringing; and</p> <p>(c) has the capacity to help the child if the child encounters racism or discrimination in the wider community, and that the Torres Strait Islander child placement principles have been properly applied.</p> <p>Note. Placement with a non-Torres Strait Islander prospective adoptive parent requires an application to the Court for a preliminary hearing—see section 80.</p> <p>(3) Child with one Torres Strait Islander parent and one non-Torres Strait Islander parent. If a child has one Torres Strait Islander parent and one non-Torres Strait Islander parent, the child may be placed with the person with whom the best interests of the child will be served having regard to the objects of this Act.</p> <p>(4) If a child to whom subsection (3) applies:</p> <p>(a) is placed with a person who is not within a Torres Strait Islander family or community, an adoption plan must provide for the child to have the opportunity to develop an identity with the Torres Strait Islander community to which the child belongs; or</p> <p>(b) is placed with a person who is within a Torres Strait</p>

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				Islander community, an adoption plan must provide for the child to have the opportunity to develop an identity with the non-Torres Strait Islander community to which the child belongs.
			45B	<p>45B Consideration of wishes of parents consenting to adoption</p> <p>(1) A general consent of the parent of a child to the adoption of the child, as referred to in section 53, may express the wishes of the parent as to the preferred background, beliefs or domestic relationship of any prospective adoptive parents of the child.</p> <p>(2) Nothing in the <i>Anti-Discrimination Act 1977</i> prevents the Director-General or a principal officer of an adoption service provider from identifying (consistently with the best interests of the child) prospective adoptive parents who reflect those wishes in the adoption selection process under this Part.</p>
			55	<p>55 Consent of child</p> <p>(1) The Court must not make an adoption order in relation to a child who is 12 or more but less than 18 years of age and who is capable of giving consent unless:</p> <p>(a) the child has been counselled as required by section 63; and</p> <p>(b) the counsellor has certified that the child understands the effect of signing the instrument of consent (as required by</p>

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				<p>section 61); and</p> <p>(c) the child consents to his or her adoption by the prospective adoptive parent or parents or the Court dispenses with the requirement for consent.</p> <p>Note. See Division 3 of Part 5.</p> <p>(2) The Court may make an adoption order in relation to such a child who is incapable of giving consent if the Court is satisfied that the circumstances are exceptional and that it would be in the best interests of the child to make the order.</p>
			67	<p>67 When can Court dispense with consent of person other than the child?</p> <p>(1) The Court may make a consent dispense order dispensing with the requirement for consent of a person to a child’s adoption (other than the child) if the Court is satisfied that:</p> <p>(a) the person cannot, after reasonable inquiry, be found or identified; or</p> <p>(b) the person is in such a physical or mental condition as not to be capable of properly considering the question of whether he or she should give consent; or</p> <p>(c) if the person is a parent of, or person who has parental responsibility for, the child—there is serious cause for concern for the welfare of the child and it is in the best interests of the child to override the wishes of the parent or</p>

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				<p>person who has parental responsibility; or</p> <p>(d) if an application has been made to the Court for the adoption of the child by one or more persons who are authorised carers for the child:</p> <p>(i) the child has established a stable relationship with those carers; and</p> <p>(ii) the adoption of the child by those carers will promote the child's welfare; and</p> <p>(iii) in the case of an Aboriginal child, alternatives to placement for adoption have been considered in accordance with section 36.</p> <p>(2) The Court must not make such a consent dispense order unless satisfied that to do so is in the best interests of the child.</p>
			90	<p>90 Court to be satisfied as to certain matters</p> <p>(1) The Court must not make an adoption order in relation to a child unless the Court is satisfied:</p> <p>(a) that the best interests of the child will be promoted by the adoption; and</p> <p>(b) that, as far as practicable and having regard to the age and understanding of the child, the wishes and feelings of the child have been ascertained and due consideration given to</p>

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				<p>them; and</p> <p>Note. Sections 127–129 contain provisions about ascertainment of the wishes of a child by the Court.</p> <p>(c) if the prospective adoptive parent or parents are persons other than a step parent or relative of the child—that the prospective adoptive parent or parents have been selected in accordance with this Act; and</p> <p>Note. See Part 3 of this Chapter.</p> <p>(d) that consent to the adoption of the child has been given by every person whose consent is required under this Act or that consent has been, or should be, dispensed with; and</p> <p>(e) if the child is an Aboriginal child—that the Aboriginal child placement principles have been properly applied; and</p> <p>(f) if the child is a Torres Strait Islander child—that the Torres Strait Islander child placement principles have been properly applied; and</p> <p>(g) if the child is a non-citizen child from a Convention country or other country outside Australia—that the applicable requirements of this Act and any other relevant law have been satisfied; and</p> <p>Note. See for example, section 31.</p> <p>(h) in the case of a child (other than an Aboriginal or Torres Strait Islander child)—that the culture, any disability, language and religion of the child and, as far as possible, that</p>

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				<p>the child's given names, identity, language and cultural and religious ties have been taken into account in the making of any adoption plan in relation to the adoption.</p> <p>(2) The Court may not make an adoption order if the parties to the adoption have agreed to an adoption plan unless it is satisfied that the arrangements proposed in the plan are in the child's best interests and are proper in the circumstances.</p> <p>(3) The Court may not make an adoption order unless it considers that the making of the order would be clearly preferable in the best interests of the child than any other action that could be taken by law in relation to the care of the child.</p> <p>Note. Other action that could be taken in relation to a child includes a parenting order under the <i>Family Law Act 1975</i> of the Commonwealth or a care order under the <i>Children and Young Persons (Care and Protection) Act 1998</i>. Part 1 of Chapter 4 describes the persons who may be adopted and the persons who may adopt.</p>
			93	<p>93 Discharge of adoption orders</p> <p>(1) In this section:</p> <p>'concerned person' means the Attorney General, or any party to an adoption.</p> <p>(2) A concerned person may apply to the Court for an order discharging an adoption order (a 'discharge order').</p> <p>(3) The Court is to give each concerned person (other than</p>

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				<p>the applicant for the discharge order) notice of the application.</p> <p>(4) The Court may make a discharge order if it is satisfied that:</p> <p>(a) the adoption order, or any consent to adoption, was obtained by fraud, duress or other improper means; or</p> <p>(b) there is some other exceptional reason why the adoption order should be discharged.</p> <p>(5) The Court must not make a discharge order if it appears to the Court that:</p> <p>(a) the making of the order would be prejudicial to the best interests of the child; or</p> <p>(b) if the application for the order is made by the child—the application is motivated by emotional or other considerations that do not affect the welfare of the child arising out of a relationship formed because of the child’s access to information or contact with a person under Chapter 8 (Adoption information).</p> <p>(6) If the Court makes a discharge order respecting a general consent, that consent remains effective for the purpose of a further application for an adoption order in relation to the same child, unless the Court orders otherwise.</p> <p>(7) If the Court makes a discharge order, it may, at the same time or subsequently, make such consequential or ancillary</p>

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				<p>orders as it thinks necessary in the interests of justice or to promote the best interests of the child, including orders relating to the following:</p> <ul style="list-style-type: none"> (a) the name of the child; or (b) the ownership of property; or (c) the parental responsibility for the child; or (d) the domicile of the child. <p>(8) On the making of a discharge order, but subject to any order made under subsection (6) and to section 95 (4), the rights, privileges, duties, liabilities and relationships under the law of New South Wales of the child and of all other persons are to be the same as if the adoption order had not been made, but without prejudice to:</p> <ul style="list-style-type: none"> (a) anything lawfully done; or (b) the consequences of anything unlawfully done; or (c) any proprietary right or interest that became vested in any person, while the adoption order was in force.
			101	<p>101 Names of adopted children</p> <p>(1) On the making of an adoption order:</p> <ul style="list-style-type: none"> (a) an adopted child who is 18 or more years old is (unless he or she decides otherwise) to have the same surname and

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				<p>given name or names as he or she used immediately before the order is made; and</p> <p>(b) an adopted child who is less than 18 years of age is to have as his or her surname and given name or names such name or names as the Court, in the adoption order, approves on the application of the adoptive parent or parents.</p> <p>(2) Before changing the surname or given name or names of a child, the Court must consider any wishes expressed by the child and any factors (such as the child's maturity or level of understanding) that the Court thinks are relevant to the weight it should give to the child's wishes.</p> <p>(3) If, before the making of the adoption order, the adopted child has been generally known by a particular surname, the Court may, in the adoption order, order that the child is to have that name as his or her surname.</p> <p>(4) An approval of a change in the given name or names of a child who is over the age of 12 years must not be given by the Court unless the child has, in a consent given under section 55, consented to the change.</p> <p>(5) The Court must not approve a change in the given name or names of a child who is more than one year old, or a non-citizen child, unless the Court is satisfied that the name change is in the best interests of the child.</p> <p>Note. Section 8 sets out the principles that are to be applied by persons making decisions about the adoption of a child, and includes the principle that a child's given name or names, identity,</p>

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				<p>language and cultural and religious ties should, as far as possible, be identified and preserved.</p> <p>(6) Nothing in this section prevents the changing of any name of an adopted child, after the making of the adoption order, under the law of New South Wales.</p>
			106	<p>106 Adoption in NSW of child from NSW by parents from Convention country</p> <p>(1) The Court may, on application by the Director-General, make an order for the adoption of a child who is habitually resident in New South Wales by a prospective adoptive parent or parents who are habitually resident in a Convention country.</p> <p>(2) The Court may make the order only if satisfied that:</p> <p>(a) the Central Authority of the Convention country has agreed to the adoption of the child; and</p> <p>(b) the Director-General or principal officer has considered the possibility of placing the child for adoption within Australia and any other action that could be taken by law to care for the child; and</p> <p>(c) the adoption is in the best interests of the child.</p> <p>(3) The Court must not make the order if the child is not allowed to leave Australia:</p> <p>(a) under a law of the Commonwealth or a State; or</p>

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				<p>(b) because of an order of a court of the Commonwealth or a State.</p> <p>(4) The best interests of the child are to be determined in accordance with the adoption principles.</p>
			110	<p>110 Refusal to recognise an adoption</p> <p>(1) The Director-General may apply to the Court for a declaration that an adoption or decision made in accordance with article 27 of the Convention is not recognised.</p> <p>(2) The Court may make such a declaration if the Court is satisfied that the adoption or decision is manifestly contrary to public policy, taking into account the best interests of the child concerned.</p> <p>(3) If the Court declares that it does not recognise the adoption or decision, the adoption or decision (as the case requires) has no effect for the law of the State.</p>
			201	<p>201 Provision of financial and other assistance to certain children and birth parents</p> <p>(1) The Director-General may, with respect to a child of a class or description prescribed by the regulations, enter into an agreement with:</p> <p>(a) a person or persons with whom the child has been placed for the purposes of adoption; or</p> <p>(b) the applicant, or applicants, for an adoption order in</p>

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				<p>relation to the child; or</p> <p>(c) the adoptive parent, or adoptive parents, of the child, for the provision of such financial or other assistance, on such terms and conditions as may be agreed, in order to assist or promote the best interests of the child.</p> <p>(2) The Director-General may agree to inclusion in an adoption plan of provision for financial and other assistance to be given to a birth parent or the birth parents of a child who has been placed for adoption, on such terms and conditions as are agreed.</p> <p>(3) Nothing in this section prevents the Director-General from entering into an agreement in relation to a child so as to provide financial or other assistance both before and after an adoption order in relation to the child is made.</p>
	<p>Children and Young Persons (Care and Protection) Act 1998</p>	<p>NSW</p>	<p>13</p>	<p>13 Aboriginal and Torres Strait Islander Child and Young Person Placement Principles</p> <p>(1) The general order for placement Subject to the objects in section 8 and the principles in section 9, an Aboriginal or Torres Strait Islander child or young person who needs to be placed in statutory out-of-home care is to be placed with:</p> <p>(a) a member of the child’s or young person’s extended family or kinship group, as recognised by the Aboriginal or Torres Strait Islander community to which the child or young person belongs; or</p>

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				<p>(b) if it is not practicable for the child or young person to be placed in accordance with paragraph (a) or it would not be in the best interests of the child or young person to be so placed—a member of the Aboriginal or Torres Strait Islander community to which the child or young person belongs; or</p> <p>(c) if it is not practicable for the child or young person to be placed in accordance with paragraph (a) or (b) or it would not be in the best interests of the child or young person to be so placed—a member of some other Aboriginal or Torres Strait Islander family residing in the vicinity of the child’s or young person’s usual place of residence; or</p> <p>(d) if it is not practicable for the child or young person to be placed in accordance with paragraph (a), (b) or (c) or it would be detrimental to the safety, welfare and well-being of the child or young person to be so placed—a suitable person approved by the Director-General after consultation with:</p> <p>(i) members of the child’s or young person’s extended family or kinship group, as recognised by the Aboriginal or Torres Strait Islander community to which the child or young person belongs; and</p> <p>(ii) such Aboriginal or Torres Strait Islander organisations as are appropriate to the child or young person.</p> <p>(2) Relevance of self-identification and expressed wishes of child or young person In determining where a child or young person is to be placed, account is to be taken of whether the child or young person identifies as an Aboriginal or Torres Strait Islander and the</p>

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				<p>expressed wishes of the child or young person.</p> <p>(3) Child or young person with parents from different Aboriginal or Torres Strait Islander communities If a child or young person has parents from different Aboriginal or Torres Strait Islander communities, the order for placement established by paragraphs (a), (b), (c) and (d) of subsection (1) applies, but the choice of a member or person referred to in those paragraphs is to be made so that the best interests of the child or young person will be served having regard to the principles of this Act.</p> <p>(4) Child or young person with one Aboriginal or Torres Strait Islander parent and one non-Aboriginal and Torres Strait Islander parent If a child or young person has one Aboriginal or Torres Strait Islander parent and one non-Aboriginal and Torres Strait Islander parent, the child or young person may be placed with the person with whom the best interests of the child or young person will be served having regard to the principles of this Act.</p> <p>(5) If a child or young person to whom subsection (4) applies:</p> <p>(a) is placed with a person who is not within an Aboriginal or Torres Strait Islander family or community, arrangements must be made to ensure that the child or young person has the opportunity for continuing contact with his or her Aboriginal or Torres Strait Islander family, community and culture; or</p> <p>(b) is placed with a person who is within an Aboriginal or</p>

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				<p>Torres Strait Islander family or community, arrangements must be made to ensure that the child or young person has the opportunity for continuing contact with his or her non-Aboriginal and Torres Strait Islander family, community and culture.</p> <p>(6) Placement of child or young person in care of person who is not an Aboriginal or Torres Strait Islander The following principles are to determine the choice of a carer if an Aboriginal or Torres Strait Islander child or young person is placed with a carer who is not an Aboriginal or Torres Strait Islander:</p> <p>(a) subject to the best interests of the child or young person, a fundamental objective is to be the reunion of the child or young person with his or her family or Aboriginal or Torres Strait Islander community; or</p> <p>(b) continuing contact must be ensured between the child or young person and his or her Aboriginal or Torres Strait Islander family, community and culture.</p> <p>These principles are subject to subsection (2).</p> <p>(7) Exceptions: emergency placements and placements of short duration Subsection (1) does not apply to:</p> <p>(a) an emergency placement made to protect a child or young person from serious risk of immediate harm; or</p>

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				<p>(b) a placement for a duration of less than 2 weeks.</p> <p>(8) Where an emergency placement is made to protect an Aboriginal or Torres Strait Islander child or young person from serious risk of immediate harm, the Director-General must consult with the appropriate Aboriginal or Torres Strait Islander community as soon as practicable after the safety of the child or young person has been secured.</p> <p>Note. In the course of any consultation under this Part, the Director-General must have regard to the right of Aboriginal or Torres Strait Islander children and young persons and their families to confidentiality.</p>
			44	<p>44 Director-General may assume care responsibility of child or young person in hospital or other premises</p> <p>(1) If the Director-General:</p> <p>(a) suspects on reasonable grounds that a child or young person is at risk of serious harm; and</p> <p>(b) is satisfied that it is not in the best interests of the child or young person that the child or young person be removed from the premises in which he or she is currently located, the Director-General may, instead of removing the child or young person from the premises under a power of removal conferred by or under this Act, assume the care responsibility of the child or young person by means of an order in writing, signed by the Director-General and served on the person (whether or not a parent of the child or young person) who appears to the Director-General to be in charge of the</p>

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				<p>premises.</p> <p>(2) An order under this section does not cease to have effect merely because the child or young person to whom it relates is transferred to different premises.</p>
			86	<p>86 Contact orders</p> <p>(1) If a child or young person is the subject of proceedings before the Children’s Court, the Children’s Court may, on application made by any party to the proceedings, do any one or more of the following:</p> <p>(a) make an order stipulating minimum requirements concerning the frequency and duration of contact between the child or young person and his or her parents, relatives or other persons of significance to the child or young person; or</p> <p>(b) make an order that contact with a specified person be supervised; or</p> <p>(c) make an order denying contact with a specified person if contact with that person is not in the best interests of the child or young person.</p> <p>(2) The Children’s Court may make an order that contact be supervised by the Director-General or a person employed in that part of the Department comprising those members of staff who are principally involved in the administration of this Act only with the Director-General’s or person’s consent.</p> <p>(3) An order of the kind referred to in subsection (1) (a)</p>

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				<p>does not prevent more frequent contact with a child or young person with the consent of a person having parental responsibility for the child or young person.</p> <p>(4) An order of the kind referred to in subsection (1) (b) may be made only with the consent of the person specified in the order and the person who is required to supervise the contact.</p>
			94	<p>94 Expedition and adjournments</p> <p>(1) All matters before the Children’s Court are to proceed as expeditiously as possible in order to minimise the effect of the proceedings on the child or young person and his or her family and to finalise decisions concerning the long-term placement of the child or young person.</p> <p>(2) For this purpose, the Children’s Court is to set a timetable for each matter taking into account the age and developmental needs of the child or young person.</p> <p>(3) The Children’s Court may give such directions as it considers appropriate to ensure that the timetable is kept.</p> <p>(4) The Children’s Court should avoid the granting of adjournments to the maximum extent possible and must not grant an adjournment unless it is of the opinion that:</p> <p>(a) it is in the best interests of the child or young person to do so; or</p>

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				(b) there is some other cogent or substantial reason to do so.
			112	<p>112 What principle is to be applied in the administration of this Part?</p> <p>(1) The principle to be applied in the administration of this Part in its application to children is that the parents of a child should have responsibility for the child unless it is not in the best interests of the child that his or her parents have responsibility for him or her.</p> <p>(2) The provisions of this section apply in addition to the provisions of sections 9–13.</p>
			157	<p>157 Care responsibility</p> <p>(1) The authorised carer of a child or young person has authority to do any of the following:</p> <p>(a) to consent to medical treatment, not involving surgery, for the child or young person on the advice of a medical practitioner; or</p> <p>(b) to consent to medical treatment involving surgery that a medical practitioner certifies in writing needs to be carried out as a matter of urgency in the best interests of the child or young person:</p> <p>(b1) to consent to dental treatment (including treatment involving minor dental surgery) that a dentist has advised needs to be carried out for the child or young person; or</p>

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				<p>(b2) to consent to dental treatment involving dental surgery other than minor dental surgery that a dentist certifies in writing needs to be carried out as a matter of urgency in the best interests of the child or young person;</p> <p>(c) to correct and manage the behaviour of the child or young person, subject to the regulations; or</p> <p>(d) to give permission to participate in activities, such as school excursions, that are organised for the child or young person; or</p> <p>(e) to make other decisions that are required in the day-to-day care and control of the child or young person.</p> <p>(2) The authorised carer of a child or young person has authority to exercise any aspects of parental responsibility that are delegated to the authorised carer in accordance with this Act.</p> <p>Note. Aspects of parental responsibility that may be delegated include:</p> <p>(a) the power to give consent to medical and dental treatment involving surgery, other than urgent treatment; and</p> <p>(b) the power to make decisions concerning the education and training of the child or young person; and</p> <p>(c) the power to give a consent on behalf of the child or young person, or to make an application on his or her behalf, for any purpose for which the consent or authorisation of a parent is</p>

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				<p>required; other than:</p> <p>(i) an application for a passport; or</p> <p>(ii) consent to marriage.</p> <p>(3) The exercise of a function under this section by an authorised carer is subject to any written direction given by the designated agency that placed the child or young person in the daily care and control of the authorised carer, or the Children’s Guardian.</p> <p>(4) An authorised carer:</p> <p>(a) may provide a child or young person with whatever religious instruction (if any) the authorised carer considers to be appropriate; and</p> <p>(b) may allow the child or young person to participate in religious activities, unless a direction to the contrary has been given to an authorised carer by the designated agency responsible for the placement of the child or young person or the Children’s Guardian.</p> <p>(5) In this section:</p> <p>'minor dental surgery' means a tooth extraction, the filling of a decayed tooth, root canal work or a repair to a broken or chipped tooth.</p> <p>Note. Section 177 gives protection to medical and dental practitioners in relation to children in respect of whom consent is given by the authorised carer under this section, but not in relation</p>

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				to young persons in respect of whom such consent is given. In the case of young persons, the young person's consent is also required.
			231I	<p>231I Type of order</p> <p>(1) If the Children's Court determines to transfer a home order under this Division, the terms of the proposed interstate order must be terms that could be terms of a child protection order made under the child welfare law of the participating State and that the Children's Court believes to be:</p> <p>(a) to the same or a similar effect as the terms of the home order; or</p> <p>(b) otherwise in the best interests of the child or young person.</p> <p>(2) The Children's Court may include in the proposed interstate order any conditions that could be included in a child protection order of that type made in the relevant participating State.</p> <p>(3) In determining whether an order to the same or a similar effect as the home order could be made under the child welfare law of a participating State, the Children's Court must disregard the period for which it is possible to make such an order in that State.</p> <p>(4) The Children's Court must determine, and specify in the proposed interstate order, the period for which it is to remain in force.</p>

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				(5) The period must be any period that is possible for a child protection order of the type of the proposed interstate order under the child welfare law of the participating State and that the Children's Court considers to be appropriate (commencing on, and including, the date of its registration in that State).
	Children (Protection and Parental Responsibility) Act 1997	NSW	6	<p>6 Guiding principles for courts</p> <p>(1) In considering how a child should be dealt with under this Part, a court is to have regard to whether the taking of the action under consideration is in the best interests of the child.</p> <p>(2) Without limiting the matters that the court may take into account for the purposes of subsection (1), the court is to consider:</p> <p>(a) the nature of the relationship of the child with the child's parent or parents; and</p> <p>(b) the attitude to the child, and to the responsibilities of parenthood, demonstrated by the child's parent or parents; and</p> <p>(c) the welfare, status and circumstances of the child and of the child's parent or parents.</p>
			11	<p>11 Parents contributing to children's offences</p> <p>(1) A parent who, by wilful default, has contributed directly or in a material respect to the commission of an offence of</p>

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				<p>which the child has been found guilty; is guilty of an offence.</p> <p>Maximum penalty: 10 penalty units.</p> <p>(2) The court may require a parent convicted of an offence under subsection (1) to undergo counselling or do such other things that would in the opinion of the court advance the welfare and best interests of the child instead of, or in addition to, imposing a penalty.</p>
	<p>Crimes (Forensic Procedures) Act 2000</p>	<p>NSW</p>	<p>80</p>	<p>80 Circumstances in which Magistrate may order the carrying out of forensic procedure on child or incapable person</p> <p>(1) A Magistrate may order the carrying out of a forensic procedure on a child or incapable person if:</p> <p>(a) the consent of the parent or guardian of the child or incapable person to the carrying out of the forensic procedure cannot reasonably be obtained from a parent or guardian of the child or incapable person; or</p> <p>(b) the parent or guardian of the child or incapable person refuses consent to the carrying out of the forensic procedure and the Magistrate is satisfied that there are reasonable grounds to believe that:</p> <p>(i) the parent or guardian is a suspect; and</p> <p>(ii) the forensic procedure is likely to produce evidence tending to confirm or disprove that he or she committed an</p>

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				<p>offence; or</p> <p>(c) the parent or guardian of the child or incapable person consented to the carrying out of the forensic procedure, but subsequently withdrew that consent.</p> <p>(2) In determining whether to make an order under this section, the Magistrate is to take into account the following:</p> <p>(a) whether this Part would authorise the carrying out of the forensic procedure apart from this section; and</p> <p>(b) if the forensic procedure is being carried out for the purposes of the investigation of a particular offence—the seriousness of the circumstances surrounding the commission of the offence; and</p> <p>(c) the best interests of the child or incapable person; and</p> <p>(d) so far as they can be ascertained, any wishes of the child or incapable person with respect to whether the forensic procedure should be carried out; and</p> <p>(e) except in the circumstances referred to in subsection (1) (b), any wishes expressed by the parent or guardian of the child or incapable person with respect to whether the forensic procedure should be carried out; and</p> <p>(f) whether the carrying out of the forensic procedure is justified in all the circumstances.</p>

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				<p>(3) An order under this section may:</p> <p>(a) require the forensic procedure to be carried out at a time or place specified in the order; or</p> <p>(b) specify the period for which forensic material obtained from carrying out the procedure may be retained, or both.</p>
			81F	<p>81F Circumstances in which Magistrate may order carrying out of forensic procedure on child under 10 years of age</p> <p>(1) A Magistrate may order the carrying out of a forensic procedure on a child, but only for the following purposes:</p> <p>(a) to investigate an offence; or</p> <p>(b) to assist in locating or identifying a missing person; or</p> <p>(c) to assist in identifying a deceased person.</p> <p>(2) In determining whether to make an order under this section, the Magistrate is to take into account the following:</p> <p>(a) the age of the child; and</p> <p>(b) the best interests of the child; and</p> <p>(c) so far as can be ascertained, whether the child understands what will be involved in carrying out the forensic procedure and any wishes of the child with respect to whether the forensic procedure should be carried out; and</p>

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				<p>(d) any wishes expressed by the parent or guardian of the child with respect to whether the forensic procedure should be carried out; and</p> <p>(e) any submissions or evidence presented to the Magistrate by an Australian legal practitioner on behalf of the child; and</p> <p>(f) the type of forensic procedure that is proposed to be carried out; and</p> <p>(g) the purpose for which the forensic procedure is required; and</p> <p>(h) if the forensic procedure is proposed to be carried out for the purposes of the investigation of a particular offence—the seriousness of the circumstances surrounding the commission of the offence; and</p> <p>(i) any other matter that the Magistrate considers relevant.</p> <p>(3) An order under this section may require the forensic procedure to be carried out at a time or place specified in the order.</p>
	<p>Law Enforcement (Power and Responsibilities) Act 2002</p>	<p>NSW</p>	<p>136</p>	<p>136 Identification particulars of children under 14 years</p> <p>(1) This section applies to a child under the age of 14 years who is in lawful custody for an offence.</p> <p>(2) A person must not take a photograph or the finger-prints or palm-prints of a child except in accordance with this section. Nothing in this section, however, prevents the taking</p>

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				<p>of any child's photograph, finger-prints or palm-prints in accordance with the order of a court under section 134.</p> <p>(3) A police officer of the rank of sergeant or above may, in respect of a child, apply:</p> <p>(a) to the Children's Court; or</p> <p>(b) if it is not possible to apply to the Children's Court within 72 hours after the taking of the child into custody, to an authorised officer, for an order authorising, for the purpose only of identifying the child, the taking of the child's photograph, finger-prints and palm-prints.</p> <p>(4) The Children's Court or authorised officer may hear the application and may make the order sought in the application.</p> <p>(5) In determining whether to make the order, the Children's Court or authorised officer is to take into account the following:</p> <p>(a) the seriousness of the circumstances surrounding the offence; or</p> <p>(b) the best interests of the child; or</p> <p>(c) the child's ethnic and cultural origins; or</p> <p>(d) so far as they can be ascertained, any wishes of the child with respect to whether the order should be granted; or</p> <p>(e) any wishes expressed by the parent or guardian of the</p>

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				<p>child with respect to whether the order should be granted.</p> <p>(6) A child must not be held in custody for the purpose only of an application being made under this section.</p>
	<p>Pre-Trial Division of Offenders Act 1985</p>	<p>NSW</p>	<p>14</p>	<p>14 Assessment</p> <p>(1) A person who is to be referred for assessment in relation to the person's suitability for participation in the Program must be referred for assessment, and be assessed, in accordance with the regulations.</p> <p>(2) The Director, or a person to whom the Director delegates the duty, is to assess a person's suitability for the purposes of subsection (1) and in doing so may take into account any or all of the following matters which appear to be relevant and any other matter which he or she considers to be relevant:</p> <p>(a) any statement made to a police officer in relation to the alleged offence (including statements of the person charged with the offence, the child concerned, a parent of the child or any other person with relevant information); or</p> <p>(b) relevant information held by other government agencies which are or have been involved in the treatment of the person charged with the offence or of a member of that person's family or household; or</p> <p>(c) interviews conducted by the Director or officer making the assessment with the person, the person's spouse or de facto partner and the child concerned; or</p>

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				<p>(d) whether the person accepts responsibility for the sexual assault of the child; or</p> <p>(e) whether the person demonstrates some understanding of the impact of the offence on the child and on other members of the child's family or household; or</p> <p>(f) whether the person's spouse or de facto partner is prepared to participate in the Program as required by the Director; or</p> <p>(g) whether the person and the person's spouse or de facto partner have sufficient interactive skills to be able to participate in any group therapy aspects of the Program; or</p> <p>(h) whether the person and the person's spouse or de facto partner agree to participate in all aspects of the Program; or</p> <p>(i) whether participation in the Program by the person, the person's spouse or de facto partner and the child concerned is in the best interests of the child.</p> <p>(3) The prosecutor is, in accordance with the regulations, to be notified as to the result of the assessment and to be provided with written reasons if the assessment made is that the person is not suitable for participation in the Program.</p>
	Surrogacy Act 2010	NSW	3	<p>3 Guiding principle</p> <p>This Act is to be administered by reference to the principle that, in relation to any surrogacy arrangement, the best interests of the child of the surrogacy arrangement are</p>

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				paramount.
			17	<p>17 Independent counsellor's report</p> <p>(1) An application for a parentage order must be supported by a report about the application prepared by an independent counsellor.</p> <p>(2) The report must contain the independent counsellor's opinion as to whether the proposed parentage order is in the best interests of the child and the reasons for that opinion.</p> <p>(3) The report is to include the counsellor's assessment of the following matters:</p> <p>(a) each affected party's understanding of the social and psychological implications of the making of a parentage order (both in relation to the child and the affected parties); and</p> <p>(b) each affected party's understanding of the principle that openness and honesty about a child's birth parentage is in the best interests of the child; and</p> <p>(c) the care arrangements proposed by the applicant or applicants in relation to the child; and</p> <p>(d) any contact arrangements proposed in relation to the child and his or her birth parent or parents or biological parent or parents; and</p>

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				<p>(e) the parenting capacity of the applicant or applicants; and</p> <p>(f) whether any consent given by the birth parent or parents to the parentage order is informed consent, freely and voluntarily given; and</p> <p>(g) the wishes of the child, if the counsellor is of the opinion that the child is of sufficient maturity to express his or her wishes.</p> <p>(4) The report may address any other relevant matters.</p> <p>(5) The report must:</p> <p>(a) indicate the persons who were interviewed for the purposes of the report, and the date or dates on which the interviews were conducted; and</p> <p>(b) set out the basis on which the person making the report claims to be an independent counsellor.</p> <p>(6) The provisions of any law or rules of court relating to the adducing of opinion evidence apply in relation to the independent counsellor's report, unless inconsistent with this section.</p> <p>(7) For the purposes of this section, an 'independent counsellor' is a qualified counsellor who:</p> <p>(a) is not the counsellor who counselled the birth mother, the birth mother's partner (if any) or an intended parent about the surrogacy arrangement, to meet a precondition to</p>

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				<p>the making of a parentage order; and</p> <p>(b) is not, and is not connected with, a medical practitioner who carried out a procedure that resulted in the conception or birth of the child.</p>
			20	<p>20 Birth siblings must be kept together</p> <p>(1) If a child has any living birth siblings, the Court is to make a parentage order in relation to the child only if the Court also makes or proposes to make a parentage order in relation to each birth sibling, so that the child and all his or her living birth siblings become children of the same applicant or applicants.</p> <p>(2) A 'birth sibling' of a child is any brother or sister of the child who is born as a result of the same pregnancy as the child.</p> <p>(3) However, the Court may make a parentage order, despite non-compliance with subsection (1), if the Court considers it in the best interests of the child to make an order even if the parentage of his or her birth sibling is not transferred to the same applicant or applicants.</p>
			22	<p>22 Best interests of child are paramount</p> <p>(1) The Court must be satisfied that the making of the parentage order is in the best interests of the child.</p> <p>(2) This precondition is a mandatory precondition to the</p>

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				making of a parentage order.
	Young Offenders Act 1997	NSW	48	<p>48 Conduct of conferences</p> <p>(1) A conference convenor must conduct a conference in a way that best assists the reaching of an agreement about an outcome plan in relation to the child and the offence concerned that complies with this Act and the regulations.</p> <p>(2) The participants at a conference may regulate the procedure at a conference as they think fit, subject to any guidelines prepared by the Director-General under section 49.</p> <p>(3) If the conference convenor is of the opinion that the presence of a person (other than the child or any victim) may frustrate the purpose or conduct of a conference, or is otherwise not in the best interests of the child, the convenor may, having regard to the views of the child, exclude that person from attending the conference at all or may, during the course of the conference, exclude the person from continuing to attend the conference.</p> <p>(4) A conference must not make any recommendations or decisions if the participants are unable to determine whether the child admits the offence.</p> <p>(5) The conference convenor must, at or before a conference, notify the participants of the views of any person invited to attend but unable to do so, if the convenor is aware of those views.</p>

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				<p>(6) A conference may be adjourned:</p> <p>(a) at any time with the consent of the participants; or</p> <p>(b) at the request of the child, to allow discussions between the child and the child's family or the child and a person responsible for the child.</p> <p>(7) A conference must, if practicable, be concluded not later than 7 days after it is first convened.</p> <p>(8) A conference may be held in respect of more than one child at the same time and in respect of more than one offence alleged to have been committed by a child.</p>

3. Victoria

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>ARTICLE 3:</p> <p>1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.</p> <p>2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.</p> <p>3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.</p>	<p>Adoption Act 1984</p>	<p>Vic</p>	<p>9</p>	<p>In the administration of this Act, the welfare and interests of the child concerned shall be regarded as the paramount consideration.</p>
			<p>11</p>	<p>(6) Where an application is made under subsection (5) by the spouse or de facto spouse of a parent or of an adoptive parent of a child, the Court must not make an order for the adoption of the child solely by that spouse or de facto spouse unless it is satisfied that:</p> <p>(a) the making of an order in relation to the guardianship or custody of the child under the <i>Family Law Act 1975</i> of the Commonwealth as amended and in force for the time being in relation to the child would not make adequate provision for the welfare and interests of the child;</p> <p>(b) exceptional circumstances exist which warrant the making of an adoption order; and</p> <p>(c) an order for the adoption of the child would make better provision for the welfare and interests of the child than an order referred to in paragraph (a); and</p>
			<p>12</p>	<p>The Court shall not make an order for the adoption of a child in favour of a person who, or whose spouse or de facto spouse, is a relative of the child or in favour of two persons who are, or one of whom is, a relative of the child unless the</p>

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				<p>Court is satisfied that:</p> <p>(a) the making of an order in relation to the guardianship or custody of the child under the <i>Family Law Act 1975</i> of the Commonwealth as amended and in force for the time being in relation to the child would not make adequate provision for the welfare and interests of the child; and</p> <p>(b) exceptional circumstances exist which warrant the making of an adoption order; and</p> <p>(c) the order for the adoption of the child would make better provision for the welfare and interests of the child than an order referred to in paragraph (a);</p>
			15	<p>(1) The Court shall not make an order for the adoption of a child unless the Court has received a report in writing on behalf of the Secretary or the principal officer of an approved agency concerning the proposed adoption and, after considering the report and any other evidence before the Court, the Court is satisfied that:</p> <p>(d) the welfare and interests of the child will be promoted by the adoption.</p>
			19	<p>(5A) The Court shall not make an order for the discharge of an adoption order unless the Court is satisfied that the welfare and interests of the child would be promoted by the discharge of the adoption order.</p> <p>(7) Where the Court makes an order under this section, it may, at the same time or subsequently, make such</p>

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				<p>consequential or ancillary orders as it thinks necessary in the interests of justice or the welfare and interests of the child, including orders relating to:</p> <ul style="list-style-type: none"> (a) the name of the child; or (b) the ownership of property; or (c) the custody or guardianship of the child; or (d) the domicile of the child.
			43	<p>(1) The Court may dispense with the consent of a person (other than a guardian under section 33(6)) to the adoption of a child where the Court is satisfied:</p> <ul style="list-style-type: none"> (a) that the person cannot, after reasonable inquiry, be found; or (b) on evidence given in accordance with subsection (3) that the person is, and is unlikely to cease to be, in such a physical or mental condition as not to be capable of properly considering the question whether the person should give consent; or (c) that the person has abandoned, deserted, persistently neglected or ill-treated the child; or (d) that the person has seriously ill-treated the child to the extent that it is unlikely that the child would accept, or be accepted by the person within, the family of that person; or

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				<p>(e) that the person has, for a period of not less than one year, failed, without reasonable cause, to discharge the obligations of a parent of the child; or</p> <p>(f) that the person has such a physical or mental disability or is otherwise so impaired that the person would be unable to meet the needs of the child; or</p> <p>(g) that for any reason the child is unlikely to be accepted into, or to accept, a family relationship with the person; or</p> <p>(h) that there are any other special circumstances by reason of which, in the interests of the welfare of the child, the consent may properly be dispensed with.</p>
			51	<p>(1) The Court shall not make an order for the adoption of a non-citizen child unless the Court is satisfied as to the matters referred to in section 15 and is satisfied—</p> <p>(a) that the person, or persons, in whose favour the order is made is a person who was, or are persons both of whom were, approved by the Secretary or by an authorized agency as a person, or persons, suitable to adopt a non-citizen child before the child came into or was placed in the care of the person or persons; or</p> <p>(b) that:</p> <p>(i) the child has been in the care of the person, or persons, in whose favour the order is made for the preceding twelve months; and</p>

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				<p>(ii) during that period, the Secretary or an authorized agency has supervised the welfare and interests of the child.</p> <p>(2) Where under this section the Secretary supervises the welfare and interests of a child in the care of a person or persons, the Secretary may require payment by that person or those persons of a fee not exceeding the amount prescribed for the purposes of this section.</p>
			60	<p>(1) Where the Court is satisfied that it is in the best interests of the welfare of an adopted child that the adoption order for the child should be varied so as to be subject to a condition referred to in section 59 or 59A, the Court shall, on application under this section, vary the adoption order so that it is subject to the condition.</p> <p>(2) Where the Court is satisfied that it is in the best interests of the welfare of an adopted child that a condition referred to in section 59 or 59A to which the adoption order is subject be varied or revoked, the Court shall, on application under this section, by order vary or revoke the condition.</p>
			68	<p>(1) Subject to this section, where:</p> <p>(a) a child is adopted in a country, other than New Zealand, outside the Commonwealth and the Territories, whether or not the adoption is an adoption that has, under this Act, the same effect as an adoption order under this Act; and</p> <p>(b) the adoption in relation to the child has been in force for a period not exceeding twelve months; and</p>

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				<p>(c) neither of the adoptive parents of the child was or, where there is only one adoptive parent, that parent was not, at the time of the making of the order of adoption with respect to the child a national or citizen of the country in which the order was made; and</p> <p>(d) the child is present in Victoria:</p> <p>the Secretary may supervise the welfare and interests of the child for a period not exceeding six months commencing on the date of the arrival of the child in Victoria and any person authorized in writing by the Secretary for that purpose has a right of access to the child at all reasonable times during that period.</p> <p>(2) Where a child whose welfare and interests may be supervised by the Secretary under subsection (1) has, after being adopted but before arriving in Victoria, been resident in any other State or in a Territory or in New Zealand, the period during which the child is subject to the supervision of the Secretary is reduced proportionately to the period of such residence in that other State or Territory or in New Zealand.</p> <p>(5) Where the Secretary supervises the welfare and interests of a child under this section, the Secretary may require payment by the adoptive parents or adoptive parent of the child of a fee not exceeding the amount prescribed for the purposes of this section.</p>
			69I	(1) If the State Central Authority considers that—

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				<p>(a) an adoption recognised under section 69D or 69E; or</p> <p>(b) a decision made in accordance with article 27 of the Hague Convention:</p> <p>is manifestly contrary to public policy, taking into account the best interests of the child to whom the adoption or decision relates, the State Central Authority may apply to the Court for a declaration that the adoption or decision is not recognised.</p> <p>(2) The Court may make a declaration on an application under subsection (1) if satisfied that:</p> <p>(a) an adoption recognised under section 69D or 69E; or</p> <p>(b) a decision made in accordance with article 27 of the Hague Convention:</p> <p>is manifestly contrary to public policy, taking into account the best interests of the child to whom the adoption or decision relates.</p>
			69W	<p>(1) If the Secretary considers that an adoption recognised under section 69U is manifestly contrary to public policy, taking into account the best interests of the child to whom the adoption relates, the Secretary may apply to the Court for a declaration that the adoption is not recognised.</p> <p>(2) The Court may make a declaration on an application under subsection (1) if satisfied that the adoption is manifestly contrary to public policy, taking into account the</p>

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				<p>best interests of the child to whom the adoption relates.</p> <p>(3) If a court declares that an adoption is not recognised, the adoption has no effect in Victoria.</p>
			107	<p>(2) The Court may, at the hearing of an application under this Act:</p> <p>(a) order a child to leave the room or other place in which the Court is hearing the application at any time during the hearing if it is of opinion that such a direction should be given in the interests of the child; and</p> <p>(b) order any person to leave the room or other place during the examination of a witness.</p>
	Assisted Reproductive Treatment Act 2008	Vic	5	<p>It is Parliament's intention that the following principles be given effect in administering this Act, carrying out functions under this Act, and in the carrying out of activities regulated by this Act:</p> <p>(a) the welfare and interests of persons born or to be born as a result of treatment procedures are paramount;</p>
			15	<p>(3) In deciding the application for review, the Patient Review Panel must have regard to:</p> <p>(a) the guiding principles referred to in section 5; and</p> <p>(b) whether carrying out a treatment procedure, whether generally or of a specified kind, on the person:</p>

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				(i) is for a therapeutic goal; and (ii) is consistent with the best interests of a child who would be born as a result of the treatment procedure.
			100	(1) The Authority has the following functions: (a) to administer the registration system under this Act; (b) to undertake public education about treatment procedures and the best interests of children born as a result of treatment procedures;
	Births, Deaths and Marriages Registration Act 1996	Vic	26	(4) The Court may, on application by a child's parent, approve a proposed change of name for the child if satisfied that the change is in the child's best interests.
	Charter of Human Rights and Responsibilities Act 2006	Vic	17	(1) Families are the fundamental group unit of society and are entitled to be protected by society and the State. (2) Every child has the right, without discrimination, to such protection as is in his or her best interests and is needed by him or her by reason of being a child.
			24	(3) All judgments or decisions made by a court or tribunal in a criminal or civil proceeding must be made public unless the best interests of a child otherwise requires or a law other than this Charter otherwise permits.
	Child Employment	Vic	1	The main purposes of this Act are to:

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	Act 2003			<p>(a) regulate the employment of children under the age of 15 years;</p> <p>(b) protect those children from performing work that could be harmful to their health or safety, their moral or material welfare or development or the attendance at school of those children or their capacity to benefit from instruction;</p>
	Child Wellbeing and Safety Act	Vic	1	<p>The main purposes of this Act are:</p> <p>(a) to establish principles for the wellbeing of children; and</p>
			5	<p>(1) The development and provision of services for children and families should be based upon the fundamental principles that:</p> <p>(a) society as a whole shares responsibility for promoting the wellbeing and safety of children; and</p> <p>(b) all children should be given the opportunity to reach their full potential and participate in society irrespective of their family circumstances and background; and</p> <p>(c) those who develop and provide services, as well as parents, should give the highest priority to the promotion and protection of a child's safety, health, development, education and wellbeing; and</p> <p>(d) parents are the primary nurturers of a child and Government intervention into family life should be limited to that necessary to secure the child's safety and wellbeing, however, it is the responsibility of Government to meet the</p>

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				<p>needs of the child when the child's family is unable to provide adequate care and protection; and</p> <p>(e) every child should be able to enrol in a kindergarten program at an early childhood education and care centre.</p> <p>(2) Services for children and families should be designed and developed:</p> <p>(a) to readily identify harm and damage to the child and to provide for intervention by providers of services to remove or ameliorate the causes of that harm or damage and to strengthen the capacity and efforts of parents, their families and communities to support the child as early as possible in the child's life; and</p> <p>(b) to accord with the needs of each local community with the active involvement of that community's cultural groups, and to be accessible and responsive to the particular cultures, languages and circumstances of the community and to be properly planned and co-ordinated with services provided by other local and regional communities; and</p> <p>(c) to give the highest priority to making appropriate and sufficient levels of assistance available to children and families in communities or population groups that are known to have the greatest need; and</p> <p>(d) to promote continuous improvement in the quality of those services, based on the best available knowledge of the needs of children and their stages of development.</p>

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				<p>(3) The providers of services to children and families should:</p> <p>(a) protect the rights of children and families and, to the greatest extent possible, encourage their participation in any decision-making that affects their lives; and</p> <p>(b) acknowledge and be respectful of the child's individual identity, circumstances and cultural identity and be responsive to the particular needs of the child; and</p> <p>(c) make decisions about intervention by the providers of services into a child's or family's life and about access by a child or family to those services in a timely manner being mindful of any harmful effects that may be caused to the child by a delay in making decisions or providing services; and</p> <p>(d) ensure that families are made aware of the services available to them and of the benefits these services can provide, especially to those families in most need of assistance; and</p> <p>(e) co-operate with other services or professionals to work in the interests of the child and family.</p>
	<p>Children's Services Act 1996</p>	Vic	26B	<p>(1) The proprietor of a children's service must ensure that there is made available to all children cared for or educated by the children's service an educational or recreational program:</p> <p>(a) that is based on the developmental needs, interests and</p>

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				experiences of each child;
	Children, Youth and Families Act 2005	Vic	Sch 1 (5)	<p>Secretary to have regard to certain matters In determining whether to transfer a child protection order to a participating State under this Division, the Secretary must:</p> <p>(a) as far as possible, make decisions having regard to the principles in Part 1.2 of Chapter 1 and the following principles:</p> <p>(i) the best interests of the child must be given paramount importance;</p>
			10	<p>(1) For the purposes of this Act the best interests of the child must always be paramount.</p> <p>(2) When determining whether a decision or action is in the best interests of the child, the need to protect the child from harm, to protect his or her rights and to promote his or her development (taking into account his or her age and stage of development) must always be considered.</p> <p>(3) In addition to subsections (1) and (2), in determining what decision to make or action to take in the best interests of the child, consideration must be given to the following, where they are relevant to the decision or action:</p> <p>(a) the need to give the widest possible protection and assistance to the parent and child as the fundamental group unit of society and to ensure that intervention into that relationship is limited to that necessary to secure the safety</p>

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				<p>and wellbeing of the child; and</p> <p>(b) the need to strengthen, preserve and promote positive relationships between the child and the child's parent, family members and persons significant to the child; and</p> <p>(c) the need, in relation to an Aboriginal child, to protect and promote his or her Aboriginal cultural and spiritual identity and development by, wherever possible, maintaining and building their connections to their Aboriginal family and community; and</p> <p>(d) the child's views and wishes, if they can be reasonably ascertained, and they should be given such weight as is appropriate in the circumstances; and</p> <p>(e) the effects of cumulative patterns of harm on a child's safety and development; and</p> <p>(f) the desirability of continuity and stability in the child's care; and</p> <p>(g) that a child is only to be removed from the care of his or her parent if there is an unacceptable risk of harm to the child; and</p> <p>(h) if the child is to be removed from the care of his or her parent, that consideration is to be given first to the child being placed with an appropriate family member or other appropriate person significant to the child, before any other placement option is considered; and</p>

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				<p>(i) the desirability, when a child is removed from the care of his or her parent, to plan the reunification of the child with his or her parent; and</p> <p>(j) the capacity of each parent or other adult relative or potential care giver to provide for the child's needs and any action taken by the parent to give effect to the goals set out in the case plan relating to the child; and</p> <p>(k) access arrangements between the child and the child's parents, siblings, family members and other persons significant to the child; and</p> <p>(l) the child's social, individual and cultural identity and religious faith (if any) and the child's age, maturity, sex and sexual identity; and</p> <p>(m) where a child with a particular cultural identity is placed in out of home care with a care giver who is not a member of that cultural community, the desirability of the child retaining a connection with their culture; and</p> <p>(n) the desirability of the child being supported to gain access to appropriate educational services, health services and accommodation and to participate in appropriate social opportunities; and</p> <p>(o) the desirability of allowing the education, training or employment of the child to continue without interruption or disturbance; and</p> <p>(p) the possible harmful effect of delay in making the</p>

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				<p>decision or taking the action; and</p> <p>(q) the desirability of siblings being placed together when they are placed in out of home care; and</p> <p>(r) any other relevant consideration.</p>
			13	<p>(1)For the purposes of this Act the Aboriginal Child Placement Principle is that if it is in the best interests of an Aboriginal child to be placed in out of home care, in making that placement, regard must be had:</p> <p>(a) to the advice of the relevant Aboriginal agency; and</p> <p>(b) to the criteria in subsection (2); and</p> <p>(c) to the principles in section 14.</p>
			14	<p>(4) If a child has one Aboriginal parent and one non-Aboriginal parent, the child must be placed with the parent with whom it is in the best interests of the child to be placed.</p>
			61	<p>Responsibilities of registered community services</p> <p>A registered community service must:</p> <p>(a) provide its services in relation to a child in a manner that is in the best interests of the child; and</p> <p>(b) ensure that the services provided by the service are</p>

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				<p>accessible to and made widely known to the public, recognising that prioritisation of provision of services will occur based on need; and</p> <p>(c) participate collaboratively with local service networks to promote the best interests of children.</p>
			146	<p>When will the Secretary approve an agreement?</p> <p>The Secretary must not approve the entering into of a long-term child care agreement unless the Secretary is satisfied that:</p> <p>(a) the agreement is in the best interests of the child; and</p> <p>(b) there are no alternative means available that would enable the parent of the child to resume the care of the child; and</p> <p>(c) the wishes of the child have, having regard to the age and understanding of the child, been taken into account in making the agreement; and</p> <p>(d) the agreement provides for the parent of the child to have an on-going involvement with the child in the terms specified in the agreement.</p>
			171	<p>When is a stability plan not required?</p> <p>(1) The Secretary is not required to prepare a stability plan for a child within the required time under section 170 if the</p>

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				Secretary considers that the completion of a stability plan for a child is not in the best interests of the child.
			174	<p>Secretary's duties in placing child</p> <p>(1) In dealing with a child under section 173, the Secretary:</p> <p>(a) must have regard to the best interests of the child as the first and paramount consideration; and</p> <p>(b) must make provision for the physical, intellectual, emotional and spiritual development of the child in the same way as a good parent would; and</p> <p>(c) must have regard to the fact that the child's lack of adequate accommodation is not by itself a sufficient reason for placing the child in a secure welfare service; and</p> <p>(d) must have regard to the treatment needs of the child.</p>
			177	<p>(5) On the child ceasing to be under the guardianship of the Secretary all money standing to the credit of the child in the Fund:</p> <p>(a) if the child is over 18 years of age, must be paid to the child; and</p> <p>(b) in any other case, may be paid to the child or may, if the Secretary considers it to be in the interests of the child to do so, be retained (wholly or in part) in the Fund until the child is 18 years of age.</p>

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			178	<p>(2) The Secretary is not required to provide information to a parent under subsection (1) if:</p> <p>(a) the child is over the age of 12 years and does not consent to the provision of the information and the Secretary considers the refusal of consent to be reasonable; or</p> <p>(b) the Secretary considers that it is not in the best interests of the child to provide the information; or</p> <p>(c) the Court has made an order under section 531 dispensing with service of all documents on that parent.</p>
			205	<p>Investigation by protective intervener</p> <p>(1) A protective intervener must, as soon as practicable after receiving a protective intervention report, investigate, or cause another protective intervener to investigate, the subject-matter of the report in a way that will be in the best interests of the child.</p>
			216	<p>Power of Family Division to make certain orders by consent in absence of parties</p> <p>If on an application to the Family Division for the extension of a custody to Secretary order or a guardianship to Secretary order the Court is satisfied that the parties to the proceeding have agreed on the terms of the order and that the making of the order is in the best interests of the child, the Court may make the order without requiring the parties to attend, or be</p>

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				represented at, the proceeding.
			217	<p>Referral of application to dispute resolution conference</p> <p>(1) The Family Division may, on the application of a party or without that application, order that any application made to the Family Division under this Act be referred for a dispute resolution conference to one or two convenors appointed under section 227.</p> <p>(2) The purpose of the dispute resolution conference is to give the parties to the application the opportunity to agree or advise on the action that should be taken in the best interests of the child.</p>
			218	<p>What is a facilitative conference?</p> <p>(1) The purpose of a facilitative conference is to enable the parties to the application, with the assistance of the convenor or convenors:</p> <p>(a) to identify the issues in dispute; and</p> <p>(b) to consider alternatives; and</p> <p>(c) to try to reach an agreement as to the action to be taken in the best interests of the child.</p>
			219	<p>What is an advisory conference?</p> <p>(1) The purpose of an advisory conference is to recommend</p>

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				to the Court the action to be taken in the best interests of the child.
			222	(5) If, in exceptional circumstances, the Court determines that it is in the best interests of a child who, in the opinion of the Court is not mature enough to give instructions, for the child to be legally represented at a dispute resolution conference, the legal representative may attend.
			231	<p>Temporary assessment order</p> <p>After considering the matters set out in section 230, the Court may make a temporary assessment order if it is satisfied that:</p> <p>(a) the making of the order is in the best interests of the child; and</p> <p>(b) it is necessary for the Secretary to assess whether or not the child is in need of protection; and</p>
			232	<p>What may a temporary assessment order provide for?</p> <p>(1) A temporary assessment order may</p> <p>(h) give any other directions or impose any conditions that the Court considers to be in the best interests of the child.</p>
			253	Therapeutic treatment (placement) order

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				<p>A therapeutic treatment (placement) order—</p> <ul style="list-style-type: none"> (a) grants sole custody of the child to the Secretary; and (b) does not affect the guardianship of the child; and (c) may include any conditions that the Court considers to be in the best interests of the child, including— <ul style="list-style-type: none"> (i) a condition concerning access by a parent or other person; and (ii) in the case of an Aboriginal child, a condition incorporating a cultural plan for the child.
			263	<p>(7) An interim accommodation order may include any conditions that the Court or bail justice considers should be included in the best interests of the child.</p>
			265	<p>Parent entitled to know child's whereabouts</p> <ul style="list-style-type: none"> (1) A parent is entitled to be given details of the child's whereabouts under an interim accommodation order unless the Court or bail justice making the order directs that those details be withheld from the parent. (2) The Court or a bail justice may only give a direction under subsection (1) if of the opinion that the direction is in the best interests of the child.

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			266	<p>Power of Secretary to transfer child</p> <p>(1) If an interim accommodation order provides for the placement of a child in an out of home care service or a secure welfare service, the Secretary may from time to time, if he or she believes that it is advisable in the best interests of the child, transfer the child:</p> <p>(a) from one out of home care service to another out of home care service; or</p> <p>(b) from one secure welfare service to another secure welfare service.</p>
			267	<p>Extension of interim accommodation order</p> <p>(1) Subject to subsection (2), at any time while an interim accommodation order made by the Court is in force an application for an extension or further extension of the period of the order may be made to the Court by a protective intervener.</p> <p>(2) On an application under subsection (1) the Court may:</p> <p>(a) in the case of an order of a kind referred to in section 263(1)(a), 263(1)(b), 263(1)(c) or 263(1)(d), extend the order for the period specified in the order and beginning on the day the order is made if it is satisfied that it is in the best interests of the child to do so;</p> <p>(b) in the case of an order of a kind referred to in paragraph</p>

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				(f) or (g) of section 263(1), extend the order for the period (not exceeding 21 days) specified in the order and beginning on the day on which the order is made if it is satisfied that it is in the best interests of the child to do so;
			272	(4) An undertaking may include any conditions that the Court considers to be in the best interests of the child.
			276	<p>Restrictions on the making of protection orders</p> <p>(1) Subject to section 557(2), the Court must not make a protection order unless:</p> <p>(a) it has received and considered a disposition report; and</p> <p>(b) it is satisfied that all reasonable steps have been taken by the Secretary to provide the services necessary in the best interests of the child.</p> <p>(2) The Court must not make a protection order that has the effect of removing a child from the custody of his or her parent unless:</p> <p>(a) the Court has considered and rejected as being contrary to the best interests of the child, an order allowing the child to remain in the custody of his or her parent; and</p> <p>(b) the Court is satisfied by a statement contained in a disposition report in accordance with section 558(c) that all reasonable steps have been taken by the Secretary to provide the services necessary to enable the child to remain in the</p>

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				<p>custody of his or her parent; and</p> <p>(c) the Court considers that the making of the order is in the best interests of the child.</p> <p>(3) The fact that the child does not have adequate accommodation is not by itself a sufficient reason for the making of an order referred to in subsection (2).</p>
			278	<p>Undertaking—protection order</p> <p>(3) An undertaking may include any conditions that the Court considers to be in the best interests of the child.</p>
			280	<p>(3) If under subsection (2)(b) the Court specifies a period exceeding 12 months for a supervision order to remain in force it must direct the Secretary:</p> <p>(a) to review the operation of the order before the end of the period of 12 months after the making of the order; and</p> <p>(b) to notify the Court, the child, the child's parent and such other persons as the Court directs before the end of that period if the Secretary considers that it is in the best interests of the child for the order to continue for the duration of the period specified in the order.</p>
			281	<p>Supervision order may impose conditions</p> <p>(1) A supervision order may include conditions to be</p>

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				<p>observed by:</p> <p>(a) the child in respect of whom it is made; or</p> <p>(b) a parent of the child:</p> <p>being conditions that the court considers to be in the best interests of the child.</p>
			282	<p>Powers of Secretary under supervision order</p> <p>(1) If the Court makes a supervision order in respect of a child, the parent must permit the Secretary to visit the child at his or her place of residence and to carry out the duties of the Secretary under the order.</p> <p>(2) The Secretary may, by notice in the prescribed form, give to:</p> <p>(a) the child in respect of whom a supervision order is made; or</p> <p>(b) a parent of the child:</p> <p>any direction that the Secretary considers to be in the best interests of the child and that is both reasonable and lawful.</p>
			283	<p>Custody to third party order</p> <p>(1) A custody to third party order:</p> <p>(e) may include any conditions that the Court considers to</p>

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				<p>be in the best interests of the child, including:</p> <ul style="list-style-type: none"> (i) a condition concerning access by a parent or other person; and (ii) in the case of an Aboriginal child, a condition incorporating a cultural plan for the child; and
			284	<p>Supervised custody order</p> <ul style="list-style-type: none"> (1) A supervised custody order: <ul style="list-style-type: none"> (e) may include any conditions that the Court considers to be in the best interests of the child, including: <ul style="list-style-type: none"> (i) a condition concerning access by a parent or other person; and (ii) in the case of an Aboriginal child, a condition incorporating a cultural plan for the child; and (f) must provide that if, while the order is in force, the Secretary is satisfied that it is in the child's best interests, the Secretary may in writing direct that the child return to the sole or joint custody of a parent or the parents of the child.
			285	<ul style="list-style-type: none"> (2) The Secretary may, by notice in the prescribed form, give to: <ul style="list-style-type: none"> (a) the child in respect of whom a supervised custody order is made; or (b) the person who has custody of the child:

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				any direction that the Secretary considers to be in the best interests of the child and that is both reasonable and lawful.
			287	<p>Custody to Secretary order</p> <p>(1) A custody to Secretary order:</p> <p>(a) grants sole custody of the child to the Secretary; and</p> <p>(b) does not affect the guardianship of the child; and</p> <p>(c) subject to this Division, remains in force for the period (not exceeding 12 months) specified in the order; and</p> <p>(d) may include any conditions that the Court considers to be in the best interests of the child, including:</p> <p>(i) a condition concerning access by a parent or other person; and</p> <p>(ii) in the case of an Aboriginal child, a condition incorporating a cultural plan for the child.</p>
			289	<p>(2) If the Court specifies in a guardianship to Secretary order a period exceeding 12 months for the order to remain in force it must direct the Secretary:</p> <p>(a) to review the operation of the order before the end of the period of 12 months after the making of the order; and</p> <p>(b) to notify the Court, the child, the child's parent and such other persons as the Court directs before the end of that period if the Secretary considers that it is in the best interests</p>

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				of the child for the order to continue for the duration of the period specified in the order.
			290	<p>(2) The Court must not make a long-term guardianship to Secretary order unless the Court is satisfied that:</p> <p>(a) there is a person or persons available with whom the child will continue to live for the duration of the order; and</p> <p>(b) the Secretary consents to the making of the order; and</p> <p>(c) the child consents to the making of the order; and</p> <p>(d) the making of the order is in the best interests of the child.</p> <p>(3) The Court must direct the Secretary:</p> <p>(a) to review the operation of the order before the end of each period of 12 months after the making of the order; and</p> <p>(b) to notify the Court, the child, the child's parent and such other persons as the Court directs before the end of that period if the Secretary considers that it is in the best interests of the child for the order to continue for a further period of 12 months.</p>
			291	<p>(3) An interim protection order:</p> <p>(f) may include any conditions to be observed by:</p> <p>(i) the child in respect of whom the order is made; or</p>

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				<p>(ii) the parent of the child; or</p> <p>(iii) the person with whom the child is living:</p> <p>that the Court considers to be in the best interests of the child, including conditions as to where the child lives or concerning access by a parent or other person.</p>
			293	<p>(4) If the period of a guardianship to Secretary order does not exceed 12 months, the Secretary must not make an extension application relating to the order unless the Secretary has reviewed the operation of the order and is of the opinion that an extension of the order is in the best interests of the child.</p>
			294	<p>Extension of order</p> <p>If an extension application is made in respect of an order, the Court may extend the order if it is satisfied that this is in the best interests of the child.</p>
			295	<p>Matters to be taken into account</p> <p>(3) In determining an extension application relating to a custody to Secretary order or a guardianship to Secretary order, the Court must take into account:</p> <p>(e) any other fact or circumstance that, in the opinion of the Court, should be taken into account in considering the best interests of the child.</p>

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			297	<p>Limited extension pending other orders</p> <p>(1) If:</p> <p>(a) an extension application is made in respect of a custody to Secretary order or a guardianship to Secretary order; and</p> <p>(b) the order has been in force for more than 12 months and is still in force; and</p> <p>(c) the Court is satisfied that it would not be in the best interests of the child to be returned to the custody of his or her parent; and</p> <p>(d) the Court is satisfied that a permanent care order or similar order made by another court would be in the best interests of the child and that there is no likelihood of re-unification of the child with his or her parent:</p> <p>the Court may:</p> <p>(e) extend the order for a period ending not later than 12 months after the extension is granted; and</p> <p>(f) direct the Secretary to take steps to ensure that at the end of the period of the order a person other than the child's parent applies to a court for an order relating to:</p> <p>(i) the custody of the child; or</p> <p>(ii) the custody and guardianship of the child; or</p>

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				<p>(iii) the custody and joint guardianship of the child.</p> <p>(2) If the Court has given a direction to the Secretary under subsection (1)(f) in respect of an order, the Secretary cannot apply for an additional extension to that order.</p>
			298	<p>Review of extended orders</p> <p>(1) If under this Division the Court specifies a period exceeding 12 months for an extension of a protection order, it must direct the Secretary—</p> <p>(a) to review the operation of the order before the end of the period of 12 months after the making of the order; and</p> <p>(b) to notify the Court, the child, the child's parent and such other persons as the Court directs before the end of that period if the Secretary considers that it is in the best interests of the child for the order to continue for the duration of the period specified in the order.</p>
			308	<p>Revocation of custody to Secretary order or guardianship to Secretary order</p> <p>On an application under section 304 in respect of a custody to Secretary order or on an application under section 305, the Court—</p> <p>(a) must revoke the order if it is satisfied that—</p> <p>(i) the Secretary, the child and the</p>

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				<p>child's parent have agreed to the revocation; and</p> <p>(ii) the revocation of the order is in the best interests of the child; and</p> <p>(b) in any other case, may revoke the order if it is satisfied that it is in the best interests of the child to do so.</p>
			309	<p>Revocation of long-term guardianship to Secretary order On an application under section 306, the Court may revoke the order if it is satisfied that it is in the best interests of the child to do so.</p>
			319	<p>When Court may make permanent care order (1) The Court may make a permanent care order in respect of a child if—</p> <p>(a) the child's parent or, if the child's parent has died, the child's surviving parent has not had care of the child for a period of at least 6 months or for periods that total at least 6 months of the last 12 months; and</p> <p>(b) it is satisfied that—</p> <p>(i) the parent is unable or unwilling to resume custody and guardianship of the child; or</p> <p>(ii) it would not be in the best interests of the child for</p>

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				<p>the parent to resume custody and guardianship of the child; and</p> <p>(f) it is satisfied that the best interests of the child will be promoted by the making of the order.</p>
			321	<p>Permanent care order</p> <p>(1) A permanent care order—</p> <p>(d) must include conditions that the Court considers to be in the best interests of the child concerning access by the child's parent; and</p> <p>(e) may include conditions that the Court considers to be in the best interests of the child concerning access by the child's siblings and other persons significant to the child; and</p>
			327	<p>Decision on application for variation or revocation</p> <p>On an application under section 326, the Court may, if satisfied that it is in the best interests of the child to do so—</p> <p>(a) if the application is for a variation of the order, vary any of the conditions included in the order or add or substitute a condition but must not make any change in the custody or guardianship of the child; or</p> <p>(b) if the application is for the revocation of the order, revoke the order in whole or in part.</p>
			414	<p>Deferral of sentencing</p>

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				<p>(1) If—</p> <p>(a) the Court is of the opinion that sentencing should, in the interests of the child, be deferred; and</p> <p>(b) the child agrees to a deferral of sentencing; and</p> <p>(c) in the case of deferral of sentencing for the purpose of the child's participation in a group conference—</p> <p>(i) the Court is of the opinion, after consultation with the Secretary, that the child is suitable to participate in a group conference; and</p> <p>(ii) the child agrees to participate in a group conference—</p> <p>the Court may defer sentencing the child for a period not exceeding 4 months.</p>
			470	<p>Persons in youth justice centre may be transferred to youth residential centre</p> <p>(1) If the Youth Parole Board, having regard to the antecedents and behaviour of the child, considers it appropriate in the interests of a child under the age of 18 years detained in a youth justice centre to transfer that child to a youth residential centre, the Youth Parole Board may direct that that person be transferred to a youth residential centre.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			472	<p>Person in prison may be transferred to youth residential centre</p> <p>(1) If the Adult Parole Board considers it appropriate in the interests of a child under the age of 18 years imprisoned in a prison to transfer the child to a youth residential centre, the Adult Parole Board may direct that the child be transferred to a youth residential centre.</p>
			524	<p>Legal Representation</p> <p>(4) If, in exceptional circumstances, the Court determines that it is in the best interests of a child who, in the opinion of the Court is not mature enough to give instructions, for the child to be legally represented in a proceeding in the Family Division, the Court must adjourn the hearing of the proceeding to enable that legal representation to be obtained.</p> <p>(11) A legal practitioner representing, in the Family Division, a child who is not mature enough to give instructions must—</p> <p>(a) act in accordance with what he or she believes to be in the best interests of the child; and</p> <p>(b) to the extent that it is practicable to do so, communicate to the Court the instructions given or wishes expressed by the child.</p>
			530	<p>(10) The Court must not grant an adjournment of a proceeding in the Family Division unless it is of the opinion</p>

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				<p>that—</p> <p>(a) it is in the best interests of the child to do so; or</p> <p>(b) there is some other cogent or substantial reason to do so.</p>
	Corrections Act 1986	Vic	31	<p>Children</p> <p>(1) At the request of a prisoner who is the child's parent the Secretary may permit the prisoner's child to live with the prisoner in the prison if the Secretary is satisfied that—</p> <p>(a) it is in the best interests of the child to live with his or her parent in the prison; and</p> <p>(b) the management good order or security of the prison will not be threatened by the child living in the prison.</p> <p>(2) The prisoner is responsible for the safety and care of the prisoner's child while the child lives in the prison.</p> <p>(3) If the Secretary considers that the child's behaviour is threatening the security or good order of the prison or the child's safety is threatened, the Secretary may cause the child to be removed from the prison.</p>
	Disability Act 2006	Vic	5	<p>Principles</p> <p>(3)Disability services should—</p> <p>(1) have regard for the needs of children with a disability and preserve and promote relationships between the</p>

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				child, their family and other persons (including carers) who are significant in the life of the child with a disability;
	Education and Care Services National Law Act 2010		Schedule 3	<p>Objectives and guiding principles</p> <p>(3) The guiding principles of the national education and care services quality framework are as follows—</p> <ul style="list-style-type: none"> (a) that the rights and best interests of the child are paramount; (b) that children are successful, competent and capable learners; (c) that the principles of equity, inclusion and diversity underlie this Law; (d) that Australia's Aboriginal and Torres Strait Islander cultures are valued; (e) that the role of parents and families is respected and supported; (f) that best practice is expected in the provision of education and care services.
			Schedule 70	<p>Grounds for suspension of service approval</p> <p>A Regulatory Authority may suspend a service approval if—</p> <ul style="list-style-type: none"> (a) the Regulatory Authority reasonably believes that it would not be in the best interests of children being educated and

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				cared for by the service for the service to continue; or
			168	<p>Offence relating to required programs</p> <p>(1) The approved provider of an education and care service must ensure that a program is delivered to all children being educated and cared for by the service that—</p> <p>(c) is based on the developmental needs, interests and experiences of each child; and</p> <p>(2) A nominated supervisor of an education and care service must ensure that a program is delivered to all children being educated and cared for by the service that—</p> <p>(a) is based on an approved learning framework; and</p> <p>(b) is delivered in a manner that accords with the approved learning framework; and</p> <p>(c) is based on the developmental needs, interests and experiences of each child; and</p> <p>(d) is designed to take into account the individual differences of each child.</p>
			Schedule	Show cause notice to be given before prohibition notice

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			183	<p>(1) Before giving a person a prohibition notice, the Regulatory Authority must give the person a notice (a <i>show cause notice</i>)—</p> <ul style="list-style-type: none"> (a) stating that the Regulatory Authority proposes to give the person a prohibition notice; and (b) stating the reasons for the proposed prohibition; and (c) inviting the person to make a written submission to the Regulatory Authority, within a stated time of at least 14 days, about the proposed prohibition. <p>(2) Subsection (1) does not apply if the Regulatory Authority is satisfied it is necessary, in the interests of the safety, health or wellbeing of a child or children, to immediately issue a prohibition notice to the person.</p>
	Status of Children Act 1974	Vic	22	<p>Court may make substitute parentage order</p> <p>(1) The court may make a substitute parentage order in favour of the commissioning parents if it is satisfied—</p> <ul style="list-style-type: none"> (a) that making the order is in the best interests of the child; and

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			25	<p>Ancillary orders</p> <p>On making a substitute parentage order, the court may make any consequential or ancillary order it thinks fit—</p> <ul style="list-style-type: none"> (a) in the interests of justice; or (b) for the welfare and in the best interests of the child in respect of whom the order is made.

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			28	<p>Court may order discharge of substitute parentage order</p> <p>(2) The court must not make an order under subsection (1) discharging a substitute parentage order unless—</p> <p>(a) the order is in the best interests of the child whose parentage would be affected; and</p> <p>(5) On making an order discharging a substitute parentage order, the court may make any consequential or ancillary order it thinks fit in the interests of justice or in the best interests of the child whose parentage is affected, including any order relating to—</p> <p>(a) the ownership or possession of property; or</p> <p>(b) any matter affecting the child in relation to the duties, powers, responsibilities and authority which, by law, parents have in relation to children; or</p> <p>(c) the domicile of the child.</p>

4. Queensland

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>ARTICLE 3:</p> <p>1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.</p> <p>2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.</p> <p>3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.</p>	<p>Adoption Act 2009</p>	<p>Qld</p>	<p>5</p>	<p>The main object of this Act is to provide for the adoption of children in Queensland, and for access to information about parties to adoptions in Queensland, in a way that:</p> <ul style="list-style-type: none"> (a) promotes the wellbeing and best interests of adopted persons throughout their lives; and (b) supports efficient and accountable practice in the delivery of adoption services; and (c) complies with Australia's obligations under the Hague convention.
			<p>6(1)</p>	<p>Section 6 provides that the Act is to be administered under the principle that the wellbeing and best interests of an adopted child, both through childhood and the rest of his or her life, are paramount.</p>
			<p>8(1)(b)</p>	<p>In respect of Aboriginal or Torres Strait Islander children, section 8(1)(b) provides that it is in their best interests:</p> <ul style="list-style-type: none"> (i) to be cared for within an Aboriginal or Torres Strait Islander community; and (ii) to maintain contact with the child's community or language group; and (iii) to develop and maintain a connection with the child's Aboriginal tradition or Island custom; and (iv) for the child's sense of Aboriginal or Torres Strait Islander identity to be preserved and enhanced.

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			9	Section 9 provides that unless a contrary intention appears, a reference in this Act to a child's wellbeing or best interests is a reference to the child's wellbeing or best interests through both childhood and the rest of his or her life.
			39(3)	The court cannot make an order dispensing with the need for the relevant parent's consent to the adoption unless satisfied it would be in the child's best interests for arrangements for the child's adoption to continue to be made.
			60(1)(c)	<p>Where the chief is a child's guardian (pursuant to section 57), they may place the child in their parent's care when they are satisfied that:</p> <p>(i) one or more of the child's parents are willing and able to protect the child from harm and meet the child's need for long-term stable care; and</p> <p>(ii) it would otherwise be in the child's best interests to be placed in the care of one or more of the parents under this section.</p>
			64(2)	If the chief executive is satisfied it would be in the child's best interests, the chief executive may, by a signed document, renounce the chief executive's guardianship of the child.
			121	The chief executive must be satisfied that it is an exceptional case in which it would not harm the best interests of a child to be adopted by the person in circumstances where that person (or any member of the person's household) has been convicted of a serious offence.
			122(3)	In assessing whether a person seeking to adopt a child has good health to provide stable, high level care for a child until

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				<p>adulthood, if the person has a condition other than a disqualifying condition, the chief executive must have regard to:</p> <ul style="list-style-type: none"> (a) its effect on the level of care the person will be able to provide to an adopted child, without help from someone else, and the time for which the person is likely to be able to provide the care; and (b) whether the person needs a carer or is likely to need a carer in the future; and (c) whether the condition is likely to have an adverse impact on an adopted child's wellbeing or best interests.
			127	<p>The chief executive must have regard to the person's attitudes to, and understanding of, the issues relevant to adoptive parenting, including:</p> <ul style="list-style-type: none"> (a) issues about informing a child of his or her adoption; and (b) the significance to an adopted child of his or her birth parents and their families; and (c) the importance of developing and maintaining relationships with an adopted child's birth parents and their families, through an open adoption arrangement, so far as this is possible and in the child's best interests.
			153	<p>The chief executive must select a couple unless satisfied that, in the particular circumstances, it would best promote the child's wellbeing and best interests to select a particular person from the suitable adoptive parents register who is a single person.</p>
			155	<p>In selecting prospective adoptive parents, the chief executive must make the selection that will best promote the child's</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				wellbeing and best interests.
			157	(1) The chief executive must have regard to any preferences of the child's parents including, for example, preferences about: (a) the child's religious upbringing; or (b) the characteristics of the child's adoptive parents and adoptive family; or (c) the degree of openness in the adoption. (2) Subsection (1) does not apply to a preference that the chief executive considers is likely to be contrary to the child's wellbeing or best interests.
			160	In selecting prospective adoptive parents, the chief executive must have regard to the consideration that it would ordinarily be in a child's best interests to be placed with the same family as any sibling of the child who is also to be adopted or has previously been adopted.
			161	(1) The chief executive must have regard to the considerations that it would ordinarily be in a child's best interests: (a) to be the youngest child in the adoptive family, by at least 2 years, at the time of the placement; and (b) for no other children to join the adoptive family for at least 1 year after the placement, whether by birth, adoption, placement under the <i>Child Protection Act 1999</i> or in another way. (2) Subsection (1) applies to children in the adoptive family other than any sibling of the child placed with the same

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				family.
			162	The chief executive must have regard to the consideration that it would ordinarily be in a child's best interests to receive full-time care, provided personally by one or both of the persons with whom the child is placed, for at least 1 year after the placement.
			183(1)(b)	The court may make an interim order only if it is satisfied the proposed order will promote the child's wellbeing and best interests.
			186(4)	The court may discharge the interim order if satisfied it would be contrary to the child's wellbeing or best interests to be adopted by the prospective adoptive parents, having regard to the relevant matters.
			189(1)(b)	The court may make a final adoption order for the child only if it is satisfied the proposed order will promote the child's wellbeing and best interests.
			194	In respect of inter-country adoptions, the court may make the relevant order (ending custody or discharging an interim order) if satisfied it would be contrary to the child's wellbeing or best interests to be adopted by the prospective adoptive parents, having regard to the relevant matters.
			196(e)	In respect of inter-country adoptions, the court may make an interim order only if it is satisfied the proposed order will promote the child's wellbeing and best interests.

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			200(e)	In respect of inter-country adoptions, the court may make a final adoption order for the child only if it is satisfied the proposed order will promote the child's wellbeing and best interests.
			208	In respect of adoption by step-parents, the court may make a final adoption order only if it is satisfied an order for the child's adoption by the step-parent would better promote the child's wellbeing and best interests than an order under the <i>Family Law Act 1975</i> (Cth), any other court order or no court order.
			213(g)	In respect of adoptions by residents of a convention country, the court may make a final adoption order only if it is satisfied the proposed order will promote the child's wellbeing and best interests.
			215	(1) A final adoption order for a child may include: (a) an order that the child keep the child's existing surname or have the same surname as an adoptive parent; and (b) an order that the child: (i) keep an existing given name; or (ii) have another given name agreed by the child's adoptive parents as well as an existing given name; or (iii) have another given name agreed by the child's adoptive parents instead of an existing given name. (2) The court must make the order that will best promote the child's wellbeing and best interests.
			225(5)	If the court makes an order discharging the final adoption order, it may also make any other order it considers

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				<p>appropriate in the interests of justice or to ensure the adopted person's wellbeing and best interests including, for example, an order about:</p> <ul style="list-style-type: none"> (a) the ownership of property; or (b) the adopted person's name; or (c) if the adopted person is a child, custody or guardianship of the child.
			229	<p>In exercising its jurisdiction or powers, the Children's Court must regard the wellbeing and best interests of the child as paramount.</p>
			235(2)	<p>Subsection (2) provides that if the Children's Court considers it is in the child's best interests for the child to be separately represented by a lawyer, the court may:</p> <ul style="list-style-type: none"> (a) order that the child be separately represented by a lawyer; and (b) make the other orders it considers necessary to secure the child's separate legal representation. <p>Subsection (4) provides that the lawyer must:</p> <ul style="list-style-type: none"> (a) act in the child's best interests regardless of any instructions from the child; and (b) as far as possible, present the child's views and wishes to the court.
			236	<p>In a proceeding on an application for an adoption order, the Children's Court may order the chief executive to appoint a qualified person to support the child if the court considers it is necessary in the child's best interests.</p>

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			257	<p>(1) A birth parent of the adopted child may ask the chief executive for information about the adopted child.</p> <p>(2) The chief executive may give information in compliance with the request only if:</p> <p>(a) written consent is given by an adoptive parent of the child; and</p> <p>(b) the chief executive has considered the adopted child's views, if the child is able to form and express views; and</p> <p>(c) the chief executive is satisfied that giving the information is not likely to be contrary to the child's wellbeing and best interests.</p>
			292	<p>(4) The Children's Court may make a declaration of non-recognition of the adoption if satisfied the adoption is manifestly contrary to public policy, taking into account the child's wellbeing and best interests.</p>
			296	<p>(3) The Children's Court may make a declaration of non-recognition of the conversion if it is satisfied the conversion is manifestly contrary to public policy, taking into account the child's best interests.</p>
			307I	<p>(2) The tribunal must consider whether it would be in the child's best interests for the child to be separately represented before the tribunal by a lawyer (a 'separate representative').</p> <p>(3) If the tribunal considers it would be in the child's best interests for the child to be separately represented before the tribunal by a lawyer, the tribunal must order that the child be represented by a separate representative.</p> <p>(5) A separate representative must:</p> <p>(a) act in the child's best interests having regard to any expressed views or wishes of the child; and</p> <p>(b) as far as possible, present the child's views and wishes to</p>

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				the tribunal.
			307Q	(3) The tribunal or the president may only consent to the publication as mentioned in subsection (2) if the tribunal or the president is satisfied the publication of the information: (a) is in the public interest; and (b) does not conflict with the best interests of the child.
			325	(1) The chief executive may make payments, or give other assistance, to an adoptive parent or other person if the chief executive considers it is necessary to do so to ensure the wellbeing and best interests of an adopted child.
	Anti-Discrimination Act 1991	Qld	28	<p>It is not unlawful to discriminate on the basis of lawful sexual activity or gender identity against a person with respect to a matter that is otherwise prohibited under subdivision 1 if:</p> <p>(a) the work involves the care or instruction of minors; and</p> <p>(b) the discrimination is reasonably necessary to protect the physical, psychological or emotional wellbeing of minors having regard to all the relevant circumstances of the case, including the person's actions.</p> <p>(2) It is not unlawful to discriminate against a person with respect to a matter that is otherwise prohibited under subdivision 1 if:</p> <p>(a) the work involves the care or instruction of minors; and</p> <p>(b) whether before or after the commencement of this subsection, the person has been:</p> <p>(i) convicted in Queensland or elsewhere of an offence of a sexual nature involving a child; or</p> <p>(ii) disqualified from working with children under an Act of a State or of the Commonwealth.</p>
	50	A person may require, as a term of supplying goods and services to a minor, that a minor be accompanied by an adult		

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				if there would be a reasonable risk that a minor may cause a disruption or endanger himself or herself or others if not accompanied by an adult.
	Bail Act 1980		7(8)	The police powers to grant bail under section 7 do not apply if the arrested person is a child.
			16(5)	Section relating to refusal of bail by an authorised court or police officer does not apply if the defendant is a child.
			20	<p>(3) In the case of bail granted to a defendant requiring the defendant's appearance before a Magistrates Court, Children's Court or, as the case may be, any justice or justices conducting an examination of witnesses in relation to an indictable offence the undertaking shall be subject to:</p> <p>(a) the following conditions:</p> <p>(i) that the defendant must surrender into custody as required; and</p> <p>(ii) that the defendant must not depart from the court unless the bail is enlarged; and</p> <p>(iii) whether or not the defendant is represented, that the defendant must obey the directions of the court in relation to any further appearance, whether the directions are given to the defendant personally or to the defendant's lawyer; and</p> <p>(b) such further conditions:</p> <p>(i) as are imposed under section 11(2), (3), (6) or (9) or the <i>Youth Justice Act 1992</i>, section 52; and</p> <p>(ii) as the court thinks fit to impose.</p> <p>(6) An undertaking in respect of which the conditions have been fixed may be entered into before:</p> <p>(a) a justice; or</p> <p>(b) a police officer authorised by this Act or the <i>Youth</i></p>

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				<p><i>Justice Act 1992</i> to grant bail; or (c) where a party to the undertaking: (ii) is a child detained in a place established under the <i>Youth Justice Act 1992</i>, part 8—a person for the time being in charge of the place.</p>
			29	<p>(1) A defendant must not break any condition of the undertaking on which the defendant was granted bail requiring the defendant’s appearance before a court. Maximum penalty—40 penalty units or 2 years imprisonment. (2) Subsection (1) does not apply to: (a) a defendant who is a child;</p>
			30	<p>(7) This section does not limit the powers of a police officer under the <i>Police Powers and Responsibilities Act 2000</i>, section 367(3) to arrest a defendant who is a child.</p>
			33A	<p>(4) Where a court in making an order under this section directs that a term of imprisonment (the ‘first mentioned term of imprisonment’) be imposed (whether in the first instance or in default payment of a fine) upon a defendant then, notwithstanding any Act, law or practice, the following applies: (a) the first mentioned term of imprisonment shall take effect from the expiration of the deprivation of liberty of the defendant pursuant to a term of imprisonment: (i) imposed upon the defendant pursuant to this section or a law of the Commonwealth or the State at the same time as the first mentioned term of imprisonment is imposed; or (ii) which the defendant is serving pursuant to this section or a law of the Commonwealth or the State at the time the first mentioned term of imprisonment is imposed; and (b) if during the time the defendant is serving the first</p>

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				<p>mentioned term of imprisonment a further term of imprisonment is imposed upon the defendant pursuant to a law of the Commonwealth or the State, the further term of imprisonment shall take effect from the expiration of the deprivation of liberty of the defendant pursuant to the first mentioned term of imprisonment;</p> <p>(c) if before the defendant commences to serve the first mentioned term of imprisonment a further term of imprisonment is imposed upon the defendant pursuant to a law of the Commonwealth or the State, the first mentioned term of imprisonment shall take effect from the expiration of the deprivation of liberty of the defendant pursuant to the further term of imprisonment.</p> <p>(5) Subsection (4) does not apply if the defendant was a child when the defendant committed the offence mentioned in subsection (1).</p>
	<p>Births Deaths and Marriages Registration Act 2003</p>	<p>Qld</p>	<p>6</p>	<p>(1) The birth of a child must be registered if:</p> <p>(a) the child is born in Queensland; or</p> <p>(b) a Queensland court:</p> <p>(i) finds that the child was born in Queensland; and</p> <p>(ii) makes an order that:</p> <p>(A) directs that the birth be registered; and</p> <p>(B) states the particulars about the birth that are prescribed under a regulation.</p>
<p>13</p>			<p>(1) This section applies if a child's birth or adoption was registered in Queensland.</p> <p>(2) The child's parents may apply, in the approved form, to change the child's first name in the relevant child register.</p> <p>(3) However, 1 of the parents may apply to change the child's first name if:</p> <p>(a) the parent is the only parent of the child entered in the</p>	

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				<p>relevant child register; or</p> <p>(b) the other parent is dead; or</p> <p>(c) a Magistrates Court approves the change of name.</p> <p>(4) The child's guardians may apply, in the approved form, to change the child's first name in the relevant child register.</p> <p>(5) However, 1 of the guardians may apply to change the child's first name if:</p> <p>(a) the other guardian is dead; or</p> <p>(b) a Magistrates Court approves the change of name.</p> <p>(6) The registrar must not approve an application to register a change of a child's first name to a prohibited name.</p> <p>(7) A Magistrates Court may, on application by a child's parent or guardian, approve a proposed change of first name for the child if satisfied that:</p> <p>(a) the name is not a prohibited name; and</p> <p>(b) the change is in the child's best interests.</p> <p>(8) An application under this section may be made only once and within a year of the child's birth.</p>
			17	<p>(1) This section applies if:</p> <p>(a) a child's birth or adoption was registered in Queensland; or</p> <p>(b) a child was born outside Australia, but the child ordinarily resides in Queensland.</p> <p>(2) The child's parents may apply, in the approved form, to register a change of the child's name in the change of name register.</p> <p>(3) However, 1 of the parents may apply to register a change of the child's name if:</p> <p>(a) the parent is the only parent of the child entered in the relevant child register or shown on the child's birth certificate; or</p>

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				<p>(b) the other parent is dead; or (c) a Magistrates Court approves the change of name. (4) The child's guardians may apply, in the approved form, to register a change of the child's name in the change of name register. (5) However, 1 of the guardians may apply to register a change of the child's name if: (a) the other guardian is dead; or (b) a Magistrates Court approves the change of name. (6) A Magistrates Court may, on application by a child's parent or guardian, approve a proposed change of name for the child if satisfied that: (a) the name is not a prohibited name; and (b) the change is in the child's best interests. (7) When deciding whether the child ordinarily resides in Queensland, the registrar may consider: (a) how long the child has resided in Queensland and, if a regulation prescribes a minimum period of residence, whether the child has resided in Queensland for the minimum period; and (b) whether or not the child is employed in Queensland; and (c) any other consideration prescribed under a regulation.</p> <p>18</p> <p>(1) The registrar must not approve an application to register the change of the name of a child who is 12 years or more unless the registrar is satisfied that the child: (a) consents to the change of name; or (b) is unable to understand the meaning and implications of the change of name. (2) Subsection (1) does not apply if a Magistrates Court has approved the change of name.</p>

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	Child Care Act 2002	Qld	8	<p>(1) The object of this Act is to protect, and promote the best interests of, children receiving child care.</p> <p>(2) The ways in which the object is to be achieved include:</p> <p>(a) establishing a licensing system for child care services; and</p> <p>(b) regulating the way child care services are conducted; and</p> <p>(c) setting standards for persons who provide child care.</p>
			9	<p>This Act is to be administered, and licensed services are to be conducted, under the following principles:</p> <p>(a) the best interests of a child are the paramount concern; and</p> <p>(b) child care should be provided to a child in a way that:</p> <p>(i) protects the child from harm; and</p> <p>(ii) respects the child's dignity and privacy; and</p> <p>(iii) promotes the child's wellbeing; and</p> <p>(iv) provides positive experiences to the child;</p> <p>(c) licensed child care should be provided to a child in a way that stimulates and develops the child's creative, emotional, intellectual, lingual, physical, recreational and social potential; and</p> <p>(d) parents have the primary responsibility for the upbringing, protection and development of their children, and should be supported in that role; and</p> <p>(e) child care should be planned and provided in a way that:</p> <p>(i) involves parents and other members of the community; and</p> <p>(ii) reflects the multicultural and multilingual nature of the community.</p>
			93	<p>(1) The chief executive may, under this Act, impose a condition on a licence for a home based service that restricts, to a number that is less than a number mentioned in section</p>

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				<p>92(1)(a) or (b), the number of children who may be at a stated carer's home while child care is being provided there in the course of the service.</p> <p>(2) The chief executive may impose the condition only if satisfied it would be in the best interests of the children in care, having regard to the number of times, and the extent to which, the number of children at the home while child care was being provided there in the course of the service has been more than a prescribed limit for the home, whether or not because of the provision of emergency care.</p> <p>(3) Subsection (2) does not limit part 2, division 4.</p>
	Child Employment Act 2006	Qld	4	<p>(1) The purpose of this Act is to safeguard children working in Queensland.</p> <p>(2) This is to be achieved by:</p> <p>(a) ensuring that work does not interfere with children's schooling; and</p> <p>(b) preventing children performing work that may be harmful to their health or safety or physical, mental, moral or social development.</p>
	Child Protection Act 1999	Qld	5A	The main principle for administering this Act is that the safety, wellbeing and best interests of a child are paramount.
		5B	<p>The following are general principles for ensuring the safety, wellbeing and best interests of a child:</p> <p>(a) a child has a right to be protected from harm or risk of harm; or</p> <p>(b) a child's family has the primary responsibility for the child's upbringing, protection and development; or</p> <p>(c) the preferred way of ensuring a child's safety and wellbeing is through supporting the child's family; or</p> <p>(d) if a child does not have a parent who is able and willing to protect the child, the State is responsible for</p>	

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				<p>protecting the child; or</p> <p>(e) in protecting a child, the State should only take action that is warranted in the circumstances; or</p> <p>(f) if a child is removed from the child's family, support should be given to the child and the child's family for the purpose of allowing the child to return to the child's family if the return is in the child's best interests; or</p> <p>(g) if a child does not have a parent able and willing to give the child ongoing protection in the foreseeable future, the child should have long-term alternative care; or</p> <p>(h) if a child is removed from the child's family, consideration should be given to placing the child, as a first option, in the care of kin; or</p> <p>(i) if a child is removed from the child's family, the child should be placed with the child's siblings, to the extent that is possible; or</p> <p>(j) a child should only be placed in the care of a parent or other person who has the capacity and is willing to care for the child (including a parent or other person with capacity to care for the child with assistance or support); or</p> <p>(k) a child should have stable living arrangements, including arrangements that provide:</p> <p>(i) for a stable connection with the child's family and community, to the extent that is in the child's best interests; and</p> <p>(ii) for the child's developmental, educational, emotional, health, intellectual and physical needs to be met; or</p> <p>(l) a child should be able to maintain relationships with the child's parents and kin, if it is appropriate for the child; or</p> <p>(m) a child should be able to know, explore and maintain the child's identity and values, including their cultural, ethnic</p>

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				and religious identity and values; or (n) a delay in making a decision in relation to a child should be avoided, unless appropriate for the child.
			5C	The following additional principles apply in relation to an Aboriginal or Torres Strait Islander child: (a) the child should be allowed to develop and maintain a connection with the child's family, culture, traditions, language and community; or (b) the long-term effect of a decision on the child's identity and connection with their family and community should be taken into account.
			15	(3) If the child has long-term guardians, the officer must: (a) take, or make a reasonable attempt to take, the actions stated in subsection (2)(a) and (b), but only if the officer is satisfied it would be in the child's best interests to do so, having regard to: (i) the nature and extent of the child's connection with the child's parents; and (ii) the evidence in support of the allegation of harm or risk of harm; and (iii) any other relevant matter; and (b) take the actions stated in subsection (2)(a) and (b) in relation to the long-term guardians.
			17	(1) This section applies if: (a) an authorised officer or police officer is investigating an allegation of harm, or risk of harm, to a child; and (b) the officer reasonably believes: (i) it is in the child's best interests that the officer has contact with the child before the child's parents or long-term guardians are told about the investigation; and (ii) the child's parents or long-term guardians knowing in

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				<p>advance about the proposed contact with the child is likely to adversely affect or otherwise prevent the proper and effective conduct of the investigation; and</p> <p>(c) the child is at a school, or place where education and care or child care is provided, when the officer is to have contact with the child; and</p> <p>(d) the officer has lawfully entered, and is lawfully remaining at, the school or place.</p> <p>(2) The officer may have contact with the child for as long as the officer reasonably considers necessary for investigating the allegation.</p> <p>(3) Before exercising a power under subsection (2), the officer must notify the principal or other person in charge of the school or place of the intention to exercise the power.</p> <p>(4) As soon as practicable after the officer has had contact with the child, the officer must:</p> <p>(a) if the child has long-term guardians—tell at least 1 of the long-term guardians that the officer has had contact with the child and the reasons for the contact; or</p> <p>(b) otherwise—tell at least 1 of the child’s parents that the officer has had contact with the child and the reasons for the contact.</p> <p>(5) The officer’s obligation under subsection (4) to give reasons for the contact with the child is limited to the extent the officer considers is reasonable and appropriate in particular circumstances if the officer reasonably believes:</p> <p>(a) someone may be charged with a criminal offence for harm to the child and the officer’s compliance with the subsection may jeopardise an investigation into the offence; or</p> <p>(b) compliance with the subsection may expose the child to</p>

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				harm. (6) Also, at the first reasonable opportunity, the officer must record, in a register kept for the purpose by the department or the Queensland Police Service, full details about the exercise of the powers and other actions taken by the officer.
			40	When the application is filed, the registrar of the Children's Court must immediately fix a time and place for hearing the application having regard to the principle that it is in the best interests of the child for the application to be heard as soon as possible.
			49	(1) An authorised officer may apply to the Children's Court for an order to extend the term of a court assessment order for not more than 4 weeks. (2) This part applies, with all necessary changes, to the application as if it were an application for a court assessment order. (3) The court may extend the term of the order only if the court is satisfied: (a) the order has not ended; and (b) the extension is in the child's best interests. (4) A court assessment order may not be extended more than once.
			51L	In respect to case planning at a family group meeting, subsection 4 provides: (4) The convenor is not required to allow a particular person to attend or participate in the meeting under subsection (1)(b) to (d) or (2) if the convenor is satisfied that person's attendance or participation would be contrary to the purposes of the meeting or not in the child's best interests.
			51R	(1) This section applies if the chief executive is satisfied a case plan developed at a case planning meeting, or something

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				<p>in the plan, is clearly impracticable or not in the child's best interests.</p> <p>(2) The chief executive may:</p> <p>(a) reconvene, or have a private convenor reconvene, the case planning meeting under division 3 to develop an amended case plan; or</p> <p>(b) convene, or have a private convenor convene, another case planning meeting under division 3 to develop an amended case plan; or</p> <p>(c) amend the case plan and endorse the amended plan.</p> <p>(3) The chief executive may amend the case plan under subsection (2)(c):</p> <p>(a) only to the extent necessary to ensure the plan is practicable and in the child's best interests; and</p> <p>(b) only within 7 days after the case planning meeting at which it was developed; and</p> <p>(c) if the meeting was convened by a private convenor, only after consulting with the private convenor.</p> <p>(4) If the chief executive amends the case plan under subsection (2)(c), the chief executive must give written notice of the amendment, and the reasons for the amendment, to each person who was at the meeting at which the plan was developed.</p>
			51S	<p>(1) This section applies if a case plan is not developed at the case planning meeting or meetings held under division 3.</p> <p>(2) This section also applies if it has not been possible for the chief executive to convene a family group meeting, or have a private convenor convene a family group meeting, under section 51H(1).</p> <p>(3) The chief executive must:</p> <p>(a) take reasonable steps to obtain the views of any of the</p>

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				<p>following persons and entities whose views have not yet been obtained:</p> <ul style="list-style-type: none"> (i) the child, if the child’s views may reasonably be ascertained; or (ii) another person mentioned in section 51L(1); or (iii) another member of the child’s family group whose views, in the chief executive’s opinion, should be obtained; or (iv) a relevant service provider; and <p>(b) having regard to the views (if any), prepare a case plan, in the approved form, that the chief executive is satisfied best meets the child’s protection and care needs and endorse the plan.</p> <p>(4) If the meeting mentioned in subsection (1) was convened under a court order under section 68(1)(d)(i), the chief executive must file the plan prepared under this section in the court.</p>
			51W	<p>(1) The chief executive must give the following persons a reasonable opportunity to participate in the review and preparation of the revised case plan:</p> <ul style="list-style-type: none"> (a) the child, unless it would be inappropriate because of the child’s age or ability to understand; or (b) the child’s parents; or (c) other members of the child’s family group who the chief executive considers are likely to make a useful contribution; or (d) other persons with whom the child has a significant relationship; or <p><i>Example:</i> An approved carer may be someone with whom the child has a</p>

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				<p>significant relationship.</p> <p>(e) any legal representative of the child; or</p> <p>(f) if the child is an Aboriginal or Torres Strait Islander child—a recognised entity, or member of a recognised entity, for the child; or</p> <p>(g) a relevant service provider; or</p> <p>(h) anyone else who the chief executive considers is likely to make a useful contribution to the review.</p> <p>(2) To enable the participation, the chief executive may convene a family group meeting or have a private convenor convene a family group meeting.</p> <p>(3) If a family group meeting or other meeting is convened for the purpose of the review and the child or a parent of the child attends, the convenor must allow the child or parent to have someone attend and participate in the meeting to give help or support to the child or parent.</p> <p>(4) To remove any doubt, it is declared that a requirement to allow a person to attend or participate in a meeting under this section, or otherwise participate in the review, applies whether or not the child’s parents agree to the person’s attendance or participation.</p> <p>(5) The convenor of a meeting under this section is not required to allow a particular person to attend or participate in the meeting, under subsection (1)(b) to (d) or (3), if the convenor is satisfied that person’s attendance or participation would be contrary to the purposes of the meeting or not in the child’s best interests.</p>
			51ZE	<p>(1) The chief executive may enter a care agreement for the child if satisfied:</p> <p>(a) it would be in the child’s best interests to be temporarily placed in the care of someone other than the child’s parents;</p>

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				<p>and</p> <p>(b) it is not likely that, if the parents end the agreement, the child will be at immediate risk of harm.</p> <p>(2) The chief executive must obtain and have regard to the child's views before entering the care agreement, unless the child is unable to form and express views, taking into account the child's age and ability to understand.</p> <p>(3) The child may also be a party to the care agreement.</p> <p>(4) Despite section 51ZD(1), the chief executive may enter an assessment care agreement with only 1 of the child's parents if:</p> <p>(a) it is impractical to obtain the consent of the other parent to the agreement before entering the agreement; or</p> <p>(b) the chief executive has made a reasonable attempt to obtain the consent of the other parent before entering the agreement.</p> <p>(5) If the chief executive has not obtained the consent of the other parent before entering an assessment care agreement under subsection (4), the chief executive must make a reasonable attempt to give a copy of the agreement to the other parent, and obtain the other parent's consent, after the agreement has been entered into.</p> <p><i>Note:</i> See section 51ZI(2) for how the other parent may end the agreement.</p> <p>(6) The chief executive may not enter an assessment care agreement with only 1 of the child's parents if another parent refuses to enter the agreement.</p>
			51ZH	<p>(1) Subject to this division, a care agreement has effect for the period stated in it.</p> <p>(2) The period of an assessment care agreement must not be</p>

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				<p>more than 30 days.</p> <p>(3) An assessment care agreement may not be extended.</p> <p>(4) When a child protection care agreement is entered into, the initial period of operation stated in it must not be more than 30 days.</p> <p>(5) A child protection care agreement must not be made if the total of the following periods would be more than 6 months:</p> <p>(a) the initial period of the proposed agreement; or</p> <p>(b) the period for which any other child protection care agreement was in force for the child within the previous 12 months.</p> <p>(6) Before a child protection care agreement ends, it may be extended by agreement of the parties.</p> <p>(7) A child protection care agreement may be extended more than once.</p> <p>(8) A child protection care agreement must not be extended if the total of the following periods would be more than 6 months:</p> <p>(a) the period for which the agreement has been in force; or</p> <p>(b) the period of the proposed extension; or</p> <p>(c) the period for which any other child protection care agreement was in force for the child within the 12 months before the extension.</p> <p>(9) The chief executive must not agree to an extension unless:</p> <p>(a) a case plan is in force for the child; and</p> <p>(b) the chief executive is satisfied the extension would be in the child's best interests, having regard to the progress made under the case plan and the child's developmental needs.</p>

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			55	When the application is filed, the registrar of the Children's Court must immediately fix the time and place for hearing the application having regard to the principle that it is in the best interests of the child for the application to be heard as early as possible.
			59	(6) In addition, before making a child protection order granting long-term guardianship of a child, the court must be satisfied: (a) there is no parent able and willing to protect the child within the foreseeable future; or (b) the child's need for emotional security will be best met in the long term by making the order.
			65B	(1) A court may make a transition order if satisfied the order is necessary to allow for the gradual transition of the child into the care of the child's parents in a way that: (a) supports the child; and (b) may reduce any disruption or distress experienced by the child; and (c) is otherwise in the best interests of the child.
			66	(1) The Children's Court may adjourn a proceeding for a court assessment order or child protection order for a child for a period decided by the court. (2) However, for a court assessment order the total period of adjournments must not be longer than 4 weeks. (3) In deciding the period, the court must take into account the principle that it is in the child's best interests for the application for the order to be decided as soon as possible. (4) The court must state the reasons for the adjournment and may give directions to the parties to the proceeding about the things to be done by them during the adjournment.

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			82	(1) The chief executive may place the child in the care of: (a) an approved kinship carer for the child; or (b) an approved foster carer; or (c) an entity conducting a departmental care service; or (d) a licensee; or (e) if it is not possible, or not in the child's best interests, for the child to be placed in the care of an entity mentioned in paragraphs (a) to (d)—a provisionally approved carer for the child; or (f) if the chief executive is satisfied another entity would be the most appropriate for meeting the
			87	(1) The chief executive must provide opportunity for contact between the child and the child's parents and appropriate members of the child's family as often as is appropriate in the circumstances. (2) However, the chief executive may refuse to allow, or restrict or impose conditions on, contact between the child and the child's parents or members of the child's family, if the chief executive is satisfied it is in the child's best interests to do so or it is not reasonably practicable in the circumstances for the parents or family member to have the contact.
			89	The chief executive may decide to remove the child from the care of the child's carer if the chief executive is satisfied it is in the child's best interests.
			93	(1) This section applies if: (a) the child has an entitlement to property; and (b) the chief executive has powers and duties in relation to the property; and (c) the chief executive is satisfied it is in the child's best interests for the public trustee to manage the property.

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				<p>(2) The chief executive may give written notice to the public trustee requiring the public trustee to manage the property for the child.</p> <p>(3) On receipt of the notice, the public trustee becomes the manager of the property and has the powers and duties in relation to it under the <i>Public Trustee Act 1978</i>, part 6, as if the child were an incapacitated person.</p>
			99C	<p>The object of this chapter is to provide for the tribunal:</p> <p>(a) to make decisions in a review that promote the welfare and best interests of the child about whom the reviewable decision was made; and</p> <p>(b) to conduct proceedings in a way that uses adversarial and inquisitorial procedures, as appropriate, to arrive at the best possible decision in the circumstances; and</p> <p>(c) to foster an atmosphere of review that enhances the delivery of services to children.</p>
			99N	<p>(1) This section applies to a compulsory conference under the <i>QCAT Act</i> to which the parties to a proceeding before the tribunal have been directed to attend by the tribunal or principal registrar.</p> <p>(2) In addition to anything the person presiding over the conference may do under the <i>QCAT Act</i>, the person may do 1 or more of the following:</p> <p>(a) identify information to be given to the tribunal by the parties; or</p> <p>(b) give the parties information about the tribunal's practice and procedures; or</p> <p>(c) refer the parties to alternative dispute resolution.</p> <p>(3) Also, the person presiding over the conference may meet with a party separately:</p> <p>(a) if the person considers doing so may avoid the escalation</p>

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				of conflict between the parties; or (b) if the party is a child and the person considers doing so is in the child's best interests having regard to the child's views and wishes.
			99P	(1) A person may file a review application on behalf of a child only with the president's permission. (2) The president may give permission only if the president considers: (a) the person is not, on the person's own behalf, entitled to apply for the decision to be reviewed by the tribunal; and (b) it is in the child's best interests that the application be made; and (c) it would be inappropriate for, or unreasonable to require, the child to make the application himself or herself. (3) An applicant may withdraw a review application filed on behalf of a child only with the permission of the president or the tribunal. (4) The president or tribunal may give permission under subsection (3) only if the president or tribunal considers that, having regard to the child's views or wishes, if any, it is in the child's best interests that the application be withdrawn.
			99Q	(1) This section applies if a reviewable decision is about a child and the decision is the subject of a review application. (2) Also, this section applies whether or not the child: (a) is a party to a proceeding before the tribunal; or (b) is represented by a lawyer or someone else under the <i>QCAT Act</i> , section 43. (3) The tribunal must consider whether it would be in the child's best interests for the child to be separately represented under this section before the tribunal by a lawyer (a 'separate representative').

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				<p>(4) If the tribunal considers it would be in the child’s best interests for the child to be separately represented under this section before the tribunal by a lawyer, the tribunal must order that the child be represented by a separate representative.</p> <p>(5) A separate representative may represent more than 1 child in the same proceeding before the tribunal.</p> <p>(6) A separate representative must:</p> <p>(a) act in the child’s best interests having regard to any expressed views or wishes of the child; and</p> <p>(b) as far as possible, present the child’s views and wishes to the tribunal.</p>
			99Y	<p>(1) For a review, the president or the tribunal may, by order, authorise a medical examination of a child and require a report of the examination to be filed with the registrar.</p> <p>(2) The order must state the particular issues the report must address.</p> <p>(3) The president or tribunal must not make the order unless the president or tribunal is satisfied:</p> <p>(a) the medical information, if any, available to the tribunal about the child is insufficient to allow the tribunal to decide the review; and</p> <p>(b) the child’s interests will be best served by making the order.</p> <p>(4) In deciding whether the child’s interests will be best served by making the order, the president or tribunal must consider the child’s views and wishes, if any, and the effect the medical examination may have on the child having regard to the number and frequency of any previous medical examinations the child has undergone.</p>

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			99ZC	<p>(1) For a review, the president or the tribunal may, by order, authorise a medical examination of a child and require a report of the examination to be filed with the registrar.</p> <p>(2) The order must state the particular issues the report must address.</p> <p>(3) The president or tribunal must not make the order unless the president or tribunal is satisfied:</p> <p>(a) the medical information, if any, available to the tribunal about the child is insufficient to allow the tribunal to decide the review; and</p> <p>(b) the child's interests will be best served by making the order.</p>
			99ZG	<p>(1) A person must not publish:</p> <p>(a) information given in evidence or otherwise in a proceeding before the tribunal; or</p> <p>(b) information that is likely to identify a person who:</p> <p>(i) appears as a witness before the tribunal in a proceeding; or</p> <p>(ii) is a party to the proceeding; or</p> <p>(iii) is mentioned, or otherwise involved, in the proceeding.</p> <p>Maximum penalty:</p> <p>(a) for a corporation—1000 penalty units; or</p> <p>(b) for an individual—100 penalty units or 2 years imprisonment.</p> <p>(2) Subsection (1)(a) does not apply to:</p> <p>(a) a person if the tribunal or the president of the tribunal consents to the publication of the information by the person; or</p> <p>(b) the tribunal publishing its final decision in a proceeding, with or without the reasons for the decision.</p> <p>(3) The tribunal or the president may only consent to the</p>

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				<p>publication as mentioned in subsection (2) if the tribunal or the president is satisfied the publication of the information:</p> <ul style="list-style-type: none"> (a) is in the public interest; and (b) does not conflict with the best interests of the child.
			<p>110</p>	<p>(1) If, in a proceeding on an application for an order for a child, the Children's Court considers it is necessary in the child's best interests for the child to be separately represented by a lawyer, the court may:</p> <ul style="list-style-type: none"> (a) order that the child be separately represented by a lawyer; and (b) make the other orders it considers necessary to secure the child's separate legal representation. <p>(2) Without limiting subsection (1), the court must consider making orders about the child's separate legal representation if:</p> <ul style="list-style-type: none"> (a) the application for the order is contested by the child's parents; or (b) the child opposes the application. <p>(3) The lawyer must:</p> <ul style="list-style-type: none"> (a) act in the child's best interests regardless of any instructions from the child; and (b) as far as possible, present the child's views and wishes to the court. <p>(4) The lawyer is not a party to a proceeding on the application but:</p> <ul style="list-style-type: none"> (a) must do anything required to be done by a party; and (b) may do anything permitted to be done by a party. <p>(5) The parties to the proceeding must act in relation to the proceeding as if the lawyer were a party to the proceeding.</p> <p>(6) The lawyer's role as the child's separate legal representative ends when:</p>

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				(a) the application is decided or withdrawn; or (b) if there is an appeal in relation to the application—the appeal is decided or withdrawn.
			113	(1) In a proceeding on an application for an order for a child, the Children's Court may hear submissions from the following persons (each a ' non-party '): (a) a member of the child's family; or (b) anyone else the court considers is able to inform it on any matter relevant to the proceeding. (2) A submission may be made by a non-party's lawyer. (3) The court may allow the non-party to view a document or other information before the court on the application if the court is satisfied: (a) the document or information is relevant to a submission the non-party may make to the court; and (b) the non-party needs to view the document or information to make the submission; and (c) it is in the child's best interests for the non-party to view the document or information; and (d) each person to whom the document or information relates: (i) has been informed that the document or information may be viewed by the non-party; and (ii) has been given a reasonable opportunity to make submissions to the court about the non-party being allowed to view the document or information.
			136A	(1) This division applies to a certificate of approval as a provisionally approved carer. (2) The purpose of this division is to enable the chief executive to give limited approval to a person to care for a particular child in circumstances where:

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				<p>(a) the person has been provisionally assessed as suitable to care for the child; and</p> <p>(b) it is not possible, or not in the child’s best interests, for the child to be placed in the care of an approved kinship carer for the child, approved foster carer, entity conducting a departmental care service or licensee.</p>
			159B	<p>The principles underlying this chapter are as follows:</p> <p>(a) the State is responsible for ensuring that children in need of protection receive protection and care services that ensure their safety and promote their wellbeing; and</p> <p>(b) the State is responsible for ensuring that children and families receive the family support services that they need in order to decrease the likelihood of the children becoming in need of protection; and</p> <p>(c) the chief executive has the primary responsibility for investigating, assessing and responding to allegations of harm to children, including by making plans for their protection and care; and</p> <p>(d) each service provider should contribute, within the provider’s own sphere of responsibility, to assessing and meeting the protection and care needs of children and supporting their families; and</p> <p>(e) children in need of protection, and children who may become in need of protection, and their families should receive coordinated services that meet their needs in a timely and effective way; and</p> <p>(f) service providers should work collaboratively and in a way that respects the functions and expertise of other service providers; and</p> <p>(g) because a child’s safety, wellbeing and best interests are paramount, their protection and care needs take precedence</p>

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				over the protection of an individual's privacy.
			188A	<p>(1) This section applies if a police officer acquires information as provided for in section 187(1).</p> <p>(2) The officer, and any other police officer to whom the information is disclosed under this section, may use the information to the extent necessary to perform his or her functions as a police officer.</p> <p>(3) A police officer must not use the information under this section for an investigation or for a proceeding for an offence unless the officer, or another police officer, has consulted with the following entities about the proposed use:</p> <p>(a) the chief executive; or</p> <p>(b) if the information was acquired under chapter 5A, part 3, from a member of the SCAN system—the member; (c) if the information was acquired from a prescribed entity under chapter 5A, part 4—the prescribed entity.</p> <p>(4) The purpose of a consultation under subsection (3) is to consider whether the proposed use of the information for the investigation or proceeding would be in the best interests of any child.</p>
			188B	<p>(1) The chief executive or an authorised officer may disclose information about a child to a member of the child's family group if satisfied the disclosure would be in the child's best interests.</p> <p>(2) Before disclosing information under this section, the chief executive or officer must:</p> <p>(a) obtain and have regard to the child's views, if the child is able to form and express views, taking into account the child's age and ability to understand; and</p> <p>(b) consider whether the disclosure is likely to adversely affect the child's relationship with members of the child's</p>

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				<p>family group; and</p> <p>(c) consider whether the disclosure is likely to have adverse effects for anyone else, including a risk to anyone's safety; and</p> <p>(d) have regard to:</p> <p>(i) any views expressed by the child's parents; and</p> <p>(ii) the relationship between the child and the person to whom it is proposed to disclose the information, and any views expressed by that person; and</p> <p>(iii) the child's case plan.</p>
			215	<p>(1) If the Children's Court decides to order the transfer of the child protection order to the participating State, it must decide the provisions of the proposed interstate order.</p> <p>(2) The court must be satisfied:</p> <p>(a) the proposed interstate order is an order that could be made under a child welfare law of that State; and</p> <p>(b) the protection sought to be achieved by the proposed interstate order is unlikely to be achieved by an order on less intrusive terms; and</p> <p>(c) the proposed interstate order:</p> <p>(i) is of the same or a similar effect as the home order; or</p> <p>(ii) is otherwise in the child's best interests.</p> <p>(3) In deciding the provisions of the proposed interstate order, the court must:</p> <p>(a) decide the time for which it would be appropriate for the proposed interstate order to have effect in the participating State; and</p> <p>(b) state the time in the proposed interstate order.</p> <p>(4) The stated time must not be more than the maximum time for which an order of that type, made under a child welfare law of that State, could be given effect in that State.</p>

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			221	<p>(1) The order may not be transferred to Queensland unless the chief executive gives written consent to the transfer and to the provisions of the order.</p> <p>(2) The chief executive must give the required consent, if asked by the interstate officer for the participating State, unless the chief executive is satisfied:</p> <p>(a) the order includes a provision that may not be included in an order made under chapter 2, part 4; or</p> <p>(b) the transfer or the provisions of the order would not be in the child's best interests.</p>
			226	<p>When the application is filed, the registrar of the Children's Court must immediately fix the time and place for hearing the application having regard to the principle that it is in the best interests of the child for the application to be heard as early as possible.</p>
			234	<p>(1) The proceeding may not be transferred to Queensland unless the chief executive gives written consent to the transfer.</p> <p>(2) The chief executive must give the consent, if asked by the interstate officer for the participating State, unless the chief executive is satisfied the transfer would not be in the child's best interests.</p>
			248B	<p>(1) This section applies to an offence committed against a child who a police officer knows or suspects is a child in need of protection.</p> <p>(2) When investigating the offence, the officer must consult with the chief executive for the purpose of planning the most appropriate way of conducting the investigation.</p> <p>(3) Before starting a proceeding for the offence, the officer must consult with the chief executive for the purpose of considering whether the proceeding would be in the best</p>

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	Child Protection (International Measures) Act 2003	Qld		interests of the child.
			3	The main purposes of this Act are to recognise: (a) the importance of international co-operation for the protection of children; and (b) the need to avoid conflict between the legal systems of different countries about the jurisdiction, applicable law, recognition and enforcement of measures for the protection of children; and (c) that a child's best interests are a primary consideration in relation to a measure for protecting the person of the child or a measure for protecting the child's property.
			12	(1) A Queensland authority may, if it considers that it is in the child's best interests, accept or reject a request made under Article 8 of the Child Protection Convention by a competent authority of a Convention country for the Queensland authority to assume jurisdiction to take a Queensland personal protection measure relating to the child. (2) If the Queensland authority is a Queensland court, the court may order the department to do both of the following in a way that the department considers appropriate: (a) to request, under Article 9 of the Child Protection Convention, that a competent authority of a Convention country agree to the Queensland court assuming jurisdiction to take a Queensland personal protection measure relating to the child; (b) to report to the court about the outcome of the request. (3) The Queensland court may only make the order under subsection (2) if it considers that it is better placed than the competent authority to assess the child's best interests.
			13	(1) A Queensland court may order the department to request, in a way the department considers appropriate, a competent

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				<p>authority described in Article 8, paragraph 2 of the Child Protection Convention:</p> <p>(a) to assume jurisdiction under Article 8 of the Convention for protecting the person of a child; and</p> <p>(b) as the competent authority considers necessary, to take measures to protect the person of a child; and</p> <p>(c) to report to the court about the outcome of the request.</p> <p>(2) In addition, the Queensland court may make any other order it considers necessary for an order under subsection (1).</p> <p>(3) The Queensland court may only make the order under subsection (1) if the court considers that the competent authority is better placed to assess the child's best interests.</p> <p>(4) The Queensland court may accept or reject a request under Article 9 of the Child Protection Convention made by a competent authority of a Convention country described in Article 8, paragraph 2 of the Convention, for the competent authority to assume jurisdiction to take a measure for protecting the person of the child.</p> <p>(5) If the competent authority assumes jurisdiction under the request, a Queensland court must not exercise jurisdiction under section 9(2)(a), (b)(iii) to (v), (c) or (d), while the competent authority continues to exercise its jurisdiction.</p>
			18	<p>(1) This section applies to the exercise of jurisdiction by a Queensland authority under section 16(2)(a), (b)(iii) to (v) or (c).</p> <p>(2) The Queensland authority must not exercise that jurisdiction to take a Queensland property protection measure relating to a child if:</p> <p>(a) a corresponding measure has been sought from a competent authority of a Convention country and it was sought:</p>

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				<p>(i) if the Queensland authority is a Queensland court—before the proceedings were started in the court; or</p> <p>(ii) if the Queensland authority is the public trustee—before the public trustee exercises the jurisdiction; and</p> <p>(b) any of the following applies:</p> <p>(i) the child is habitually resident in the Convention country;</p> <p>(ii) the child is present in the Convention country and is a refugee child;</p> <p>(iii) a request to assume jurisdiction is made to a competent authority of the country of the child’s habitual residence or country of refuge;</p> <p>(iv) a competent authority of the country of the child’s habitual residence or country of refuge agrees to the competent authority assuming jurisdiction;</p> <p>(v) the competent authority of the Convention country is exercising jurisdiction in proceedings concerning the divorce or separation of the child’s parents or the annulment of their marriage (but see subsection (3));</p> <p>(vi) the child has been wrongfully removed from or retained outside the Convention country and a competent authority of the Convention country keeps jurisdiction under Article 7 of the Child Protection Convention.</p> <p>(3) Subsection (2)(b)(v) only applies (subject to subsection (4)) if:</p> <p>(4) if:</p> <p>(a) one or both of the child’s parents are habitually resident in the Convention country when the proceedings referred to in that subparagraph are started; and</p> <p>(b) one or both of the parents have parental responsibility for the child; and</p> <p>(c) the jurisdiction of the competent authority of the Convention country to take the measure is accepted by the</p>

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				<p>parents and each other person with parental responsibility for the child; and</p> <p>(d) the exercise of jurisdiction to take the measure is in the best interests of the child; and</p> <p>(e) the proceedings on the application for divorce or separation of the child's parents or the annulment of their marriage have not been finalised.</p> <p>(4) Subsection (2) does not apply if the competent authority of the Convention country has declined jurisdiction or is no longer considering taking the measure sought.</p>
			19	<p>(1) A Queensland court may, if it considers that it is in the child's best interests, accept or reject a request made under Article 8 of the Child Protection Convention by, or at the invitation of, a competent authority of a Convention country for the Queensland court to assume jurisdiction to take a Queensland property protection measure relating to the child.</p> <p>(2) A Queensland court may order, or invite the parties to proceedings before the court to ask, the department or the public trustee to do both of the following in a way that the department or the public trustee considers appropriate:</p> <p>(a) to request, under Article 9 of the Child Protection Convention, that a competent authority of a Convention country agree to the Queensland court assuming jurisdiction to take a Queensland property protection measure relating to the child;</p> <p>(b) to report to the court about the outcome of the request.</p> <p>(3) The public trustee must:</p> <p>(a) apply to a Queensland court, under the <i>Public Trustee Act 1978</i>, for an order that the public trustee may accept a request, under Article 9 of the Child Protection Convention, for the public trustee to assume jurisdiction to take a</p>

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				<p>Queensland property protection measure relating to the child that the public trustee consider necessary; or</p> <p>(b) reject the request.</p> <p>(4) The Queensland court may only:</p> <p>(a) make the order, or issue the invitation, under subsection (2) if it considers that it is better placed than the competent authority to assess the child's best interests; or</p> <p>(b) make the order under subsection (3)(a) if it considers that the public trustee is better placed than the competent authority to assess the child's best interests.</p>
			20	<p>(1) A Queensland court may order, or invite the parties to proceedings before the court to ask, the department or the public trustee to request, in a way the department or the public trustee considers appropriate, a competent authority described in Article 8, paragraph 2 of the Child Protection Convention:</p> <p>(a) to assume jurisdiction under Article 8 of the Convention for appointing, or deciding the powers of, a guardian of the child's property; and</p> <p>(b) as the competent authority considers necessary, to take a measure appointing, or deciding the powers of, a guardian of the child's property; and</p> <p>(c) to report to the court about the outcome of the request.</p> <p>(2) In addition, the Queensland court may make any other order it considers necessary for an order under subsection (1).</p> <p>(3) The Queensland court may only make the order or issue the invitation under subsection (1) if the court considers that the competent authority is better placed to assess the child's best interests.</p>
			21	<p>(1) A Queensland property protection measure relating to a child that is taken in response to a particular situation by a</p>

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				<p>Queensland authority exercising jurisdiction under section 16(2)(b)(i) or (ii) lapses if:</p> <ul style="list-style-type: none"> (a) a foreign property protection measure relating to the child, that is taken in response to the same situation, is taken by a competent authority of a Convention country; and (b) any of the following applies: <ul style="list-style-type: none"> (i) the child is habitually resident in the Convention country; (ii) the child is present in the Convention country and is a refugee child; (iii) a request to assume jurisdiction is made to the competent authority of the Convention country by, or at the invitation of, a competent authority of the country of the child's habitual residence; (iv) a competent authority of the country of the child's habitual residence agrees to the competent authority of the Convention country assuming jurisdiction; (v) a competent authority of the Convention country is exercising jurisdiction in proceedings concerning the divorce or separation of the child's parents or the annulment of their marriage (but see subsection (2)); (vi) the child has been wrongfully removed from or retained outside the Convention country and a competent authority of the Convention country keeps jurisdiction under Article 7 of the Child Protection Convention. <p>(2) Subsection (1)(b)(v) only applies if:</p> <ul style="list-style-type: none"> (a) one or both of the child's parents are habitually resident in the Convention country when the proceedings referred to in that subparagraph are started; and (b) one or both of the parents have parental responsibility for the child; and (c) the jurisdiction of the competent authority of the Convention country to take the measure is accepted by the

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				<p>parents and each other person with parental responsibility for the child; and</p> <p>(d) the exercise of jurisdiction to take the measure is in the best interests of the child; and</p> <p>(e) the proceedings on the application for divorce or separation of the child's parents or the annulment of their marriage have not been finalised.</p>
			23	<p>(3) A Queensland court may order a foreign personal protection measure relating to a child be refused recognition on any of the following grounds:</p> <p>(a) the competent authority of the Convention country did not have jurisdiction under the Child Protection Convention for taking the foreign personal protection measure;</p> <p>(b) in taking the foreign personal protection measure, the competent authority of the Convention country is taken to have acted contrary to the fundamental principles of procedure under Queensland law as mentioned in subsection (4);</p> <p>(c) recognition of the foreign personal protection measure is contrary to public policy in Queensland having regard to the child's best interests;</p> <p>(6) If:</p> <p>(a) under subsection (2)(a) the department gives a foreign personal protection measure relating to a child to a registrar of a Queensland court; and</p> <p>(b) the measure authorises the performance of a medical procedure or treatment on the child that is a procedure or treatment for which a parent does not, under Queensland law, have authority to consent;</p>

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				the measure must be accompanied by a Family Court declaration that recognition of the measure is not contrary to public policy having regard to the child's best interests.
			26	(2) The Queensland court may cancel the registration of the foreign measure if any of the following applies: (e) recognition or enforcement of the measure in Queensland is contrary to public policy taking into account the child's best interests;
			30	(2) If a competent authority of a Convention country consults with the department for the purpose of obtaining the department's consent to placing a child with a foster family, or in institutional care, in Queensland, the department must take into account the child's best interests in deciding whether or not to consent.
	Child Protection (Offender Prohibition Order) Act 2008	Qld	28	(1) A person who is subject to a disqualification order may apply to the court under the relevant rules of court for revocation of the disqualification order. (2) However, other than in relation to a disqualification order made in the person's absence, the person may only make an application under subsection (1) with the court's leave. (3) The court may grant the leave if satisfied it is in the interests of justice to do so. (4) In deciding the application, the court must have regard to whether it would be in the best interests of children for the children's commissioner to issue a positive notice or positive exemption notice to the person. (5) A revocation takes effect when it is made.
	Child Protection (Offer Reporting) Act 2004	Qld	All	This is an act to require particular offenders who commit sexual, or particular other serious, offences against children to keep police informed of their whereabouts and other personal details for a period of time, to reduce the likelihood

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				that they will re-offend, and to facilitate the investigation and prosecution of any future offences that they may commit, and for related purposes
	Commission for Children and Young People and Child Guardian Act 2000	Qld	5	The object of this Act is to establish the Commission for Children and Young People and Child Guardian to promote and protect the rights, interests and wellbeing of children in Queensland.
			6	<p>(1) This Act is to be administered under the principle that the welfare and best interests of a child are paramount.</p> <p>(2) Subject to subsection (1), this Act is also to be administered under the following principles:</p> <p>(a) every child is a valued member of society;</p> <p>(b) in decisions involving a child, the child's views and wishes should be taken into account in a way that has regard to the child's age and ability to understand;</p> <p>(c) every child is entitled:</p> <p>(i) to be treated in a way that respects the child's dignity and privacy; and</p> <p>(ii) to be cared for in a way that protects the child from harm and promotes the child's wellbeing; and</p> <p>(iii) to express the child's concerns and grievances and to have them dealt with in a way that is fair and timely and promotes the child's participation; and</p> <p>(iv) to receive information and help to enable the child to exercise the child's entitlements; and</p> <p>(v) to have access to services necessary to meet the child's needs;</p> <p>(d) the family has the primary responsibility for the upbringing and development of its children, and should be supported in that role.</p>

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			47	<p>(1) This section applies to information or a document that the commissioner has obtained from a relevant service provider for the purpose of performing the commissioner's monitoring functions.</p> <p>(2) The commissioner must advise the service provider before giving the information or document to another entity, unless the commissioner considers that doing so would not be in the best interests of a child to whom the information or document relates.</p>
			78	<p>(1) The commissioner may stop an investigation if the commissioner is satisfied it would not be in the best interests of a child or children to whom the investigation relates to continue it.</p>
			84	<p>(1) This section applies if the commissioner asks the Minister to table a report under section 83.</p> <p>(2) The commissioner may also give the Minister a second report about the same matter, containing information that the commissioner considers should not be publicly disclosed on the ground that:</p> <p>(a) disclosure of the information may not be in the best interests of a child involved in the matter;</p>
			221	<p>(1) Subject to subsection (2), the commissioner must issue a positive notice to the person if:</p> <p>(a) the commissioner is not aware of any police information or disciplinary information about the person; or</p> <p>(b) the commissioner is not aware of a conviction of the person for any offence but is aware that there is 1 or more of the following about the person:</p> <p>(i) investigative information;</p> <p>(ii) disciplinary information;</p> <p>(iii) a charge for an offence other than a disqualifying</p>

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				<p>offence;</p> <p>(iv) a charge for a disqualifying offence that has been dealt with other than by a conviction; or</p> <p><i>Note for subparagraph (iv):</i> For charges for disqualifying offences that have not been dealt with, see sections 208, 217 and 240 (in relation to prescribed notices), and sections 269, 279 and 298 (in relation to exemption notices).</p> <p>(c) the commissioner is aware of a conviction of the person for an offence other than a serious offence.</p> <p>(2) If subsection (1)(b) or (c) applies to the person and the commissioner is satisfied it is an exceptional case in which it would not be in the best interests of children for the commissioner to issue a positive notice, the commissioner must issue a negative notice to the person.</p>
			223	<p>(3) Subject to subsection (4), if the commissioner is aware of police information or disciplinary information about the person, other than information known to the commissioner at the time of taking the action mentioned in subsection (1)(a) or (b), the commissioner must issue a negative notice to the person.</p> <p>(4) If subsection (3) applies to the person and the commissioner is satisfied it is an exceptional case in which it would not harm the best interests of children for the commissioner to issue a positive notice, the commissioner must issue a positive notice to the person.</p>
			225	<p>(1) Subject to section 223 and subsection (2), the commissioner must issue a negative notice to the person if the commissioner is aware the person:</p> <p>(a) is a relevant disqualified person because the person is subject to a temporary offender prohibition order or</p>

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				<p>interim sexual offender order; or (b) has been a relevant disqualified person at any time but is no longer a relevant disqualified person (other than a person who was a relevant disqualified person by reason of a conviction, sentence or order that was set aside on appeal); or (c) has been convicted of a serious offence. (2) If subsection (1)(a), (b) or (c) applies to the person and the commissioner is satisfied it is an exceptional case in which it would not harm the best interests of children for the commissioner to issue a positive notice, the commissioner must issue a positive notice to the person.</p>
			360	<p>A child-related employment decision is to be reviewed under the principle that the welfare and best interests of a child are paramount.</p>
			362	<p>(1) An application for a child-related employment review may be made on behalf of a child only with the permission of the QCAT president. (2) The QCAT president may give permission only if the president considers: (a) the person is not, on the person's own behalf, entitled to apply for the child-related employment review; and (b) it is in the child's best interests that the application be made; and (c) it would be inappropriate for, or unreasonable to require, the child to make the application himself or herself.</p>
			363	<p>(1) An applicant may withdraw an application made on behalf of a child under section 362 only with leave of the QCAT president or QCAT. (2) The QCAT president or QCAT may give leave under subsection (1) only if the president or QCAT considers that, having regard to the child's views or wishes, if any, it is in</p>

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			370	<p>the child's best interests that the application be withdrawn.</p> <p>(1) This section applies if, in performing the commissioner's child guardian functions, the commissioner:</p> <p>(a) is dissatisfied with a reviewable decision; and</p> <p>(b) has been unable to resolve the matter with the chief executive (child safety) to the commissioner's satisfaction.</p> <p>(2) The commissioner may apply to QCAT to have the reviewable decision reviewed.</p> <p>(3) The commissioner may apply to QCAT only if the commissioner is satisfied that to do so would be in the child's best interests.</p>
	Evidence Act 1977	Qld	9E	<p>(1) Because a child tends to be vulnerable in dealings with a person in authority, it is the Parliament's intention that a child who is a witness in a proceeding should be given the benefit of special measures when giving the child's evidence.</p> <p>(2) The following general principles apply when dealing with a child witness in a proceeding:</p> <p>(a) the child is to be treated with dignity, respect and compassion;</p> <p>(b) measures should be taken to limit, to the greatest practical extent, the distress or trauma suffered by the child when giving evidence;</p> <p>(c) the child should not be intimidated in cross-examination;</p> <p>(d) the proceeding should be resolved as quickly as possible.</p>
			21AA	<p>The purposes of this division are:</p> <p>(a) to preserve, to the greatest extent practicable, the integrity of an affected child's evidence; and</p> <p>(b) to require, wherever practicable, that an affected child's evidence be taken in an environment that limits, to the greatest extent practicable, the distress and trauma that might otherwise be experienced by the child when giving evidence.</p>

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			21AV	<p>(1) An affected child, while he or she is giving evidence in a relevant proceeding, is entitled to have near to him or her a person who may provide the child with support (a <i>support person</i>).</p> <p>(2) A person may be the child's support person only if the person is approved by the court on application by the party proposing to call the child.</p> <p>(3) The support person must be permitted to be in close proximity to the child, and within the child's sight, while the child is giving evidence.</p> <p>(4) An affected child may, with the agreement of the court, waive the entitlement to a support person under subsection (1).</p> <p>(5) The court must not agree to the waiver if the court considers the waiver is not in the child's best interests.</p>
	Family Responsibilities Commission Act 2008	Qld	4	<p>(2) The objects are to be achieved mainly by establishing the Family Responsibilities Commission:</p> <p>(a) to hold conferences about agency notices; and</p> <p>(b) to deal with the matters to which the notices relate in a way that:</p> <p>(i) encourages community members the subject of a conference to engage in socially responsible standards of behaviour; and</p> <p>(ii) promotes the interests, rights and wellbeing of children and other vulnerable persons living in a welfare reform community area.</p>
			5	<p>(1) The Act is to be administered under the principle that the wellbeing and best interests of a child are paramount.</p> <p>(2) Subject to subsection (1), this Act is also to be administered under the following principles:</p> <p>(a) in a conference about an agency notice, the commission</p>

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				<p>should deal with the matters to which the notice relates in a way that:</p> <ul style="list-style-type: none"> (i) facilitates early intervention in relation to the matters; and (ii) supports the restoration of socially responsible standards of behaviour and local authority in welfare reform community areas; and (iii) makes appropriate use of community support services; <p>(b) in a conference about an agency notice involving a child, the child's views and wishes should be taken into account in a way that has regard to the child's age and ability to understand;</p> <p>(c) Aboriginal tradition and Island custom must be taken into account in matters involving Aboriginal people or Torres Strait Islanders;</p> <p>(d) the commission should deal with agency notices in a timely way.</p>
	<p>Guardianship and Administration Act 2000</p>	<p>Qld</p>	<p>80C</p>	<p>(1) On an application made under part 3, the tribunal may, by order, consent to the sterilisation of a child with an impairment.</p> <p>(2) The tribunal may consent to the sterilisation only if the tribunal is satisfied the sterilisation is in the best interests of the child.</p> <p>(3) A child's sterilisation, to which the tribunal has consented, is not unlawful.</p>
			<p>80D</p>	<p>(1) The sterilisation of a child with an impairment is in the child's best interests only if:</p> <ul style="list-style-type: none"> (a) one or more of the following applies: <ul style="list-style-type: none"> (i) the sterilisation is medically necessary; (ii) the child is, or is likely to be, sexually active and there is no method of contraception that could reasonably be expected to be successfully applied;

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				<p>(iii) if the child is female—the child has problems with menstruation and cessation of menstruation by sterilisation is the only practicable way of overcoming the problems; and</p> <p>(b) the child’s impairment results in a substantial reduction of the child’s capacity for communication, social interaction and learning; and</p> <p>(c) the child’s impairment is, or is likely to be, permanent and there is a reasonable likelihood, when the child turns 18, the child will have impaired capacity for consenting to sterilisation; and</p> <p>(d) the sterilisation cannot reasonably be postponed; and</p> <p>(e) the sterilisation is otherwise in the child’s best interests.</p> <p>(2) Sterilisation is not in the child’s best interests if the sterilisation is:</p> <p>(a) for eugenic reasons; or</p> <p>(b) to remove the risk of pregnancy resulting from sexual abuse.</p> <p>(3) In deciding whether the sterilisation is in the child’s best interests, the tribunal must:</p> <p>(a) ensure the child is treated in a way that respects the child’s dignity and privacy; and</p> <p>(b) do each of the following:</p> <p>(i) in a way that has regard to the child’s age and impairment, seek the child’s views and wishes and take them into account;</p> <p>(ii) to the greatest extent practicable, seek the views of each of the following persons and take them into account:</p> <p>(A) any parent or guardian of the child;</p> <p>(B) if a parent or guardian is not the child’s primary carer, the child’s primary carer;</p>

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				<p>(C) the child representative for the child; (iii) take into account the information given by any health provider who is treating, or has treated, the child; and (c) take into account: (i) the wellbeing of the child; and (ii) alternative forms of health care that have proven to be inadequate in relation to the child; and (iii) alternative forms of health care that are available, or likely to become available, in the foreseeable future; and (iv) the nature and extent of short-term, or long-term, significant risks associated with the proposed sterilisation and available alternative forms of health care. (4) The child's views and wishes may be expressed in the following ways: (a) orally; (b) in writing; (c) in another way including, for example, by conduct.</p>
			80L	<p>(1) As soon as possible after a chapter 5A application is made, the tribunal must appoint a person to separately represent the child before the tribunal (a <i>child representative</i>).</p> <p>(2) A person is eligible for appointment as a child representative only if the person is a lawyer who has experience in dealing with children with an impairment. <i>Editor's note:</i> Lawyer means a barrister, solicitor, barrister and solicitor or legal practitioner of the High Court or the Supreme Court of a State—<i>Acts Interpretation Act 1954</i>, section 36 (Meaning of commonly used words and expressions).</p> <p>(3) The child representative must:</p>

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				<p>(a) act in the child’s best interests; and (b) have regard to any expressed views or wishes of the child; and (c) to the greatest extent practicable, present the child’s views and wishes to the tribunal. (4) To ensure the child representative has all the information necessary to act in the child’s best interests, the tribunal may order a person, for example, a parent or a doctor who is treating, or has treated, the child, to give the child representative information about the child.</p>
	Information Privacy Act 2009	Qld	64	(3) Also, the Right to Information Act, sections 50 and 51, as applied under this Act, set out circumstances concerning information about a child and personal healthcare information about an applicant in which the Parliament has stated its intention about what is in the best interests of the child and applicant.
	Public Health Act 2005	Qld	185	<p>(2) In addition to the details that must be stated in a prescribed written notice, the notice must also specify the following: (g) if access to a document is refused under section 67: (iv) if access is refused under the Right to Information Act, section 47(3)(c), as applied under this Act—the reason under the Right to Information Act, section 50 the agency or Minister considers access would not be in the best interests of the child;</p> <p>(1) This part is to be administered under the principle that the welfare and best interests of a child are paramount. (2) Subject to subsection (1), this part is to be administered under the following principles: (a) every child has a right to protection from harm; (b) families have the primary responsibility for the physical,</p>

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				<p>psychological and emotional wellbeing of their children;</p> <p>(c) the preferred way of ensuring a child’s wellbeing is through the support of the child’s family;</p> <p>(d) powers conferred under this part should be exercised in a way that is open, fair and respects the rights of people affected by their exercise, and, in particular, in a way that ensures:</p> <p>(i) the views of a child and the child’s family are considered; and</p> <p>(ii) a child and the child’s parents have the opportunity to take part in making decisions affecting the wellbeing of the child;</p> <p>(e) a child should be kept informed of matters affecting him or her in a way and to an extent that is appropriate, having regard to the child’s age and ability to understand.</p>
			213B	<p>(1) A person must not perform, or offer to perform, a cosmetic procedure on a child. Maximum penalty—2000 penalty units or 2 years imprisonment.</p> <p>(2) A person does not commit an offence against subsection (1) if the person believes, on grounds that are reasonable in the circumstances, that performance of the procedure is in the best interests of the child.</p>
	Right to Information Act 2009	Qld	44	<p>(3) Also, sections 50 and 51 set out circumstances concerning information about a child and personal healthcare information about an applicant in which the Parliament has stated its intention about what is in the best interests of the child and applicant.</p>
			47	<p>(1) This section sets out grounds on which access may be refused.</p>

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				<p>(2) It is the Parliament's intention that:</p> <p>(a) the grounds are to be interpreted narrowly; and</p> <p>(b) an agency or Minister may give access to a document even if a ground on which access may be refused applies.</p> <p>(3) On an application, an agency may refuse access to a document of the agency and a Minister may refuse access to a document of the Minister:</p> <p>(c) to the extent the document is sought under an application by or for a child and comprises the child's personal information the disclosure of which would not be in the child's best interests under section 50;</p>
			50	<p>(2) Despite schedule 3, section 12(2) and schedule 4, part 2, item 8, in relation to an application by or for a child for access to a document, the Parliament considers it would, on balance, be contrary to the public interest to give access to the document to the extent it comprises personal information of the child if the disclosure of the information would not be in the child's best interests.</p> <p>(3) In considering whether disclosure of the information would not be in the best interests of the child, the agency or Minister must, unless the access application was made for the child, have regard to whether the child has the capacity to:</p> <p>(a) understand the information and the context in which it was recorded; and</p> <p>(b) make a mature judgment as to what might be in his or her best interests.</p> <p>(4) However, despite an agency or Minister being able, under section 47(3)(c), to refuse access to all or part of a document, the agency or Minister may decide to give access.</p>

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			51	<p>(2) Despite schedule 3, section 12(2) and schedule 4, part 2, item 7, the Parliament considers it would, on balance, be contrary to the public interest to give access to a document to the extent it comprises relevant healthcare information of the applicant if the disclosure of the information might be prejudicial to the physical or mental health or wellbeing of the applicant.</p> <p><i>Note:</i> Only a principal officer, Minister or appointed healthcare professional may decide whether disclosure might be prejudicial to the physical or mental health or wellbeing of the applicant—see sections 30(5) and 31(2).</p> <p>(3) However, despite an agency or Minister being able, under section 47(3)(d), to refuse access to all or part of a document, the agency or the Minister may decide to give access.</p>
			54	<p>(2) In addition to the details that must be stated in a prescribed written notice, the notice must also specify the following:</p> <p>(g) if access to a document is refused under section 47(3): (v) if access is refused under section 47(3)(c)—the reason under section 50 the agency or Minister considers access would not be in the best interests of the child;</p>
			Schedule 4 Part 2	<p>Factors favouring disclosure in the public interest</p> <p>8 The information is the personal information of a child within the meaning of section 25, the agent acting for the applicant is the child's parent within the meaning of section 25 and disclosure of the information is reasonably considered to be in the child's best interests.</p>
			Schedule 4 Part	<p>Factors favouring nondisclosure in the public interest</p> <p>4 The information is the personal information of a child</p>

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			3	within the meaning of section 25, the applicant is the child's parent within the meaning of section 25 and disclosure of the information is reasonably considered not to be in the child's best interests.
	Surrogacy Act 2010	Qld	5	The main objects of this Act are: (a) to regulate particular matters in relation to surrogacy arrangements, including by prohibiting commercial surrogacy arrangements and providing, in particular circumstances, for the court-sanctioned transfer of parentage of a child born as a result of a surrogacy arrangement; and (b) in the context of a surrogacy arrangement that may result in the court-sanctioned transfer of parentage of a child born as a result: (i) to establish procedures to ensure parties to the arrangement understand its nature and implications; and (ii) to safeguard the child's wellbeing and best interests.
			6	(1) This Act is to be administered according to the principle that the wellbeing and best interests of a child born as a result of a surrogacy arrangement, both through childhood and for the rest of his or her life, are paramount. (2) Subject to subsection (1), this Act is to be administered according to the following principles: (a) a child born as a result of a surrogacy arrangement should be cared for in a way that: (i) ensures a safe, stable and nurturing family and home life; and (ii) promotes openness and honesty about the child's birth parentage; and (iii) promotes the development of the child's emotional, mental, physical and social wellbeing;

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				<p>(b) the same status, protection and support should be available to a child born as a result of a surrogacy arrangement regardless of:</p> <p>(i) how the child was conceived under the arrangement; or</p> <p>(ii) whether there is a genetic relationship between the child and any of the parties to the arrangement; or</p> <p>(iii) the relationship status of the persons who become the child's parents as a result of a transfer of parentage;</p> <p>(c) the long-term health and wellbeing of parties to a surrogacy arrangement and their families should be promoted;</p> <p>(d) the autonomy of consenting adults in their private lives should be respected.</p>
			21	<p>(1) An application for a parentage order in relation to a child may be made:</p> <p>(a) not less than 28 days and not more than 6 months after the child's birth; or</p> <p>(b) at a later time with the court's leave.</p> <p>(2) The court may grant leave under subsection (1)(b) only if it considers the making of the late application is justified because of exceptional circumstances and that it is for the wellbeing, and in the best interests, of the child to grant the leave.</p>
			22	<p>(1) On an application under this part, the court may make a parentage order for the transfer of parentage of a child to the applicant, or joint applicants.</p> <p>(2) The court may make the parentage order only if it is satisfied of all of the following matters:</p> <p>(a) the proposed order will be for the wellbeing, and in the best interests, of the child;</p>

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			23	<p>(1) The court may not dispense with a requirement mentioned in section 22(2)(a) or (e)(iii), (iv) or (vi).</p> <p>(2) The court may dispense with a requirement mentioned in section 22(2)(b) to (d), (e)(i), (ii) or (v), or (f) to (i) only if the court is satisfied:</p> <p>(a) there are exceptional circumstances for giving the dispensation; and</p> <p><i>Example of exceptional circumstances for dispensing with the requirement under section 22(2)(g)(ii) :</i></p> <p>One of the joint applicants is temporarily residing outside Queensland because of work commitments but is still in a spousal relationship with the other joint applicant who is resident in Queensland.</p> <p>(b) the dispensation will be for the wellbeing, and in the best interests, of the child.</p>
			26	<p>The affidavit sworn by the applicant, or joint applicants, must address the matters mentioned in section 22(2) (to the extent they are not matters regarding the birth mother, the birth mother's spouse (if any) or another birth parent (if any)), including by stating:</p> <p>(c) the understanding of the applicant, or joint applicants, in relation to openness and honesty about the child's birth parentage being for the wellbeing, and in the best interests, of the child;</p>
			27	<p>The affidavit sworn by the birth mother must address the matters mentioned in section 22(2)(a), (e), (f) and (h) (to the extent they are matters regarding the birth mother), and (2)(e)(iv) and (vi), including by stating:</p> <p>(b) the understanding of the birth mother in relation to openness and honesty about the child's birth parentage being for the wellbeing, and in the best interests, of the</p>

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				child;
			28	<p>The affidavit sworn by the birth mother’s spouse must address the matters mentioned in section 22(2)(a), (e), (f) and (h) (to the extent they are matters regarding the birth mother’s spouse) and (2)(e)(iv) and (vi), including by stating:</p> <p>(b) the understanding of the birth mother’s spouse in relation to openness and honesty about the child’s birth parentage being for the wellbeing, and in the best interests, of the child; and</p>
			29	<p>The affidavit sworn by the other birth parent must address the matters mentioned in section 22(2)(a) and (h) (to the extent it is a matter regarding the other birth parent) and (2)(e)(vi), including by stating:</p> <p>(b) the understanding of the other birth parent in relation to openness and honesty about the child’s birth parentage being for the wellbeing, and in the best interests, of the child;</p>
			32	<p>A surrogacy guidance report must be prepared by an independent and appropriately qualified counsellor and state the following matters:</p> <p>(d) the counsellor’s opinion formed as a result of the interviews relevant to the application for a parentage order including, for example, about the following matters:</p> <p>(i) each relevant person’s understanding of:</p> <p>(A) the social and psychological implications of the making of a parentage order on the child and relevant persons; and</p> <p>(B) openness and honesty about the child’s birth parentage being for the wellbeing, and in the best interests, of the child; and</p>

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				(ii) the care arrangements that the applicant, or joint applicants, have proposed for the child; and (iii) whether the making of a parentage order would be for the wellbeing, and in the best interests, of the child.
			33	On an application for a parentage order, the court may, for the purpose of deciding whether the proposed order will promote the child's wellbeing and best interests, require the attendance before it of the birth mother, the birth mother's spouse (if any), the other birth parent (if any), the applicant, or joint applicants, or another person who has sworn an affidavit for the application to: (a) give evidence in relation to the application; or (b) produce stated documents or things.
			35	(1) On the making of a parentage order, the child's names are the names the court approves for the child in the parentage order. (2) In approving a name under this section, the court must have regard to the child's wellbeing and best interests and must not approve a name that is a prohibited name under the <i>Births, Deaths and Marriages Registration Act 2003</i> .
			36	If the court makes a parentage order, it may also make any other order it considers appropriate in the interests of justice or to ensure the child's wellbeing and best interests.
			47	(7) If the court makes a discharge order, it may also make any other order it considers appropriate in the interests of justice or to ensure the child's wellbeing and best interests, including an order relating to: (a) the ownership or possession of property; or (b) any matter affecting the child in relation to the duties, powers, responsibilities and authority which, by law, parents

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	Youth Justice Act 1992	Qld		have in relation to children; or (c) where the child is to live.
			63	(4) In addition to the court's power under section 23, the court may dispense with a requirement under chapter 3 (other than a requirement mentioned in section 22(2)(e)(iii)) if the court considers it is: (a) for the wellbeing, and in the best interests, of the child born as a result of the pre-commencement surrogacy arrangement to dispense with the requirement;
			11	(1) Unless otherwise provided under this division, a police officer, before starting a proceeding against a child for an offence other than a serious offence, must first consider whether in all the circumstances it would be more appropriate to do 1 of the following: (a) to take no action; or (b) to administer a caution to the child; or (c) to refer the offence to a conference; or (d) if the offence is a minor drugs offence within the meaning of the <i>Police Powers and Responsibilities Act 2000</i> and the child may be offered an opportunity to attend a drug diversion assessment program under section 379 of that Act—to offer the child that opportunity in accordance with that section.
			30	(5) In deciding whether it is appropriate to refer an offence to a conference, a police officer or court must have regard to: (a) the offence's nature; and (b) the harm suffered by anyone because of the offence; and (c) whether the interests of the community and the child would be served by having the offence considered or dealt with at a conference.

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			119	(1) An application may be made by: (a) a child against whom the sentence order was made; or (b) the chief executive acting in the child's interests; or (c) the complainant or arresting officer for the charge for which the sentence order was made.
			131	(2) Application may be made to the court that made the finding or order to set aside the finding or order. (3) The application may be made by: (a) a party to the proceeding; or (b) if the person charged in the proceeding was a child—the chief executive acting in the child's interests; or (c) the director of public prosecutions.
			216	(2) An application may be made at any time to the court that made the original order to change the original order in the interests of justice. (3) The application may be made by the child

5. South Australia

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

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<p>ARTICLE 3:</p> <p>1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.</p> <p>2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.</p> <p>3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.</p>	<p>Adoption Act 1988</p>	<p>SA</p>	<p>7</p>	<p>In all proceedings under this Act, the welfare of the child to whom the proceedings relate must be regarded as the paramount consideration.</p>
			<p>8A</p>	<p>Before making an order for the adoption of a child of or over 5 years of age, the Court must interview the child to determine what the child's opinion is in relation to the proposed order (unless satisfied that the child is intellectually incapable of expressing an opinion).</p> <p>An interview under this section must not be conducted in the presence of any party to the adoption.</p> <p>In determining whether to make an order for adoption of a child the Court must take into account any opinion expressed by the child in an interview under this section.</p> <p>The Court may determine the weight to be given to an opinion expressed by a child in an interview under this section, taking into account the age of the child and any other factors the Court considers relevant.</p>
			<p>10</p>	<p>The Court will not make an adoption order in favour of:</p> <ul style="list-style-type: none"> • a person who is cohabiting with a birth or adoptive parent of the child in a marriage relationship; or • a relative of the child, either solely or jointly with any

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				<p>other person,</p> <p>unless satisfied that adoption is clearly preferable, in the interests of the child, to any alternative order that may be made under the laws of the State or the Commonwealth.</p> <p>The Court will not consider an application for adoption made by or on behalf of a person who is cohabiting with a birth or adoptive parent of the child in a marriage relationship unless the Family Court of Australia has given that person leave to proceed with the application for adoption under section 60G of the <i>Family Law Act 1975</i>.</p>
			11	<p>The Court will not make an order for the adoption of an Aboriginal child unless satisfied that adoption is clearly preferable, in the interests of the child, to any alternative order that may be made under the laws of the State or the Commonwealth.</p> <p>Subject to subsection (3), an order for the adoption of an Aboriginal child will not be made except in favour of a member of the child's Aboriginal community who has the correct relationship with the child in accordance with Aboriginal customary law or, if there is no such person seeking to adopt the child, some other Aboriginal person.</p> <p>An order for the adoption of an Aboriginal child may be made in favour of a person who is not an Aboriginal person if the Court is satisfied:</p> <ul style="list-style-type: none"> • that there are special circumstances justifying the making of the order; and • that the child's cultural identity with the Aboriginal

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				people will not be lost in consequence of the adoption.
			12	<p>Subject to this section, an adoption order will not be made except in favour of two persons who have been cohabiting together in a marriage relationship for a continuous period of at least five years.</p> <p>An adoption order may be made in favour of two persons who have been cohabiting together in a marriage relationship for a continuous period of less than five years if the Court is satisfied that there are special circumstances justifying the making of the order.</p> <p>An adoption order may be made in favour of one person where:</p> <ul style="list-style-type: none"> • that person has cohabited with a birth or adoptive parent of the child in a marriage relationship for a continuous period of at least five years; or • the Court is satisfied that there are special circumstances justifying the making of the order. <p>Where two persons are cohabiting in a marriage relationship, an adoption order will not be made except in favour of both or in the circumstances described in subsection (3) (a).</p> <p>An adoption order will not be made in favour of a person who is lawfully married but not cohabiting with his or her spouse unless the Court is satisfied, after interviewing the spouse of the person in private, that the spouse consents to</p>

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				the adoption.
			16	<p>An adoption order will not be made in relation to a child over the age of 12 years unless:</p> <ul style="list-style-type: none"> • the child has consented to the adoption; and • 25 days have elapsed since the giving of consent; and • the Court is satisfied, after interviewing the child in private, that the child's consent is genuine and the child does not wish to revoke it.
			22	<p>Before making an order for the adoption of a child, the Court will consider any report prepared by or on behalf of the Chief Executive and submitted to the Court as to:</p> <ul style="list-style-type: none"> • where the Chief Executive is the guardian of the child under section 25—the circumstances of the child; and • in any case—the suitability of the prospective adoptive parents and their capacity to care adequately for the child. <p>Subject to subsection (3), a copy of a report prepared under subsection (1) will be made available to the prospective adoptive parents.</p> <p>The Court may order that the contents or part of the contents of a report prepared under subsection (1) be suppressed from disclosure to the prospective adoptive parents or any other person.</p> <p>The Court may require prospective adoptive parents to</p>

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				submit evidence, to the satisfaction of the Court, of their good health.
			24	An application for an adoption order will not be heard in an open court. Except as authorised by the Court, the records of proceedings for an adoption order will not be open to inspection.
			25	Where: <ul style="list-style-type: none"> • each parent or guardian of a child has consented to the adoption of the child in general terms or such consent has been dispensed with; or • it is intended that an order for the adoption of a child be sought under this Act and arrangements are complete for the transfer of guardianship of the child from an officer of another State or a Territory of the Commonwealth whose functions correspond to those of the Chief Executive to the Chief Executive, the Chief Executive is the guardian of the child, for all purposes except the giving of consent to the adoption of the child, to the exclusion of all other persons until: <ul style="list-style-type: none"> • an adoption order is made in respect of the child; or • a consent referred to in paragraph (a) is lawfully revoked; or • the child is placed in the custody or under the guardianship of a person by order of a court; or • the Chief Executive orders, in writing, that the child be placed in the custody of a parent of the child. <p>The Chief Executive may, by agreement with some suitable person (including a parent of the child) and on such</p>

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				<p>conditions as the Chief Executive considers appropriate, place a child of whom the Chief Executive is the guardian under this section in the care of that person.</p> <p>The fact that the Chief Executive is the guardian of a child under this section does not affect the liability of any person to maintain the child.</p> <p>This section does not apply to a child who is under the guardianship of the Minister.</p>
			26A	<p>If a party to the adoption or proposed adoption of a child wishes to enter into an arrangement with another party to the adoption for the provision of information, contact or any other matters related to the welfare of the child, or to vary such an arrangement, the Chief Executive will endeavour to facilitate the making of the arrangement or variation.</p> <p>For the purposes of this section, the birth parents and the adoptive parents will be taken to be the parties to the adoption.</p> <p>The Chief Executive must ensure that the opinions of the child (so far as they are ascertainable) are taken into account in formulating any arrangement or variation under this section.</p> <p>An arrangement may not be entered into under this section in relation to an adopted child who has attained the age of 18 years and an arrangement relating to an adopted child will terminate on the child attaining the age of 18 years.</p>

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				<p>The Chief Executive must ensure that an arrangement entered into under this section, or any variation to such an arrangement, is reduced to writing and that copies of the arrangement or variation are provided to the parties to the arrangement.</p> <p>The Chief Executive will maintain a register of arrangements entered into under this section.</p> <p>An arrangement entered into under this section is not enforceable in any court and breach of an arrangement or failure to enter into such an arrangement does not affect the validity of an adoption order or of any consent to an adoption.</p> <p>This section applies only in relation to children adopted after the commencement of this Act.</p>
			27A	<p>The Chief Executive will disclose information to an adopted person or a birth parent before an entitlement to the information arises under section 27, if consent to the disclosure is given by'</p> <ul style="list-style-type: none"> • in the case of disclosure to an adopted person: <ul style="list-style-type: none"> (i) the adoptive parents; and (ii) if the name of a birth parent is to be disclosed—that parent; or

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				<ul style="list-style-type: none"> • in the case of disclosure to a birth parent: <ul style="list-style-type: none"> (i) the adoptive parents; and (ii) if the adopted person has attained the age of 12 years—the adopted person. <p>Section 27 relates to the right to obtain information once adopted person turns 18</p>
	Bail Act 1985	SA	41	<p>(1) Subject to a direction under subsection (2), the Registrar of Births, Deaths and Marriages must, on receipt of notice of the adoption of a child, cancel any entry formerly made in the register of births relating to the child and make a fresh entry containing:</p> <ul style="list-style-type: none"> • a statement of the date and place of birth of the child; and • the names of the persons who are in contemplation of law the parents of the child following the adoption. <p>(2) Subject to subsection (3), the Court may, on the application of the adoptive parents or the Chief Executive, direct the Registrar of Births, Deaths and Marriages not to cancel any entry formerly made in the register of births relating to the child but instead to add to that entry a note of the names of the adoptive parents.</p> <p>(3) Where either or both of the birth parents of the child are alive, the Court must not give a direction under subsection (2) unless satisfied that the information relating to the birth</p>

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				<p>parents of the child contained in the entry is known to the child or that the birth parents approve of the child having access to that information.</p> <p>(4) Subject to subsection (7), the Registrar of Births, Deaths and Marriages must not allow any person access to information contained in an entry cancelled under subsection (1) or in an entry in the register of births relating to a person who was adopted before the commencement of this Act except on the authorisation of the Chief Executive.</p> <p>(5) The Chief Executive must not authorise access to information by a person who was adopted before the commencement of this Act if a birth parent of the person directs the Chief Executive not to do so.</p> <p>(6) A direction under subsection (5):</p> <ul style="list-style-type: none"> • has effect for a period of five years, unless revoked earlier; • may, on the expiration of a period for which it has effect, be renewed; • must be lodged, renewed or revoked in a manner approved by the Chief Executive. <p>(7) The Registrar of Births, Deaths and Marriages may, without the authorisation of the Chief Executive, allow access to information contained in an entry cancelled under subsection (1)—</p> <ul style="list-style-type: none"> • if the person to whom the entry relates has attained the

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				<p>age of 18 years, to that person;</p> <ul style="list-style-type: none"> • to a birth parent of the person to whom the entry relates.
			13	<p>Where a member of the police force arrests a person who is, upon arrest, eligible to apply for release on bail, the member of the police force:</p> <ul style="list-style-type: none"> • must, as soon as reasonably practicable after delivering the arrested person to a police station after making the arrest, take reasonable steps to ensure that the arrested person and, where the arrested person is a child, any guardian who is present, understands that the arrested person is entitled to apply for release on bail under this Act; and • must ensure that the arrested person and, where the arrested person is a child, any guardian who is present, receives: <ul style="list-style-type: none"> (i) a written statement, in the prescribed form, explaining how, and to what authorities, an application for release on bail may be made under this Act; and (ii) the appropriate form for making an application for release on bail. <p>An eligible person who is a child and has applied unsuccessfully to a member of the police force for release on bail must, if the child or a guardian so requests, be brought as soon as practicable before the Youth Court of South Australia for the purpose of making an application for release on bail.</p>

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				<p>An eligible person who has been arrested on a charge of an offence must, if not released beforehand, be brought before the appropriate authority on the charge in relation to which he or she was arrested as soon as reasonably practicable on the next working day following the day of arrest but in any event not later than 4 p.m. on that day.</p> <p>The appropriate authority before whom a person is brought under subsection (3) must inquire whether that person desires to apply for release on bail and, if the person to whom the inquiry is directed answers affirmatively, the authority must afford the person a reasonable opportunity to apply for release on bail.</p> <p>In this section— 'appropriate authority' means— (a) in relation to a child—the <i>Youth Court of South Australia</i>; (b) in any other case—the Magistrates Court.</p>
	Births, Deaths and Marriages Registration Act 1996	SA	22A	<p>On receipt of a notice under section 10HD of the <i>Family Relationships Act 1975</i> in relation to the making or discharge of a surrogacy order about a child whose birth is registered in this State, the particulars provided in the notice must be registered by the Registrar in relation to the registration of the child's birth and the child's name.</p> <p>Without limiting subsection (1), the Registrar must, in relation to the Register, make such entries and alterations as are necessary to give effect to the operation of section 10HB(13) or 10HC(10) (as the case requires) of the <i>Family</i></p>

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				<p><i>Relationships Act 1975.</i></p> <p>Subject to subsection (4), a certificate issued by the Registrar after the registration of the particulars provided in a notice under section 10HD of the <i>Family Relationships Act 1975</i>—</p> <ul style="list-style-type: none"> • must only disclose and certify up-to-date particulars contained in an entry; and • must not provide any information disclosing a change in a parent or parents of the relevant child, or a change in the name of the child (including by disclosing the name of, or information about, any birth parent who is no longer considered as a parent of the child). <p>A person:</p> <ul style="list-style-type: none"> • who is the subject of a surrogacy order and who has attained the age of 18 years; or • who is a party to the surrogacy agreement that gave rise to a surrogacy order, is entitled to a certificate certifying all relevant entries in the Register. <p>On the receipt of a notice under section 10HD of the <i>Family Relationships Act 1975</i> in relation to the making or discharge of a surrogacy order about a child whose birth is registered in another State, the Registrar must send a copy of the notice to the relevant registering authority.</p>
			25	The parents of a child:

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				<ul style="list-style-type: none"> • who is domiciled or ordinarily resident in the State; or • whose birth is registered in the State; <p>may apply to the Registrar, in a form approved by the Registrar, for registration of a change of the child's name.</p> <p>An application for registration of a change of a child's name may be made by one parent if:</p> <ul style="list-style-type: none"> • the applicant is the sole parent named in the registration of the child's birth under this Act or any other law; or • there is no other surviving parent of the child; or • the Court approves the proposed change of name. <p>The Court may, on application by a child's parent, approve a proposed change of name for the child if satisfied that the change is in the child's best interests.</p> <p>If the parents of a child are dead, cannot be found, or for some other reason cannot exercise their parental responsibilities to a child, the child's guardian may apply for registration of a change of the child's name.</p>
			26	<p>A change of a child's name must not be registered unless:</p> <ul style="list-style-type: none"> • the child consents to the change of name; or <p>the child is unable to understand the meaning and implications of the change of name.</p>

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			27	<p>Before registering a change of name under this Part, the Registrar may require the applicant to provide evidence to establish to the Registrar's satisfaction:</p> <ul style="list-style-type: none"> • the identity and age of the person whose name is to be changed; and • that the change of name is not sought for a fraudulent or other improper purpose; and • if the person whose name is to be changed is a child—that the child consents to the change of name or is unable to understand the meaning and implications of the change of name. <p>If the Registrar is satisfied that the name of a person whose birth is registered in the State has been changed under another law or by order of a court, the change of name may be registered under this Act.</p> <ul style="list-style-type: none"> • The Registrar may refuse to register a change of name if, as a result of the change, the name would become a prohibited name.
			Schedule 1: South Australian Carers Charter Rule 6	<p>All children and young people have the right to enjoy life and reach their potential:</p> <p>Children and young people who are carers should be specifically identified and supported by individuals, business and community organisations, public institutions and all levels of government.</p>

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				<p>The special needs of children and young people who are carers and the unique barriers to their access to service provision should be recognised and acted on so that, as far as possible, they have the same opportunities as other children and young people in Australia.</p> <p>The caring responsibilities of children and young people who are carers should be minimised.</p>
	Carers Recognition Act 2005	SA	5	<p>(1) Any law requiring a person to keep particular information confidential or in any way restricting the disclosure or publication of information does not prevent a person from providing information in the course of or for the purposes of the Review.</p> <p>(2) Information obtained in the course of or for the purposes of the Review must not be further disclosed or published if:</p> <p>(a) the information is personal information relating to a child, a child's guardians or other family members or any person alleged to have abused, neglected or threatened a child; or</p> <p>(b) the information discloses the identity of, or leads to the identification of, a person who has notified an authorised person or the Department that he or she suspects that a child has been, or is being, abused or neglected; or</p> <p>(c) the person appointed to conduct the Review, having formed the view that it is necessary to do so in the interests of justice or to prevent hardship or embarrassment to any person, makes a declaration forbidding the further disclosure</p>

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				<p>or publication of the information.</p> <p>(3) However, subsection (2) does not prevent the further disclosure or publication of information:</p> <p>(a) for the purposes of the Review or a report to the Minister; or</p> <p>(b) with the consent of the person (not being a child) to whom the information relates; or</p> <p>(c) to a person engaged in the administration of the <i>Children's Protection Act 1993</i> or a similar law of another State or a Territory of the Commonwealth; or</p> <p>(d) an authorised police officer; or</p> <p>(e) by way of evidence adduced in accordance with subsections (4) and (5); or</p> <p>(f) if the information has been made public.</p> <p>(4) Subject to subsection (5):</p> <p>(a) no evidence of information referred to in subsection (2) may be adduced in proceedings before a court without the permission of the court; and</p> <p>(b) unless such permission is granted, a party or witness in those proceedings must not be asked, and, if asked, cannot be required to answer, any question that cannot be answered without disclosing such information.</p>

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				<p>(5) A court cannot grant permission under subsection (4) unless:</p> <p>(a) the court is satisfied that the evidence is of critical importance in the proceedings and that failure to admit it would prejudice the proper administration of justice; or</p> <p>(b) the person (not being a child) to whom the information relates consents to the admission of the evidence in the proceedings.</p> <p>(6) An application for permission to adduce evidence under subsection (4):</p> <p>(a) must not, except as authorised by the court, be heard and determined in public; and</p> <p>(b) must be conducted in such a manner as to protect, so far as may be practicable, the information concerned pending the determination of the application.</p> <p>(7) A person who contravenes subsection (2) is guilty of an offence.</p> <p>Maximum penalty: \$10 000.</p> <p>(8) An authorised person must, in any event, in preparing a report for the Minister about the Review, take all reasonable steps to avoid the disclosure of information that may identify, or lead to the identification of, a particular child.</p> <p>(9) Despite the preceding provisions, the Minister or the</p>

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				<p>Chief Executive Officer may, if of the view that it would be in the public interest to do so, publish a report containing information of a kind referred to in this section, or otherwise disclose or authorise the disclosure of such information, as the Minister or the Chief Executive Officer thinks fit, but not if to do so would be contrary to a law other than this Act or contrary to a direction of the person appointed to conduct the Review.</p> <p>(10) A term used in this section will, if it is defined in the <i>Children's Protection Act 1993</i>, have the same meaning as in that Act.</p>
	<p>Child Protection Review (Powers and Immunities) Act 2002</p>	<p>SA</p>	<p>Schedule— Terms of reference for review of child protection in South Australia</p>	<p>To deliver a plan to the Minister that provides effective strategies to improve the provision of child protection services in this State and ensure better outcomes for children, young people and their families. In doing this, the Review will:</p> <ul style="list-style-type: none"> • Review Department of Human Services policy, practice and procedures and include both government and DHS funded services • Determine the effectiveness of the legislation, practices and services in protecting children and young people • Provide advice on early intervention and prevention strategies that prevent abuse of children • Ensure particular attention is given to the needs of indigenous children and their families • Consider whether current Acts (<i>Children's Protection Act 1993</i> and <i>Family and Community Services Act 1972</i>) adequately provide for the care and protection of children and young people and provide advice on any legislative

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				<p>reform.</p> <p>To examine the adequacy of the SA criminal law and police procedures in dealing with child abuse.</p> <p>To provide advice to government on the strategies and systems required to achieve a whole-of-government, co-ordinated and integrated response to the protection of children.</p> <p>To provide advice to government and consider legislation to ensure organisations protect children from sexual and physical violence whilst in their care. Particular attention will be given to screening mechanisms for checking suitability of employees/volunteers, policies, procedures and training.</p>
			3	<p>The objects of this Act are:</p> <ul style="list-style-type: none"> • to ensure that all children are safe from harm; and • to ensure as far as practicable that all children are cared for in a way that allows them to reach their full potential; and • to promote caring attitudes and responses towards children among all sections of the community so that the need for appropriate nurture, care and protection (including protection of the child's cultural identity) is understood, risks to a child's wellbeing are quickly identified, and any necessary support, protection or care is promptly provided; and

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				to recognise the family as the primary means of providing for the nurture, care and protection of children and to accord a high priority to supporting and assisting the family to carry out its responsibilities to children.
	Children's Protection Act 1993	SA	4	<p>(1) Every child has a right to be safe from harm.</p> <p>(2) Every child has a right to care in a safe and stable family environment or, if such a family environment cannot for some reason be provided, in some alternative form of care in which the child has every opportunity that can be reasonably provided to develop to his or her full potential.</p> <p>(3) In the exercise of powers under this Act, the above principles and the child's wellbeing and best interests are to be the paramount considerations.</p> <p>(4) In determining a child's best interests, consideration must be given to the following:</p> <p>(a) the desirability of keeping the child within the child's own family and the undesirability of withdrawing the child unnecessarily from a neighbourhood or environment with which the child has an established sense of connection; and</p> <p>(b) the need to preserve and strengthen relationships between the child, the child's parents and grandparents and other members of the child's family (whether or not the child is to reside with those parents, grandparents or other family members); and</p> <p>(c) the need to encourage, preserve and enhance the child's</p>

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				<p>sense of racial, ethnic, religious, spiritual and cultural identity and to respect traditions and values of the community into which the child was born; and</p> <p>(d) if the child is able to form and express his or her own views as to his or her best interests—those views; and</p> <ul style="list-style-type: none"> • (e) the undesirability of interrupting the child's education or employment unnecessarily.
	<p>Children's Protection Act 1993</p>	SA	16	<p>(1) If an officer believes on reasonable grounds that a child is in a situation of serious danger and that it is necessary to remove the child from that situation in order to protect the child from harm (or further harm), the officer may remove the child from any premises or place, using such force (including breaking into premises) as is reasonably necessary for the purpose.</p> <p>(1a) If:</p> <p>(a) a restraining order has been made under section 99AAC of the <i>Summary Procedure Act 1921</i> preventing a person from residing with a child; and</p> <p>(b) the child is residing, during the operation of the order, with the person, the child will be taken, for the purposes of this section, to be in a situation of serious danger from which an officer is authorised to remove him or her under subsection (1).</p> <p>(2) An officer's powers under this section are subject to the</p>

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				<p>following limitations:</p> <p>(a) a police officer below the rank of inspector may only remove a child from a situation of danger with the prior approval of a police officer of or above the rank of inspector unless he or she believes on reasonable grounds that the delay involved in seeking such an approval would prejudice the child's safety; and</p> <p>(b) an employee of the Department may only remove a child from the custody of a guardian with the Chief Executive's prior approval.</p> <p>(3) An officer who removes a child under this section must, if possible, return the child to the child's home unless:</p> <p>(a) the child is a child who is under the guardianship, or in the custody, of the Minister; or</p> <p>(b) the officer is of the opinion that it would not be in the best interests of the child to return home.</p> <p>(4) If an officer removes a child under this section, and the child is not returned to the child's home under subsection</p> <p>(3), the officer must deliver the child into the care of such person as the Chief Executive, or the Chief Executive's nominee, directs.</p> <p>(5) If the Minister does not already have custody of a child who is removed from a situation of danger under this section,</p>

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				<p>the Minister has custody of the child until:</p> <p>(a) the end of the working day following the day on which the child was removed; or</p> <p>(b) the child's return home, (whichever is the earlier).</p> <p>(6) The power to remove a child under this section is in addition to, and does not derogate from, the powers of an authorised police officer under section 51(4).</p>
			21	<p>(1) If, on an application under this Division, the Court is satisfied that there are sufficient grounds for making an order under this section and that it would be in the best interests of the child the subject of the application that such an order be made, the Court may make all or any of the following orders:</p> <p>(a) an order authorising examination and assessment of the child; and</p> <p>(ab) an order authorising or directing the assessment, by such person as the Court may appoint, of a parent, guardian or other person who has, or is responsible for, the care of a child to determine the capacity of that parent or other person to care for and protect the child;</p> <p>Example:</p> <p>Such an order could, for example, direct a parent, guardian or</p>

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				<p>other person to undergo a drug assessment.</p> <p>(b) an order authorising the Chief Executive to require:</p> <p>(i) any person to answer, to the best of the person's knowledge, information or belief, questions put by an employee of the Department authorised by the Minister to exercise the power to question; or</p> <p>(ii) any person who has examined, assessed or treated a party to the proceedings (other than the child), or the agency for whom the person works, to furnish the Chief Executive with a written report of that examination, assessment or treatment; and</p> <p>(c) an order granting custody of the child to the Minister; and</p> <p>(d) an order directing a party to the application who resides with the child to cease or refrain from residing in the same premises as the child; and</p> <p>(e) an order directing a party to the application to refrain from having contact with the child; and</p> <p>(f) such ancillary orders as the Court thinks fit.</p> <p>(2) An order under subsection (1):</p> <p>(a) has effect for the period (not exceeding 6 weeks) specified in the order; and</p> <p>(b) may, on application by the Chief Executive, be extended</p>

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				<p>(once only) for a period (not exceeding four weeks) specified in the order.</p> <p>(3) An application for extension under subsection (2)(b) must be heard by the Senior Judge of the Court.</p> <p>(4) A party to the proceedings who, having been served personally with an order made under subsection (1), contravenes or fails to comply with the order is guilty of an offence.</p> <p>Maximum penalty: Imprisonment for 3 months.</p>
			48	<p>(1) The Court must not proceed to hear an application under this Act unless:</p> <p>(a) the child is represented in the proceedings by a legal practitioner; or</p> <p>(b) the Court is satisfied that the child has made an informed and independent decision not to be so represented.</p> <p>(2) If the child is to be represented by a legal practitioner, but is not capable of properly instructing the legal practitioner, the legal practitioner must act, and make representations to the Court, according to his or her own view of the best interests of the child.</p> <p>(3) A child (whether represented by a legal practitioner or not) must be given a reasonable opportunity to give the child's own views personally to the Court about his or her</p>

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				<p>ongoing care and protection unless the Court is satisfied that:</p> <p>(a) the child is not capable of doing so; or</p> <p>(b) to do so would give rise to an unacceptable risk to the child's wellbeing.</p>
			52	<p>(1) If a child is subject to an order placing the child under the guardianship of the Minister until the child attains 18 years of age, a review of the circumstances of the child must be carried out at least once in each year that the child remains subject to the order.</p> <p>(2) The review will be carried out by a panel appointed by the Minister for the purpose.</p> <p>(3) The panel carrying out a review must keep under constant consideration whether the existing arrangements for the care and protection of the child continue to be in the best interests of the child.</p> <p>(4) Subject to subsection (5), the Minister must cause a copy of the conclusions reached by a review panel to be given to the child, the child's guardians and the persons who have the care of the child.</p> <p>(5) The Minister is not obliged to give a copy of the panel's conclusions to a particular person if:</p> <p>(a) the Minister is of the opinion that it would not be in the best interests of the child to do so; or</p>

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				(b) the whereabouts of the person cannot, after reasonable enquiries, be ascertained.
			52C	<p>(1) The Guardian's functions are as follows:</p> <p>(a) to promote the best interests of children under the guardianship, or in the custody, of the Minister, and in particular those in alternative care; and</p> <p>(b) to act as an advocate for the interests of children under the guardianship, or in the custody, of the Minister and, in particular, for any such child who has suffered, or is alleged to have suffered, sexual abuse; and</p> <p>(c) to monitor the circumstances of children under the guardianship, or in the custody, of the Minister; and</p> <p>(d) to provide advice to the Minister on the quality of the provision of care for children under the guardianship, or in the custody of, the Minister and on whether the children's needs are being met; and</p> <p>(e) to inquire into, and provide advice to the Minister in relation to, systemic reform necessary to improve the quality of care provided for children in alternative care; and</p> <p>(f) to investigate and report to the Minister on matters referred to the Guardian by the Minister.</p>
			12	A medical practitioner may administer medical treatment to a child if:

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				<p>(a) the parent or guardian consents; or</p> <p>(b) the child consents and:</p> <p>(i) the medical practitioner who is to administer the treatment is of the opinion that the child is capable of understanding the nature, consequences and risks of the treatment and that the treatment is in the best interest of the child's health and well-being; and</p> <p>(ii) that opinion is supported by the written opinion of at least one other medical practitioner who personally examines the child before the treatment is commenced.</p>
	<p>Consent to Medical Treatment and Palliative Care Act 1995</p>	SA		<p>(1) Subject to subsection (3), a medical practitioner may lawfully administer medical treatment to a person (the 'patient') if:</p> <p>(a) the patient is incapable of consenting; and</p> <p>(b) the medical practitioner who administers the treatment is of the opinion that the treatment is necessary to meet an imminent risk to life or health and that opinion is supported by the written opinion of another medical practitioner who has personally examined the patient; and</p> <p>(c) the patient (is of or over 16 years of age) has not, to the best of the medical practitioner's knowledge, refused to consent to the treatment.</p> <p>(2) A supporting opinion is not necessary under subsection (1) if in the circumstances of the case it is not practicable to</p>

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				<p>obtain such an opinion.</p> <p>(3) If:</p> <p>(a) the patient has appointed a medical agent; and</p> <p>(b) the medical practitioner proposing to administer the treatment is aware of the appointment and of the conditions and directions contained in the medical power of attorney; and</p> <p>(c) the medical agent is available to decide whether the medical treatment should be administered, the medical treatment may not be administered without the agent's consent.</p> <p>(4) If no such medical agent is available and a guardian of the patient is available, the medical treatment may not be administered without the guardian's consent.</p> <p>(5) If the patient is a child, and a parent or guardian of the child is available to decide whether the medical treatment should be administered, the parent's or guardian's consent to the treatment must be sought but the child's health and well-being are paramount and if the parent or guardian refuses consent, the treatment may be administered despite the refusal if it is in the best interests of the child's health and well-being.</p>
			75	(1) Subject to this Part, a child of compulsory school age must be enrolled at a primary school or secondary school

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				<p>(according to the educational attainments of the child).</p> <p>(2) Subject to this Part, a child of compulsory education age must be enrolled in an approved learning program, or in a combination of approved learning programs, so as to constitute full-time participation in approved learning programs under this Act.</p> <p>(2a) Nothing in this section requires a child who:</p> <p>(a) is 16 or more years of age; and</p> <p>(b) has achieved a qualification under an approved learning program, to be enrolled in a school or in an approved learning program under this section.</p> <p>(3) Where in the opinion of the Director-General it is in the best interests of a child that he be enrolled at a special school, the Director-General may direct that the child be enrolled at a special school nominated in the direction and, where such direction has been given, the child must be enrolled at that special school.</p> <p>(4) A child is enrolled at a school in accordance with this section if he is entitled, in accordance with the regulations, to be enrolled at a Correspondence School and is so enrolled.</p> <p>(5) If a child of compulsory school age is not enrolled as required by this section, each parent of the child is guilty of an offence.</p>

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				<p>Maximum penalty: \$500.</p> <p>(6) The obligation of a parent under this section is discharged where the parent has supplied the head teacher of the school with:</p> <ul style="list-style-type: none"> (a) the name and date of birth of the child; and (b) the place of residence of the child; and (c) any other information required by the regulations.
	Education Act 1972	SA	3	<p>(1) The objective of this Law is to establish a national education and care services quality framework for the delivery of education and care services to children.</p> <p>(2) The objectives of the national education and care services quality framework are:</p> <ul style="list-style-type: none"> (a) to ensure the safety, health and wellbeing of children attending education and care services; and (b) to improve the educational and developmental outcomes for children attending education and care services; and (c) to promote continuous improvement in the provision of quality education and care services; and (d) to establish a system of national integration and shared responsibility between participating jurisdictions and the Commonwealth in the administration of the national

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				<p>education and care services quality framework; and</p> <p>(e) to improve public knowledge, and access to information, about the quality of education and care services; and</p> <p>(f) to reduce the regulatory and administrative burden for education and care services by enabling information to be shared between participating jurisdictions and the Commonwealth.</p> <p>(3) The guiding principles of the national education and care services quality framework are as follows:</p> <p>(a) that the rights and best interests of the child are paramount; and</p> <p>(b) that children are successful, competent and capable learners; and</p> <p>(c) that the principles of equity, inclusion and diversity underlie this Law; and</p> <p>(d) that Australia's Aboriginal and Torres Strait Islander cultures are valued; and</p> <p>(e) that the role of parents and families is respected and supported; and</p> <p>(f) that best practice is expected in the provision of education and care services.</p>

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	Education and Early Childhood Services (Regulation and Standards) Act 2011	SA	9	<p>(1) The objects of this Act include providing for the regulation of the provision of education and early childhood services in a manner that maintains high standards of competence and conduct by providers and:</p> <p>(a) recognises that all children should have access to high quality education and early childhood facilities and services that:</p> <p>(i) address their developmental needs; and</p> <p>(ii) maximise their learning and development potential through an appropriate curriculum; and</p> <p>(iii) support their educational achievement; and</p> <p>(iv) promote enthusiasm for learning; and</p> <p>(v) support, promote and contribute to their health, safety and well-being; and</p> <p>(b) provides for a diverse range of services; and</p> <p>(c) recognises the rights of parents to access a diverse range of education and early childhood services providers; and</p> <p>(d) enhances public confidence in the operation of education and early childhood services providers.</p> <p>(2) The following principles should be taken into account in the administration of this Act:</p>

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				<p>(a) parents and guardians should have the right to choose the best services for their family; and</p> <p>(b) parents and guardians, and members of school communities, should have access to relevant information concerning the regulation of their child's school; and</p> <p>(c) the welfare and best interests of children is the primary consideration in the performance of the Board's functions; and</p> <p>(d) any person who works with children is obliged to protect them, respect their dignity and privacy and safeguard and promote their well-being;</p>
			70	<p>A Regulatory Authority may suspend a service approval if:</p> <p>(a) the Regulatory Authority reasonably believes that it would not be in the best interests of children being educated and cared for by the service for the service to continue; or</p> <p>(b) a condition of the service approval has not been complied with; or</p> <p>(c) the service is not being managed in accordance with this Law; or</p> <p>(d) the service has operated at a rating level as not meeting the National Quality Standard and:</p> <p>(i) a service waiver or temporary waiver does not apply to</p>

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				<p>the service in respect of that non-compliance; and</p> <p>(ii) there has been no improvement in the rating level; or</p> <p>(e) the approved provider has contravened this Law as applying in any participating jurisdiction; or</p> <p>(f) the approved provider has failed to comply with a direction, compliance notice or emergency order under this Law as applying in any participating jurisdiction in relation to the service; or</p> <p>(g) the approved provider has:</p> <p>(i) ceased to operate the education and care service at the education and care service premises for which the service approval was granted; and</p> <p>(ii) within 6 months of ceasing to operate the service, has not transferred the service to another approved provider; or</p> <p>(h) the approved provider has not, within 6 months after being granted a service approval, commenced ongoing operation of the service; or</p> <p>(i) the approved provider has not paid the prescribed annual fee for the service approval.</p>
			10HB	<p>(1) In this section—</p> <p>'birth parent', of a child, means—</p>

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				<p>(a) the woman who gave birth to the child; or</p> <p>(b) a man (if any) who is the father of the child under another Part of this Act (the 'birth father'); or</p> <p>'birth sibling', of a child, means a brother or sister of the child who is born as a result of the same pregnancy as the child; or</p> <p>'commissioning parents' means the commissioning parents under a recognised surrogacy agreement;</p> <p>'Court' means the <i>Youth Court of South Australia</i> constituted of a Judge.</p> <p>(2) This section applies to a child if:</p> <p>(a) the child was born under the terms of a recognised surrogacy agreement; and</p> <p>(b) the commissioning parents under the surrogacy agreement are domiciled in this State; and</p> <p>(c) the child was conceived as a result of a fertilisation procedure carried out in this State.</p> <p>(3) An application may be made to the Court for an order under this section in relation to a child.</p> <p>(4) The application may be made by either or both of the commissioning parents.</p>

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				<p>(5) The application may only be made when the child is between the ages of 4 weeks and 6 months.</p> <p>(6) In deciding an application under this section, the welfare of the child must be regarded as the paramount consideration.</p> <p>(7) In addition to being satisfied as to the matters referred to above (including as to the validity of the relevant agreement as a recognised surrogacy agreement), the Court must not make an order under this section unless it is satisfied that the surrogate mother freely, and with a full understanding of what is involved, agrees to the making of the order.</p> <p>(8) However, the Court may dispense with the requirement under subsection (7):</p> <p>(a) if satisfied that the surrogate mother is dead or incapacitated; or</p> <p>(b) if satisfied that the applicants cannot contact the surrogate mother after making reasonable inquiries; or</p> <p>(c) in any other circumstances prescribed by the regulations.</p> <p>(9) In deciding whether to make an order under this section, the Court must also take into account the following, if relevant:</p> <p>(a) whether the child's home is, and was at the time of the application, with both commissioning parents;</p>

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				<p>(b) if only 1 of the commissioning parents has applied for the order, and the other commissioning parent is alive at the time of the application, whether:</p> <p>(i) the other commissioning parent freely, and with a full understanding of what is involved, agrees to the making of an order in favour of the applicant commissioning parent; or</p> <p>(ii) the applicant commissioning parent cannot, after making reasonable inquiries, contact the other commissioning parent to obtain his or her agreement under subparagraph (i); and</p> <p>(c) whether valuable consideration (other than for expenses of the kind allowed under section 10HA(2)(b)(ix)) has been given or received by either of the commissioning parents, or either of the child's birth parents, for or in consideration of:</p> <p>(i) the making of the order; or</p> <p>(ii) the handing over of the child to the commissioning parents; or</p> <p>(iii) the making of any arrangements with a view to the making of the order; and</p> <p>(d) any submission made to the Court by, or on behalf of, the birth father.</p> <p>(10) The Court must also decide whether, in the opinion of the Court, the commissioning parents are fit and proper persons to assume the role of parents of the child.</p>

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				<p>(11) The Court may take into account anything else it considers relevant.</p> <p>(12) The Court may, before deciding whether to make an order under this section, require any party to the proceedings to provide an assessment from a counselling service (obtained at the expense of the commissioning parents) in relation to the matter.</p> <p>(13) If the Court makes an order under this section, the effect of the order for the purposes of the laws of the State will be as follows:</p> <p>(a) the relationship between the child and the commissioning parent or each commissioning parent (as specified under the terms of the order) is to be treated as being that of child and parent; and</p> <p>(b) the relationship between the child and any birth parent is to be treated as not being that of child and parent; and</p> <p>(c) the relationships of all other persons to the child are to be determined according to the operation and effect of paragraphs (a) and (b).</p> <p>(14) In the making of an order under this section in relation to a child, the child has as his or her name such name as the Court, on the application of either or both of the commissioning parents, approves in the order.</p> <p>(15) Subsection (14) does not prevent a name of a child being later changed in accordance with another law of the</p>

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				<p>State.</p> <p>(16) If an order is made under this section, an appointment existing at the time the order is made of a person as the guardian of the child ceases to have effect.</p> <p>(17) If a child in relation to whom an application for an order has been made under this section has a living birth sibling—</p> <p>(a) the application will be taken to relate to the child and the birth sibling; and</p> <p>(b) the Court may only make an order about the child if it makes a comparable order (in all respects apart from any given name or names) about the birth sibling; and</p> <p>(c) this section will apply to the birth sibling in the same way as it applies to the child.</p>
	<p>Family Relationships Act 1975</p>	<p>SA</p>	<p>10HC</p>	<p>(1) Terms used in this section have meanings consistent with the meanings they have in section 10HB.</p> <p>(2) The Court may, if satisfied as described in subsection (3), make an order discharging an order under section 10HB on receiving an application to do so from:</p> <p>(a) the Attorney-General; or</p> <p>(b) the chief executive of the administrative unit principally assisting in the administration of the <i>Adoption Act 1988</i>.</p> <p>(3) On an application under subsection (2), the Court may</p>

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				<p>make an order discharging an order under section 10HB if it is satisfied that:</p> <p>(a) the original order was obtained by fraud, duress or other improper means; or</p> <p>(b) a consent relied on for the making of the original order was not an effective consent because it was obtained by fraud, duress or material inducement; or</p> <p>(c) there is an exceptional reason why the original order should be discharged.</p> <p>(4) In the making of an order under this section in relation to a child, the Court is to declare the name by which the child is to be known, having regard to the principle that the child's first name should not be changed by the order except in exceptional circumstances.</p> <p>(5) Subsection (4) does not prevent a name of a child being later changed in accordance with another law of the State.</p> <p>(6) The Court is not to make an order under this section unless:</p> <p>(a) to do so would be for the welfare and best interests of the child who would be affected by the order; and</p> <p>(b) the Court is satisfied that reasonable efforts have been made to give notice of the application to:</p>

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				<p>(i) each of the birth parents of the child; and</p> <p>(ii) each of the commissioning parents; and</p> <p>(iii) if the Court considers it appropriate having regard to the child's age, the child.</p> <p>(7) Any person may apply for leave to intervene in an application under this section and the Court may make an order entitling the person to intervene in the application.</p> <p>(8) A person who is permitted under subsection (7) to intervene in an application under this section is to be treated as a party to the application with all the rights, duties and liabilities of a party, unless the Court orders otherwise.</p> <p>(9) If an order is made under this section, the Court may make any consequential or ancillary order it thinks fit in the interests of justice or for the welfare and in the best interests of the child to whom the order relates, including any order relating to:</p> <p>(a) the ownership or possession of property; or</p> <p>(b) any matter affecting the child in relation to the duties, powers, responsibilities and authority which, by law, parents have in relation to children; or</p> <p>(c) the domicile of the child.</p> <p>(10) If an order is made under this section, the rights, duties and relationships under the law of the State are to be as if the</p>

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				<p>original order had not been made.</p> <p>(11) Subsection (10):</p> <p>(a) does not apply to the extent that its application would be inconsistent with any order made under subsection (9); and</p> <p>(b) does not affect:</p> <p>(i) anything lawfully done; or</p> <p>(ii) the consequences of anything lawfully done; or</p> <p>(iii) any proprietary right or interest that became vested in any person, while the original order was in force.</p>
			6	<p>(1) The court may, upon the application of a person who has a proper interest in the welfare of an infant, make such orders for the custody of, and access to, the infant as it thinks fit.</p> <p>(2) The court may upon the application of any person who has the guardianship of an infant jointly with some other person (whether or not one or both of those persons are parents of the infant) make any order that it thinks proper in relation to a matter in dispute between those guardians affecting the upbringing or welfare of the infant.</p> <p>(3) In exercising its powers under this section, the court shall have regard to the conduct of the parents of the infant, and of any other person who may be a party to the application.</p> <p>(4) The court may vary or discharge an order made under</p>

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				<p>this section.</p> <p>(5) The fact that a person who seeks an order for the custody of an infant under this section is resident outside this State, or contemplates leaving this State, shall not of itself constitute a ground for denying custody of the infant to that person.</p> <p>(6) The court may make such orders for costs in relation to proceedings under this section as it thinks fit.</p> <p>(7) For the purposes of this section a person has a proper interest in the welfare of an infant if that person:</p> <p>(a) is the mother or father of the infant; or</p> <p>(b) is a guardian of the infant; or</p> <p>(c) is a person who, in the opinion of the court, has in the circumstances of the case a proper interest in the welfare of the infant.</p>
	<p>Guardianship of Infants Act 1940</p>	<p>SA</p>	<p>8</p>	<p>Where the parent of an infant applies to any court of competent jurisdiction for a writ or order for the production of the infant and the court is of opinion that the parent has abandoned or deserted the infant or that he has otherwise so conducted himself that the court should refuse to enforce his right to the custody of the infant, the court may in its discretion decline to issue the writ or make the order.</p>
			<p>10</p>	<p>Where a parent has abandoned or deserted his infant, or allowed his infant to be brought up by another person at that or some other person's expense for such length of time and in</p>

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				such circumstances as to satisfy a court of competent jurisdiction that the parent was unmindful of his parental duties, the court shall not make an order for the delivery of the infant to the parent unless the parent has satisfied the court that having regard to the welfare of the infant he is a fit person to have the custody of the infant, and that it is in the interests of the infant that he should be delivered to the parent.
			11	<p>(1) Where in any proceeding before the court or any other court of competent jurisdiction the custody or upbringing of an infant, or the administration of any property belonging to or held in trust for an infant, or the application of the income thereof, is in question, the court in deciding that question shall regard the welfare of the infant as the first and paramount consideration, and shall not take into consideration whether from any other point of view the claim of the father, or any right at common law possessed by the father, in respect of such custody, upbringing, administration or application is superior to that of the mother, or the claim of the mother is superior to that of the father.</p> <p>(2) In this section: 'Upbringing' includes religious instruction.</p>
			12	(1) On the death of the father of an infant, the mother, if surviving, shall, subject to the provisions of this Act, be guardian of the infant, either alone or jointly with any guardian appointed by the father. When no guardian has been appointed by the father or if the guardian or guardians

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				<p>appointed by the father is or are dead or refuses or refuse to act, the court may if it thinks fit appoint a guardian to act jointly with the mother.</p> <p>(2) On the death of the mother of an infant, the father, if surviving, shall, subject to the provisions of this Act, be guardian of the infant, either alone or jointly with any guardian appointed by the mother. When no guardian has been appointed by the mother or if the guardian or guardians appointed by the mother is or are dead or refuses or refuse to act, the court may if it thinks fit appoint a guardian to act jointly with the father.</p>
			16	<p>The court may, in its discretion, on being satisfied that it is for the welfare of the infant, remove from his office any testamentary guardian, or any guardian appointed or acting by virtue of this Act, and may also, if it deems it to be for the welfare of the infant, appoint another guardian in place of the guardian so removed.</p>
			6	<p>The following persons are, in respect of the estate of a deceased person, entitled to claim the benefit of this Act:</p> <p>(a) the spouse of the deceased person; or</p> <p>(b) a person who has been divorced from the deceased person; or</p> <p>(ba) the domestic partner of the deceased person; or</p> <p>(c) a child of the deceased person; or</p>

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				<p>(g) a child of a spouse or domestic partner of the deceased person being a child who was maintained wholly or partly or who was legally entitled to be maintained wholly or partly by the deceased person immediately before his death; or</p> <p>(h) a child of the child of the deceased person; or</p> <p>(i) a parent of the deceased person who satisfies the court that he cared for, or contributed to the maintenance of, the deceased person during his lifetime; or</p> <p>(j) a brother or sister of the deceased person who satisfies the court that he cared for, or contributed to the maintenance of, the deceased person during his lifetime.</p>
	Inheritance (Family Provision) Act 1972	SA	7	<p>(1) Where:</p> <p>(a) a person has died domiciled in the State or owning real or personal property in the State; and</p> <p>(b) by reason of his testamentary dispositions or the operation of the laws of intestacy or both, a person entitled to claim the benefit of this Act is left without adequate provision for his proper maintenance, education or advancement in life, the Court may in its discretion, upon application by or on behalf of a person so entitled, order that such provision as the Court thinks fit be made out of the estate of the deceased person for the maintenance, education or advancement of the person so entitled.</p> <p>(2) Notice of an application under subsection (1) of this section shall be served by the applicant on the administrator of the estate of the deceased person, and on such other</p>

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				<p>persons as the Court may direct.</p> <p>(3) The Court may refuse to make an order in favour of any person on the ground that his character or conduct is such as, in the opinion of the Court, to disentitle him to the benefit of this Act, or for any other reason that the Court thinks sufficient.</p> <p>(4) The Court may, in making any order under this Act, impose such conditions, restrictions and limitations as it thinks fit.</p> <p>(5) If, in respect of an application under subsection (1) of this section, it appears to the Court that the matter would be more appropriately determined by proceedings outside the State, the Court may (without limiting the powers conferred on it by the preceding provisions of this section) refuse to make an order under this section or adjourn the hearing of the application for such period as the Court thinks fit.</p> <p>(6) In making the order the Court may, if it thinks fit, order that the provision shall consist of a lump sum or periodic or other payments or a lump sum and periodic or other payments.</p>
			7	<p>(1) An intervention order may be issued for the protection of:</p> <p>(a) any person against whom it is suspected the defendant will commit an act of abuse; or</p> <p>(b) any child who may hear or witness, or otherwise be exposed to the effects of, an act of abuse committed by the</p>

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				<p>defendant against a person.</p> <p>(2) An intervention order may be issued for the protection of a person even if that person is not an applicant for the order and the application is not made on his or her behalf.</p> <p>(3) If an issuing authority proposes to intervene against a defendant for the protection of more than 1 person, it may do so by issuing a single intervention order or by issuing multiple intervention orders, as it considers appropriate in the circumstances.</p>
	<p>Intervention Orders (prevention of Abuse) Act 2009</p>	SA	10	<p>(1) The following must be recognised and taken into account in determining whether it is appropriate to issue an intervention order and in determining the terms of an intervention order:</p> <p>(a) abuse occurs in all areas of society, regardless of socio-economic status, health, age, culture, gender, sexuality, ability, ethnicity and religion; or</p> <p>(b) abuse may involve overt or subtle exploitation of power imbalances and may consist of isolated incidents or patterns of behaviour; or</p> <p>(c) it is of primary importance to prevent abuse and to prevent children from being exposed to the effects of abuse; or</p> <p>(d) as far as is practicable, intervention should be designed:</p> <p>(i) to encourage defendants who it is suspected will, without</p>

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				<p>intervention, commit abuse to accept responsibility and take steps to avoid committing abuse; and</p> <p>(ii) to minimise disruption to protected persons and any child living with a protected person and to maintain social connections and support for protected persons; and</p> <p>(iii) to ensure continuity and stability in the care of any child living with a protected person; and</p> <p>(iv) to allow education, training and employment of a protected person and any child living with a protected person, and arrangements for the care of such a child, to continue without interruption; and</p> <p>(v) if the defendant is a child:</p> <p>(A) to ensure the child has appropriate accommodation, care and supervision; and</p> <p>(B) to ensure the child has access to appropriate educational and health services; and</p> <p>(C) to allow the education, training and employment of the child to continue without interruption.</p> <p>(2) The following must also be taken into account in determining whether it is appropriate to issue an intervention order and in determining the terms of an intervention order:</p> <p>(a) any relevant <i>Family Law Act</i> order or Children's Protection Act order of which the issuing authority has been</p>

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				<p>informed; and</p> <p>(b) how the intervention order would be likely to affect contact (in accordance with a relevant <i>Family Law Act</i> order or <i>Children's Protection Act</i> order or otherwise) between:</p> <p>(i) the protected person or the defendant; and</p> <p>(ii) any child of, or in the care of, either of those persons; and</p> <p>(c) any relevant agreement or order for the division of property under the <i>Family Law Act 1975</i> of the Commonwealth, or the <i>Domestic Partners Property Act 1996</i> or a corresponding law of another jurisdiction, of which the issuing authority has been informed; and</p> <p>(d) if considering whether to prohibit the defendant from taking possession of property or to require the defendant to return property to a protected person or to allow a protected person to recover or have access to or make use of property—the income, assets and liabilities of the defendant and the protected person (to the extent that the issuing authority has been informed of those matters); and</p> <p>(e) any other legal proceedings between the defendant and protected person of which the issuing authority has been informed.</p> <p>(3) Before issuing an intervention order the issuing authority must consider whether, if the whereabouts of a person proposed to be protected by the order are not known to the</p>

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				<p>defendant, the issuing of the order would be counterproductive.</p> <p>(4) An issuing authority may take into account any other factor the authority considers relevant in the circumstances.</p>
			4	<p>(1) This Act applies to children in the same way as to persons of full age, subject to the following:</p> <p>(a) a right conferred on a person under this Act may, if the person is a child under 16 years of age, be exercised by a parent or guardian of the child on behalf of the child; or</p> <p>(b) an obligation under this Act to give a document to a person is, if the person is a child under 16 years of age, to be treated as an obligation to give the document to a parent or guardian of the child, and operates to the exclusion of any further obligation under this Act to send or give the document to a guardian, medical agent, relative, carer or friend.</p> <p>(2) Subsection (1) does not affect the operation of a provision of this Act that expressly relates to a child or children.</p>
	Mental Health Act 2009	SA	7	<p>(1) The Minister, the Board, the Chief Psychiatrist, health professionals and other persons and bodies involved in the administration of this Act are to be guided by the following principles in the performance of their functions:</p> <p>(a) mental health services should be designed to bring about the best therapeutic outcomes for patients, and, as far as possible, their recovery and participation in community life;</p>

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				<p>and</p> <p>(b) the services should be provided on a voluntary basis as far as possible, and otherwise in the least restrictive way and in the least restrictive environment that is consistent with their efficacy and public safety, and at places as near as practicable to where the patients, or their families or other carers or supporters, reside; and</p> <p>(c) the services should:</p> <p>(i) be governed by comprehensive treatment and care plans that are developed in a multi-disciplinary framework in consultation with the patients (including children) and their family or other carers or supporters; and</p> <p>(ii) take into account the different developmental stages of children and young persons and the needs of the aged; and</p> <p>(iii) take into account the different cultural backgrounds of patients; and</p> <p>(iv) in the case of patients of Aboriginal or Torres Strait Islander descent, take into account the patients' traditional beliefs and practices and, when practicable and appropriate, involve collaboration with health workers and traditional healers from their communities; and</p> <p>(d) there should be regular medical examination of every patient's mental and physical health and regular medical review of any order applying to the patient; and</p>

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				<p>(e) children and young persons should be cared for and treated separately from other patients as necessary to enable the care and treatment to be tailored to their different developmental stages; and</p> <p>(f) the rights, welfare and safety of the children and other dependants of patients should always be considered and protected as far as possible; and</p> <p>(g) medication should be used only for therapeutic purposes or safety reasons and not as a punishment or for the convenience of others; and</p> <p>(h) mechanical body restraints and seclusion should be used only as a last resort for safety reasons and not as a punishment or for the convenience of others; and</p> <p>(i) patients (together with their family or other carers or supporters) should be provided with comprehensive information about their illnesses, any orders that apply to them, their legal rights, the treatments and other services that are to be provided or offered to them and what alternatives are available; and</p> <p>(j) information should be provided in a way that ensures as far as practicable that it can be understood by those to whom it is provided.</p> <p>(2) In this section:</p> <p>'mental health services' means all services involved in the treatment, care and rehabilitation of persons with serious</p>

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				mental illness, including the making and carrying out of orders under this Act and services to assist the recovery of patients after the termination of the orders or the completion of treatment.
			39	<p>(1) The treatment and care of a voluntary inpatient must, as far as practicable, be governed by a treatment and care plan directed towards the patient's recovery.</p> <p>(2) The treatment and care plan:</p> <p>(a) must describe the treatment and care that will be provided to the patient at the treatment centre and should describe any rehabilitation services and other significant services that will be provided or available to the patient at the treatment centre or following the person's discharge from the centre; and</p> <p>(b) must, as far as practicable, be prepared and revised in consultation with the patient and any guardian, medical agent, relative, carer or friend of the patient who is providing support to the patient under this Act; and</p> <p>(c) must comply with the requirements of the regulations as to the making or contents of such plans.</p>
			40	<p>(1) The treatment and care of a patient to whom a level 2 community treatment order applies must, as far as practicable, be governed by a treatment and care plan directed towards the patient's recovery.</p> <p>(2) The treatment and care plan:</p>

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				<p>(a) must describe the treatment and care that will be provided to the patient under the requirements of the order and should describe any rehabilitation services and other significant services that will be provided or available to the patient whether under the requirements of the order or through the patient's voluntary participation; and</p> <p>(b) must, as far as practicable, be prepared and revised in consultation with the patient and any guardian, medical agent, relative, carer or friend of the patient who is providing support to the patient under this Act; and</p> <p>(c) must comply with the requirements of the regulations as to the making or contents of such plans.</p>
			41	<p>(1) The treatment and care of a patient to whom a level 2 or level 3 inpatient treatment order applies must, as far as practicable, be governed by a treatment and care plan directed towards the patient's recovery.</p> <p>(2) The treatment and care plan:</p> <p>(a) must describe the treatment and care that will be provided to the patient as an inpatient in the approved treatment centre and should describe any rehabilitation services and other significant services that will be provided or available to the patient as an inpatient in the treatment centre or following the person's discharge from the centre; and</p> <p>(b) must, as far as practicable, be prepared and revised in consultation with the patient and any guardian, medical</p>

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				<p>agent, relative, carer or friend of the patient who is providing support to the patient under this Act; and</p> <p>(c) must comply with the requirements of the regulations as to the making or contents of such plans.</p>
			4	<p>(1) On a complaint under this Act, the Authority may make a problem gambling family protection order against the respondent if:</p> <p>(a) there is a reasonable apprehension that the respondent may cause serious harm to family members because of problem gambling; and</p> <p>(b) the Authority is satisfied that the making of the order is appropriate in the circumstances.</p> <p>(2) For the purposes of this Act, the respondent is to be regarded as having caused serious harm to family members because of problem gambling if the respondent:</p> <p>(a) has engaged in gambling activities irresponsibly having regard to the needs and welfare of the respondent's family members; and</p> <p>(b) has done so repeatedly over a period of not less than 3 months or in a particularly irresponsible manner over a lesser period.</p> <p>(3) The Authority may decide that there is a reasonable apprehension that the respondent may cause serious harm to family members because of problem gambling if the</p>

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				<p>Authority is satisfied that:</p> <p>(a) the respondent has caused such harm prior to the complaint, according to the test set out in subsection (2); and</p> <p>(b) there is reason to believe that the respondent's irresponsible gambling behaviour will continue or recur.</p> <p>(4) The Authority may, in determining whether there is a reasonable apprehension that the respondent may cause serious harm to family members because of problem gambling, take into account events that have taken place outside this State.</p> <p>(5) If a respondent disputes some or all of the grounds on which a problem gambling family protection order is sought or made but consents to the order, the Authority may make or confirm the order without receiving any further submissions or evidence as to the grounds.</p> <p>(6) The Authority must consider whether it should and may in an appropriate case refer the parties into family conferencing or mediation before hearing evidence in support of a complaint.</p> <p>(7) The Authority may, at any stage, dismiss a complaint if the Authority is satisfied that the complaint is frivolous, vexatious, without substance or has no reasonable prospect of success.</p> <p>(8) If the Authority becomes aware that an application has been made under the Intervention Orders (Prevention of</p>

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				<p>Abuse) Act 2009 against a person against whom a complaint has been made under this Act, the Authority:</p> <p>(a) must adjourn proceedings on the complaint under this Act pending determination of the proceedings on the application under that Act; and</p> <p>(b) may not make a problem gambling family protection order against the respondent if the Court, in the proceedings on the application under that Act, makes an order of the kind that the Authority is empowered to make on a complaint under this Act or determines that the making of such an order is not appropriate in the circumstances.</p>
	<p>Problem Gambling Family Protection Orders Act 2004</p>	SA	5	<p>A problem gambling family protection order:</p> <p>(a) may impose such requirements on the respondent as are necessary or desirable to prevent the respondent acting in the apprehended manner; and</p> <p>(b) may apply for the benefit of all of the respondent's family members or specified family members.</p> <p>(2) Without limiting the matters that may be the subject of a problem gambling family protection order, an order may do one or more of the following:</p> <p>(a) require the respondent's participation in a program of counselling, rehabilitation or special education or any combination of these; and</p> <p>(b) bar the respondent from taking part in gambling</p>

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				<p>activities; and</p> <p>(c) bar the respondent from attending at premises where gambling activities may be undertaken; and</p> <p>(d) bar the respondent from a locality; and</p> <p>(e) require the respondent to close gambling accounts; and</p> <p>(f) require the respondent to refrain from contacting, harassing, threatening or intimidating a family member, or any other person at a place where the family member resides or works, to demand or request money for the purposes of gambling activities; and</p> <p>(g) bar the respondent from taking possession of personal property (including money) reasonably needed by the family member; and</p> <p>(h) require the respondent to refrain from causing or allowing another person to engage in the conduct referred to in paragraph (f) or (g) on behalf of the respondent; and</p> <p>(i) specify conditions subject to which the respondent may:</p> <p>(i) be on specified premises or in a specified locality; or</p> <p>(ii) approach or contact a family member or any other person at a place where a family member resides or works; and</p> <p>(j) require the respondent to return specified personal property (including money) to a family member or to allow a</p>

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				<p>family member to recover or have access to or make use of specified personal property; and</p> <p>(k) require the respondent to make arrangements for specified family members to be paid or have access to:</p> <p>(i) money owing or accruing to the respondent from a third person; or</p> <p>(ii) money of the respondent in the hands of a third person (including money in an ADI account).</p> <p>(3) A problem gambling family protection order may be made against the respondent in relation to premises or property despite the fact that the respondent has a legal or equitable interest in the premises or property.</p>
			13	<p>(1) A person must not publish, by radio, television, newspaper or in any other way, a report of any action or proceeding taken against a youth by a police officer or family conference under this Part if the report:</p> <p>(a) identifies the youth or contains information tending to identify the youth; or</p> <p>(b) reveals the name, address or school, or includes any particulars, picture or film that may lead to the identification, of any youth who is in any way concerned in the action or proceeding; or</p> <p>(c) identifies the victim or any other person involved in the action or proceeding (other than a person involved in an</p>

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				<p>official capacity) without the consent of that person.</p> <p>(1a) However, a person who proposes to make a documentary or undertake an educational or research project about juvenile justice matters may, in accordance with rules of court, apply to the Youth Court for permission to publish, for the purposes of the documentary or project, a report identifying a youth that would otherwise be suppressed from publication under this section.</p> <p>(1b) An application under subsection (1a) must be endorsed with the written consent of the youth and a guardian of the youth (the consenting guardian) to publication of the report.</p> <p>(1c) Subject to subsection (1d), the Court must give the following persons reasonable notice of the time and place of the hearing of the application:</p> <ul style="list-style-type: none"> (a) the applicant; and (b) the youth; and (c) the guardians of the youth; and (d) such other persons as the Court believes have a proper interest in the matter. <p>(1d) The Court is not obliged to give notice of the hearing to a person whose whereabouts cannot, after reasonable enquiries, be ascertained.</p> <p>(1e) In determining an application under subsection (1a), the</p>

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				<p>Court must regard the welfare of the youth as the paramount consideration and, to that end, must take into account:</p> <ul style="list-style-type: none"> (a) the impact on the youth of publication of the report; and (b) the purpose to be served by publication of the report; and (c) whether publication of the report is necessary for the purpose of the documentary or project; and (d) considerations of public interest; and (e) any other matter that is, in the Court's view, relevant. <p>(1f) On completing the hearing of the application the Court may make any of the following orders:</p> <ul style="list-style-type: none"> (a) an order permitting publication of the report as part of the documentary or project subject to: <ul style="list-style-type: none"> (i) a condition that the youth and the consenting guardian are to be given a reasonable opportunity to view the documentary or project after its completion but before its release to the public; and (ii) a condition that, if the documentary or project is so viewed, it must not be released to the public until at least 30 days after the viewing; and (iii) such other conditions (if any) as the Court thinks fit; or (b) an order refusing the application; or

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				<p>(c) any ancillary order it thinks fit (including an order as to costs).</p> <p>(1g) The youth or consenting guardian may, at any time before the release to the public of a documentary or project the subject of an order under subsection (1f)(a), apply to the Court for revocation or variation of the order on the ground that the report included or to be included in the documentary or project of the proceedings under this Part:</p> <p>(a) is not a fair report of the proceedings; or</p> <p>(b) includes material not in the contemplation of the Court at the time the order was made, and that the release to the public of the documentary or project while it contains that report would prejudice the welfare of the youth.</p> <p>(1h) If an application for revocation or variation is made under subsection (1g), the documentary or project must not, while it contains the report to which the application relates, be released to the public until the application has been determined or withdrawn.</p> <p>(1i) The Court must give the following persons reasonable notice of the time and place of the hearing of an application under subsection (1g):</p> <p>(a) the youth; and</p> <p>(b) the consenting guardian; and</p>

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				<p>(c) the person who was the applicant for the order sought to be revoked or varied.</p> <p>(1j) On completing the hearing of an application under subsection (1g), the Court may make any of the following orders:</p> <p>(a) an order revoking the order the subject of the application; or</p> <p>(b) an order varying or revoking any condition of the order or imposing a new condition; or</p> <p>(c) an order refusing the application; or</p> <p>(d) any ancillary order it thinks fit (including an order as to costs).</p> <p>(2) A person employed or engaged in the administration of this Act must not divulge information about a youth against whom any action or proceeding has been taken under this Part except in the course of his or her official functions or where the information is given to a person for the purposes of a publication the subject of an order under subsection (1f)(a).</p> <p>(3) A person who contravenes this section or a condition of publication imposed under subsection (1f) or (1j) is guilty of an offence.</p> <p>Maximum penalty: \$10 000.</p> <p>(4) This section does not prevent the disclosure of</p>

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				<p>information under any other provision of this Act.</p> <p>(5) For the purposes of this section, a documentary or project is released to the public when it is released for viewing by persons other than those involved in the making or undertaking of it.</p>
	<p>Young Offenders Act 1993</p>	<p>SA</p>	<p>44</p>	<p>(1) The Minister may make arrangements with the appropriate authority of another State for the transfer of a young offender to that other State.</p> <p>(2) Before entering into arrangements under this section, the Minister must be satisfied:</p> <p>(a) that any rights of appeal against the correctional order have been exhausted or have expired; and</p> <p>(b) that the young offender will be dealt with in the correctional system of the other State in substantially the same way as if he or she had remained in the correctional system of this State; and</p> <p>(c) that the transfer is in the best interests of the young offender; and</p> <p>(d) that:</p> <p>(i) the young offender consents to the transfer; or</p> <p>(ii) there are special reasons justifying the transfer although the young offender does not consent.</p>

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				<p>(3) Before entering into arrangements under this section, the Minister must allow the guardians of the youth a reasonable opportunity to make representations on the question whether the transfer is in the best interests of the young offender.</p> <p>(4) Before consenting to a transfer, a young offender must be allowed a reasonable opportunity to obtain independent legal advice on the question of whether the transfer is in his or her best interests.</p> <p>(5) An arrangement under this section will not be carried into effect unless it has been ratified by the Court.</p> <p>(6) Where a young offender is transferred to another State in pursuance of an arrangement under this section, the Minister will transmit to the appropriate authority of that other State:</p> <p>(a) a copy of the relevant correctional order; and</p> <p>(b) a statement of:</p> <p>(i) any period of detention served by the young offender in pursuance of the order; and</p> <p>(ii) any community service performed by the young offender in pursuance of the order; and</p> <p>(iii) any period for which the young offender has been subject to conditional release; and</p> <p>(iv) any period for which the young offender has been on</p>

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				<p>probation or parole or under supervision; and</p> <p>(v) any remissions of sentence to which the young offender has become entitled; and</p> <p>(c) a report on the young offender.</p> <p>(7) Where the Minister arranges for the transfer to another State of a young offender who is in detention, the Minister will arrange for the young offender to be taken to the other State in the custody of a suitable escort and delivered into detention in that other State.</p> <p>(8) Where a young offender goes or is transferred to another State and is accepted into the correctional system of that other State in pursuance of arrangements under this section, the relevant correctional order ceases to operate in this State.</p>
			45	<p>(1) The Minister may make arrangements with the appropriate authority of another State for the transfer of a young offender from that other State to this State.</p> <p>(2) Before entering into arrangements under this section, the Minister must be satisfied:</p> <p>(a) that the young offender is over the age of 10 years;</p> <p>(b) that there is in force in this State a law that substantially corresponds to the law against which the young offender offended;</p> <p>(c) that the young offender is not liable to detention for an</p>

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				<p>indeterminate period;</p> <p>(d) that the young offender will be dealt with in the correctional system of this State in substantially the same way as if he or she had remained in the correctional system of the other State.</p> <p>(3) Before entering into arrangements under this section, the Minister must allow the guardians of the youth a reasonable opportunity to make representations on the question whether the transfer is in the best interests of the young offender.</p> <p>(4) Where a young offender is transferred to this State in pursuance of arrangements under this section:</p> <p>(a) a copy of the correctional order must be filed in the Court; and</p> <p>(b) the young offender will be dealt with under the law of this State as if:</p> <p>(i) the correctional order had been made under the law of the State;</p> <p>(ii) any period of detention, community service, conditional release, probation, parole or supervision served by the young offender in pursuance of the order had been served in the State;</p> <p>(iii) any entitlement to remission of sentence that had accrued prior to the transfer had accrued under the law of the</p>

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6. Western Australia

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

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<p>ARTICLE 3:</p> <p>(1) In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.</p> <p>(2) States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.</p> <p>(3) States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.</p>	Adoption Act 1994	WA	3	<p>The paramount considerations to be taken into account in the administration of this <i>Adoption Act</i> are:</p> <p>(a) the welfare and best interests of a child who is an adoptee or a prospective adoptee;</p> <p>(b) the principle that adoption is a service for a child who is an adoptee or a prospective adoptee; and</p> <p>(c) the adoption of a child should occur only in circumstances where there is no other appropriate alternative for the child.</p> <p>It is acknowledged that adoption is not part of Aboriginal or Torres Strait Island culture and that therefore the adoption of a child who is an Aboriginal person or a Torres Strait Islander should occur only in circumstances where there is no other appropriate alternative for that child.</p>	
				31	Where the CEO is the guardian of a child, the CEO may, pending placement of the child with a view to the child's adoption, place the child with a person who the CEO thinks is suitable and who has agreed to look after the child.
				39	A person cannot apply to adopt a child unless at the time of the application, he or she:

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				<p>(a) is an Australian citizen;</p> <p>(b) is 18 or more years of age;</p> <p>(c) is resident or domiciled in this State or, if applying to adopt a child in a Convention country, is habitually resident in this State;</p> <p>(d) if married to, or in a de facto relationship with, another person, applies as a joint applicant with that person; and</p> <p>if applying as a joint applicant -</p> <p>(e) has been married to, or in a de facto relationship with, the other applicant for at least 3 years; and</p> <p>(f) is not married to, or in a de facto relationship with, any other person.</p> <p>Two persons cannot apply jointly unless at the time of the application:</p> <p>(a) both persons are Australian citizens; or</p> <p>(b) one of the persons is an Australian citizen and the other is a citizen of a country that, in the opinion of the CEO, gives rights to adopted persons that are not inferior to the rights of non-adopted persons in relation to entry into, residence, education and medical care in that country.</p>
			40	Applicants proposing to adopt a child must provide evidence that they:

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				<p>(a) comply with residency requirements; and</p> <p>(c) are physically and mentally able to care for and support a child until the child attains 18 years of age; and</p> <p>(c) are of good repute; and</p> <p>(d) if applying jointly, have a stable marriage or de facto relationship with the other applicant; and</p> <p>(e) shows a desire and ability to provide a suitable family environment for the child; and</p> <p>has not been found guilty:</p> <p>(a) in the 5 years before the date of the assessment, of an offence punishable at the time of the finding by imprisonment; or</p> <p>(b) at any time, of an offence punishable at the time of the finding by life imprisonment or imprisonment for 20 years or more; or</p> <p>(c) at any time, of any other offence involving an assault or sexual offence against a child, committed when the applicant was 18 or more years of age; or</p> <p>(d) satisfies other criteria as prescribed by regulation.</p>
			51	A child may not be adopted until a medical practitioner has examined the child and a report has been prepared to the effect that (i) the child has undergone a serology test within

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				21 days before the date of the report and the medical practitioner has been informed of the results; and (ii) the child is in good health or has, or is likely to develop, such physical or mental conditions (whether genetic or otherwise) as are specified in the report.
			52	<p>The prospective adoptive parent must (amongst other things):</p> <ul style="list-style-type: none"> (a) be named in the specified register; or (b) meet, as far as is practicable, the wishes expressed by the biological parent; or (c) satisfy certain age differential requirements; or (d) if married or in a de facto relationship, show that the marriage or de facto relationship is stable; or (e) meet, if relevant, the child's wishes; (f) recognise the value of, and need for, cultural and ethnic continuity for the child; or (g) show a desire and ability to continue the child's established cultural, ethnic, religious or educational arrangements; or (h) if female, is not pregnant at the time of the proposed placement, evidenced by means prescribed by regulation; or (i) where the adoption applications committee has approved the prospective adoptive parent, the child belongs to a category of children in respect of whom the prospective

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				<p>adoptive parent has been approved for prospective adoptive parenthood; or</p> <p>(j) where the child is an Aboriginal person or a Torres Strait Islander, the placement is in accordance with the Aboriginal or Torres Strait Islander children - placement for adoption principle; or</p> <p>(k) where the child is 2 or more years of age, the child has had the nature and implications of his or her adoption explained in a manner appropriate to the child's age and level of understanding;</p> <p>where there are other children in the prospective adoptive family:</p> <p>(a) the prospective adoptee is to be the youngest child in the prospective adoptive family; or</p> <p>(b) the second youngest child in the family is 12 or more months older than the prospective adoptee; or</p> <p>(c) each of the other children has been in the family for at least 2 years; or</p> <p>(d) where siblings are relinquished for adoption at the same time, all reasonable steps have been taken to place them with the same prospective adoptive parent; or</p> <p>(e) where the child has a sibling who is already adopted or placed for adoption, all reasonable steps have been taken to place the child with the sibling's adoptive or prospective</p>

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				adoptive parent.
			54	Where a child has been placed, with a view to the child's adoption, the CEO must appoint a person who the CEO thinks is suitably qualified to supervise the welfare and interests of the child during the placement.
			67	A child is not to adopt another child.
			68	<p>An adoption order in relation to a child is not to be made unless the Court is satisfied that (amongst other things):</p> <p>(a) if a step-parent of a child wishes to adopt the child, the Court has determined that the child's adoption by the step-parent is preferable to any of the following orders being made under the <i>Family Law Act 1975</i> of the Commonwealth or the <i>Family Law Act 1975</i>, as is relevant to the case:</p> <p>(i) a parenting order in respect of the child;</p> <p>(ii) an order in respect of the welfare of the child; or</p> <p>(iii) an order in respect of the appointment or removal of a guardian of the child.</p> <p>If the child is habitually resident in a Convention country:</p> <p>(a) the arrangements for the adoption of the child have been made in accordance with the requirements of the Hague Convention;</p> <p>(b) the arrangements for the adoption of the child are in</p>

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				<p>accordance with the laws of the Convention country;</p> <p>(c) the Central Authority of the Convention country has agreed to the adoption of the child; and</p> <p>(d) the State Central Authority has agreed to the adoption of the child.</p> <p>The Court may make an adoption order in relation to a child if, after having regard to the report under section 61, the wishes of the parties to the proposed adoption, the wishes of the parties to the proceedings and any other evidence before the Court, the Court is satisfied that:</p> <p>(a) where the prospective adoptive parent is a step-parent of the child:</p> <p>(i) a parent and child relationship exists between the step-parent and the child, and the child is treated as a member of the family formed by the marriage, or de facto relationship, of the step-parent and the child's parent;</p> <p>(ii) the marriage, or de facto relationship, of the step-parent and the child's parent is stable; and</p> <p>(iii) the step-parent is a fit and proper person to adopt the child.</p> <p>(b) where the prospective adoptive parent has had the child placed in his or her care with a view to the child's adoption or is a carer of the child</p>

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				<p>(i) the prospective adoptive parent is of good repute and is a fit and proper person to fulfil the responsibilities of adoptive parenthood; or</p> <p>(ii) the prospective adoptive parent is a suitable person to adopt the child having regard to all relevant matters including:</p> <p>(A) the ages of the child and the prospective adoptive parent; and</p> <p>(B) the states of health of the child and the prospective adoptive parent; and</p> <p>(C) the ability of the prospective adoptive parent to satisfy the child’s educational or future educational requirements; and</p> <p>(D) the size and stability of the prospective adoptive family.</p> <p>If 2 prospective adoptive parents are applying to adopt the child jointly, their marriage, or de facto relationship, is stable; and</p> <p>(a) in every case, the adoption plan:</p> <p>(i) adequately balances the rights and responsibilities mentioned in Schedule 2; and</p> <p>(ii) is reasonable in the circumstances; and</p> <p>(iii) promotes the child’s long-term welfare.</p>

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			77	<p>On application to discharge an adoption order, the Court may not make an order to discharge an adoption order if to do so would not be for the welfare and best interests of the adoptee.</p> <p>Where an order is made to discharge an adoption, the Court may make such ancillary orders as it thinks fit in the interests of justice or the welfare and best interests of the adoptee.</p>
			134	<p>A legal practitioner who represents a child must act on the instructions of the child if the child:</p> <p>(a) has sufficient maturity and understanding to give instructions; and</p> <p>(b) wishes to give instructions,</p> <p>and in any other case must act in the best interests of the child.</p>
			136F	<p>If the State Central Authority considers that (i) an adoption recognised under section 136A (recognition in WA of an adoption in a Convention country of a child from that country) or 136C (recognition in WA of an adoption of a child from a convention country to another convention country) or (ii) a decision made in accordance with Article 27 of the Hague Convention, is manifestly contrary to public policy, taking into account the best interests of the child to whom the adoption or decision relation, the State Central Authority may apply to the Court for a declaration that the adoption or decision is not recognised (and, if the Court is satisfied that such a decision is manifestly contrary to public policy, the Court may decide that the adoption has no effect</p>

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				in the State).
			139	<p>Where:</p> <p>(a) a child is adopted in a country other than Australia, whether or not the adoption is an adoption that has the same effect as an adoption order under this Act; and</p> <p>(b) the order that was made in relation to the child's adoption has been in force for less than 12 months; and</p> <p>(c) an adoptive parent of the child was not a citizen of the country in which the order was made at the time the order was made; and</p> <p>(d) the child is present in this State, the CEO may supervise the welfare and interests of the child during the 6 months commencing from the day on which the child arrived in this State, and a person authorised in writing by the CEO for that purpose has a right of access to the child at all reasonable times during that period.</p>
			Schedule 2	<p>The child has the right:</p> <p>(a) to be cared for and nurtured; and</p> <p>(b) to develop attachment to the adoptive family without undue disruption by the birth parents.</p> <p>Before consenting to the child's adoption, the child's birth parents have the right to make an informed and unpressured decision about the child's future. After consenting to the child's adoption, the child's birth parents have the right to</p>

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			Schedule 2B 'Convention of Protection of Children and Cooperation in respect of inter-country adoption'	<p>negotiate as to the provision of information and the extent of any contact between the parties.</p> <p>(Article 1) One of the objects of the Convention is to establish safeguards to ensure that inter-country adoptions take place in the best interests of the child and with respect for his or her fundamental rights as recognized in international law.</p> <p>(Article 4) An adoption within the scope of the Convention shall take place only if the competent authorities of the State or origin have determined, after possibilities for placement of the child within the State of origin have been given due consideration, that an inter-country adoption is in the child's best interests.</p> <p>(Article 7) Central Authorities shall cooperate with each other and promote cooperation amongst the competent authorities in their States to protect children and to achieve the other objects of the Convention.</p> <p>(Article 16) If the Central Authority of the State of origin is satisfied that the child is adoptable, it shall (amongst other things) determine, on the basis in particular of the report relating to the child and the prospective adoptive parents, whether envisaged placement is in the best interests of the child.</p> <p>(Article 21) Where the adoption is to take place after the transfer of the child to the receiving State and it appears to the Central Authority that the continued placement of the child with the prospective adoptive parents is no in the child's</p>

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				<p>best interests such Central Authority shall take the measures necessary to protect the child.</p> <p>(Article 24) The recognition of an adoption may be refused in Contracting State only if the adoption is manifestly contrary to its public policy, taking into account the best interests of the child.</p>
	Bail Act 1982	WA	6	If the arrester does not have power to grant the accused bail, the arrester shall, bring or cause the accused to be brought before, in the case of a child, any authorised officer or a justice, who shall consider the accused's case for bail as soon as is practicable.
			6A	An accused shall not be released if there are reasonable grounds to suspect that if the accused were released, the accused's safety would be endangered.
			21	The parties to proceedings on a case for bail are the prosecutor and the accused, except that an officer referred to in section 33 of the <i>Children's Court of Western Australia Act 1988</i> may be present at and participate in proceedings concerning a child under that section.
			36	The decision whether an applicant should be approved as a surety in any case is to be made, where the accused to whom bail has been granted is a child, by an authorised community services officer.
	Births, Deaths and Marriages	WA	12	<p>'responsible person' , in relation to the birth of a child:</p> <p>if the child was born in a hospital or brought to a hospital</p>

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	Registration Act 1998			<p>within 24 hours after the child's birth, means the chief executive officer or general manager of the hospital; or</p> <p>in any other case:</p> <p>(a) means the doctor or midwife responsible for the professional care of the child's mother at the birth; or</p> <p>(b) if the child was still-born, means the doctor who examined the child's body after the birth; or</p> <p>(c) if no doctor or midwife was in attendance at the child's birth, means any person in attendance at the birth.</p> <p>When a child is born in the State, the responsible person must give the Registrar notice of the birth:</p> <p>(a) within one month after the birth; and</p> <p>(b) in an approved form and manner.</p>
			15	<p>The parents of a child are jointly responsible for having the child's birth registered under this Act (and must both sign the birth registration statement) but the Registrar may accept a birth registration statement from one of the parents if satisfied that it is impracticable for the other parent to join or be required to join in the application because of his or her death, disappearance, ill health or unavailability or the need to avoid unwarranted distress to obtain the signatures of both parents on the birth registration statement.</p> <p>If a child is a foundling, the person with responsibility for the</p>

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				<p>long-term care, welfare and development of the child is responsible for having the child's birth registered.</p> <p>The Registrar may accept a birth registration statement from a person who is not responsible for having the child's birth registered if satisfied that:</p> <p>(a) the person lodging the statement has knowledge of the relevant facts; and</p> <p>(b) the child's parents are unable or unlikely to lodge a birth registration statement.</p>
			22	<p>The birth registration statement for a child must state the name of the child.</p> <p>Subsection (1) does not require a still-born child or a child who has a neonatal death to be named but nothing in this subsection prevents such a child from being named if the persons lodging the birth registration statement for the child so wish.</p> <p>The name is a matter of choice for the person or persons lodging the birth registration statement and nothing in this Act requires that:</p> <p>(a) the name be made up of both a surname and a given name or given names; or</p> <p>(b) the surname be the same as that of a parent of the child.</p>

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				<p>The Registrar may assign a name to a child if:</p> <p>(a) the name stated in the birth registration statement is a prohibited name; or</p> <p>(b) the birth registration statement is lodged by both parents of the child and they satisfy the Registrar that they are unable to agree on the child's name.</p> <p>If the Family Court has resolved a dispute about a child's name the Registrar must assign or re-assign the child's name in accordance with the court orders.</p> <p>If a court of another State or of the Commonwealth has resolved a dispute about a child's name the Registrar may assign or re-assign the child's name in accordance with the determination if the Registrar considers that it is appropriate to do so.</p>
			32	<p>A change of a name of a child who is 12 years of age or more and in respect of whom an application under section 31 has been made must not be registered unless:</p> <p>(a) the child consents to the change of name; or</p> <p>(b) the child is unable to understand the meaning and implications of the change of name.</p>
			34	<p>Before registering a change of name under this Division, the Registrar may require the applicant to provide evidence to establish to the Registrar's satisfaction:</p>

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				<p>if the person whose name is to be changed is a child who is 12 years of age or more, that:</p> <p>(a) the child consents to the change of name; or</p> <p>(b) the child is unable to understand the meaning and implications of the change of name.</p>
			56	In providing information extracted from the Register, the Registrar must, as far as practicable, protect the persons to whom the entries in the Register relate from unjustified intrusion on their privacy.
	Child Care Services Act 2007	WA	5	The object of this Act is to protect, and promote the best interests of, children who receive child care services.
			6	A person or body with functions under this Act must, in the performance of those functions, regard the best interests of children as the paramount consideration.
			7	<p>In the administration of this Act the following principles must be observed:</p> <p>(a) the principle that a child care service should be provided to a child in a way that:</p> <p>(i) protects the child from harm; and</p> <p>(ii) respects the child’s dignity and privacy; and</p> <p>(iii) safeguards and promotes the child’s wellbeing; and</p>

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				<p>(iv) provides positive experiences for the child; and</p> <p>(v) stimulates and develops the child’s creative, emotional, intellectual, physical, recreational and social potential;</p> <p>(b) the principle that child care services should be provided in a way that:</p> <p>(i) involves parents of the children to whom the services are provided and other members of the community; and</p> <p>(ii) reflects best practice in the care, education and recreation of young children; and</p> <p>(iii) reflects the diverse nature of the community.</p>
			12	<p>(1) The CEO may ask a licence applicant for any additional document or information that the CEO considers is or could be relevant to making a decision on the licence application.</p> <p>(2) Without limiting subsection (1), for the purpose of deciding whether or not an individual applicant is a fit and proper person to provide the child care service to which the licence application relates, the CEO may ask the applicant to do one or more of the following:</p> <p>(a) undergo an oral or written assessment as to his or her knowledge and understanding of:</p> <p>(i) the operation of this Act; and</p> <p>(ii) the field of child development;</p>

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				<p>(b) provide a reference or report specified by the CEO;</p> <p>(c) provide evidence that the applicant holds qualifications prescribed in relation to the type of child care service to which the licence application relates;</p> <p>(d) undergo a medical, psychiatric or psychological test or examination specified by the CEO.</p> <p>(3) If the CEO makes a request under subsection (1) or (2), the CEO does not have to consider the licence application, or consider it further, until the request is complied with.</p> <p>(4) Any costs incurred in complying with a request under subsection (1) or (2) are to be paid by the licence applicant unless the CEO determines otherwise.</p>
			14	<p>(1) The CEO must not grant a licence if there are reasonable grounds for believing that the provision of the child care service to which the licence application relates would constitute an unacceptable risk to the wellbeing of children for whom the service would be provided.</p> <p>(2) The CEO must not grant a licence if the licence applicant is disqualified under section 29(4)(e)(i) or 30C(4)(d)(i) from holding a licence.</p> <p>(3) The CEO must not grant a licence unless the CEO is satisfied that:</p> <p>(a) the licence applicant is capable of providing the child care service to which the licence application relates (the</p>

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				<p>relevant service) in accordance with this Act and any proposed conditions of the licence; and</p> <p>(b) without limiting paragraph (a), the licence applicant has sufficient material and financial resources to provide the relevant service in accordance with this Act and any proposed conditions of the licence; and</p> <p>(c) the place at which the relevant service is to be provided is suitable for that purpose.</p>
			15	<p>(1) The CEO must not grant a licence to an individual applicant if the applicant is disqualified:</p> <p>(a) under section 29(4)(e)(ii) or 30C (4)(d)(ii) from being a managerial officer of a corporate licensee; or</p> <p>(b) under section 29(4)(e)(iii) or 30C (4)(d)(iii) from being the supervising officer for a child care service.</p> <p>(2) The CEO must not grant a licence to an individual applicant unless the CEO is satisfied that:</p> <p>(a) the applicant has the ability to supervise and control on a day-to-day basis the provision of the child care service to which the licence application relates (the relevant service); and</p> <p>(b) is otherwise a fit and proper person to provide the relevant service; and</p> <p>(c) if the relevant service is a family day care service — each</p>

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				usual occupant is a fit and proper person to associate with children.
			18	It is a condition of every licence that the licensee must ensure that the supervising officer for the child care service is present at the place where the service is provided at the times when the service is provided except to the extent (if any) that the regulations otherwise provide.
			25	<p>(1) The CEO may, by written notice given to the licensee, suspend a licence if the CEO considers that there are reasonable grounds for believing that the continued provision of the child care service to which the licence relates would constitute an unacceptable risk to the wellbeing of the children for whom the service is provided.</p> <p>(2) The CEO may suspend a licence under subsection (1) whether or not the CEO has given the licensee an opportunity to make representations in relation to the proposed suspension.</p> <p>(3) The suspension notice:</p> <p>(a) must specify the day on which the suspension takes effect; and</p> <p>(b) must specify the period of the suspension, which must not exceed 60 days; and</p> <p>(c) must specify the reasons for the CEO's decision to suspend the licence; and</p>

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				<p>(d) must explain the effect of subsection (4); and</p> <p>(e) may specify measures to be taken by the licensee to remove the risk described in subsection (1).</p> <p>(4) Within 21 days after giving a suspension notice, the CEO must, unless the suspension has been revoked under section 27, make an allegation to the State Administrative Tribunal in relation to the matter giving rise to the suspension.</p> <p>(5) Section 29(4) applies in relation to proceedings commenced by an allegation under subsection (4) as if they were proceedings commenced by an allegation under section 29(3).</p> <p>(6) In proceedings commenced by an allegation under subsection (4), the State Administrative Tribunal may, in addition to any other order it has power to make, make an order confirming, revoking, or extending the period of, the suspension.</p>
			36	<p>A person must not advertise, or otherwise hold out in any way, that the person provides a child care service unless:</p> <p>(a) the person holds a licence authorising the provision of the child care service; or</p> <p>(b) the person is not required to hold a licence in respect of the child care service because of an exemption under section 45(1)(a).</p>

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			45	<p>(1) The Minister may, by order published in the <i>Gazette</i>, exempt a specified child care service or a child care service of a specified type from the application of:</p> <p>(a) section 9; or</p> <p>(b) the regulations; or</p> <p>(c) a specified provision of the regulations.</p> <p>(2) In subsection (1) — 'specified' means specified in the order.</p> <p>(3) The Minister may, by order published in the <i>Gazette</i>, amend or repeal an order made under subsection (1).</p> <p>(3A) An order made under subsection (1) may specify conditions subject to which the exemption is to apply.</p> <p>(3B) A person who provides a child care service to which an order made under subsection (1) applies must not contravene a condition specified in the order.</p> <p>(4) In the exercise of the powers conferred by subsections (1) and (3), the Minister must have regard to:</p> <p>(a) the best interests of the children for whom the child care service is or is intended to be provided and any special needs or interests of those children; and</p> <p>(b) the views of the parents of those children; and</p> <p>(c) the needs of the locality in which the child care service is</p>

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				<p>or is intended to be provided and the extent to which those needs are being met; and</p> <p>(d) the desirability of or need for short-term, special, innovative, experimental, culturally appropriate and culturally specific child care services.</p>
	<p>Child Care Services Amendment Act 2011</p>	<p>WA</p>	<p>16</p>	<p>(1) The CEO may, by written notice given to the licensee, suspend a licence if the CEO considers that there are reasonable grounds for believing that the continued provision of the child care service to which the licence relates would constitute an unacceptable risk to the wellbeing of the children for whom the service is provided.</p> <p>(2) The CEO may suspend a licence under subsection (1) whether or not the CEO has given the licensee an opportunity to make representations in relation to the proposed suspension.</p> <p>(3) The suspension notice:</p> <p>(a) must specify the day on which the suspension takes effect; and</p> <p>(b) must specify the period of the suspension, which must not exceed 60 days; and</p> <p>(c) must specify the reasons for the CEO's decision to suspend the licence; and</p> <p>(d) must explain the effect of subsection (4); and</p>

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				<p>(e) may specify measures to be taken by the licensee to remove the risk described in subsection (1).</p> <p>(4) Within 21 days after giving a suspension notice, the CEO must, unless the suspension has been revoked under section 27, make an allegation to the State Administrative Tribunal in relation to the matter giving rise to the suspension.</p> <p>(5) Section 29(4) applies in relation to proceedings commenced by an allegation under subsection (4) as if they were proceedings commenced by an allegation under section 29(3).</p> <p>(6) In proceedings commenced by an allegation under subsection (4), the State Administrative Tribunal may, in addition to any other order it has power to make, make an order confirming, revoking, or extending the period of, the suspension.</p>
	Children and Community Services Act 2004	WA	7	In performing a function or exercising a power under this Act in relation to a child, a person, the Court or the State Administrative Tribunal must regard the best interests of the child as the paramount consideration.
			8	<p>(1) In determining for the purposes of this Act what is in a child's best interests the following matters must be taken into account:</p> <p>(a) the need to protect the child from harm;</p> <p>(b) the capacity of the child's parents to protect the child</p>

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				<p>from harm;</p> <p>(c) the capacity of the child’s parents, or of any other person, to provide for the child’s needs;</p> <p>(d) the nature of the child’s relationship with the child’s parents, siblings and other relatives and with any other people who are significant in the child’s life;</p> <p>(e) the attitude to the child, and to parental responsibility, demonstrated by the child’s parents;</p> <p>(f) any wishes or views expressed by the child, having regard to the child’s age and level of understanding in determining the weight to be given to those wishes or views;</p> <p>(g) the importance of continuity and stability in the child’s living arrangements and the likely effect on the child of disruption of those living arrangements, including separation from:</p> <p>(i) the child’s parents; or</p> <p>(ii) a sibling or other relative of the child; or</p> <p>(iii) a carer or any other person (including a child) with whom the child is, or has recently been, living; or</p> <p>(iv) any other person who is significant in the child’s life; and</p> <p>(h) the need for the child to maintain contact with the child’s</p>

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				<p>parents, siblings and other relatives and with any other people who are significant in the child's life;</p> <p>(i) the child's age, maturity, sex, sexuality, background and language;</p> <p>(j) the child's cultural, ethnic or religious identity (including any need to maintain a connection with the lifestyle, culture and traditions of Aboriginal people or Torres Strait Islanders);</p> <p>(k) the child's physical, emotional, intellectual, spiritual, developmental and educational needs;</p> <p>(l) any other relevant characteristics of the child;</p> <p>(m) the likely effect on the child of any change in the child's circumstances.</p> <p>(2) Subsection (1) does not limit the matters that may be taken into account in determining what is in the best interests of a child.</p>
			33	<p>(1) If, in the course of an investigation referred to in section 32(1)(d), an authorised officer believes on reasonable grounds that:</p> <p>(a) it is in the best interests of the child for the officer to have access to the child before the child's parents become aware of the investigation; or</p> <p>(b) if the child's parents were to know in advance about the</p>

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				<p>proposed access, the proper and effective conduct of the investigation would be likely to be jeopardised, the authorised officer, without informing the child's parents, may have access to the child at a school, hospital or place where a child care service is provided, and remain at the school, hospital or place, for as long as the officer reasonably considers necessary for the purposes of the investigation.</p> <p>(2) Before exercising the power in subsection (1), the authorised officer must notify the person in charge of the school, hospital or place of his or her intention to exercise the power.</p> <p>(3) As soon as practicable after the authorised officer has had access to the child, the officer must inform at least one of the child's parents that the officer has had such access and the reasons for it.</p> <p>(4) An authorised officer does not have to comply with subsection (3) if:</p> <p>(a) the officer believes on reasonable grounds that a person may be charged with an offence involving harm to the child and the officer's compliance with the subsection may jeopardise an investigation of the offence; or</p> <p>(b) the officer believes on reasonable grounds that compliance with the subsection may expose the child to harm or a risk of harm; or</p> <p>(c) the child has requested that the child's parents not be informed and the officer believes on reasonable grounds that</p>

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				<p>it is in the best interests of the child to comply with the request.</p>
			9	<p>In the administration of this Act the following principles must be observed:</p> <p>(a) the principle that the parents, family and community of a child have the primary role in safeguarding and promoting the child's wellbeing; and</p> <p>(b) the principle that the preferred way of safeguarding and promoting a child's wellbeing is to support the child's parents, family and community in the care of the child; and</p> <p>(c) the principle that every child should be cared for and protected from harm; and</p> <p>(d) the principle that every child should live in an environment free from violence; and</p> <p>(e) the principle that every child should have stable, secure and safe relationships and living arrangements; and</p> <p>(f) the principle that intervention action (as defined in section 32(2)) should be taken only in circumstances where there is no other reasonable way to safeguard and promote the child's wellbeing; and</p> <p>(g) the principle that if a child is removed from the child's family then, so far as is consistent with the child's best interests, the child should be given encouragement and support in maintaining contact with the child's parents,</p>

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				<p>siblings and other relatives and with any other people who are significant in the child's life; and</p> <p>(h) the principle that decisions about a child should be made promptly having regard to the age, characteristics, circumstances and needs of the child; and</p> <p>(ha) (ha) the principle that if a child is removed from the child's family then, so far as is consistent with the child's best interests, planning for the child's care should occur as soon as possible in order to ensure long-term stability for the child; and</p> <p>(i) the principle that decisions about a child should be consistent with cultural, ethnic and religious values and traditions relevant to the child; and</p> <p>(j) the principle that a child's parents and any other people who are significant in the child's life should be given an opportunity and assistance to participate in decision-making processes under this Act that are likely to have a significant impact on the child's life; and</p> <p>(k) the principle that a child's parents and any other people who are significant in the child's life should be given adequate information, in a manner and language that they can understand, about:</p> <p>(i) decision-making processes under this Act that are likely to have a significant impact on the child's life; and</p> <p>(ii) the outcome of any decision about the child, including an</p>

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				<p>explanation of the reasons for the decision; and</p> <p>(iii) any relevant complaint or review procedures;</p> <p>(l) the principle set out in section 10(1).</p>
			12	<p>(1) The objective of the principle in subsection (2) is to maintain a connection with family and culture for Aboriginal children and Torres Strait Islander children who are the subject of placement arrangements.</p> <p>(2) In making a decision under this Act about the placement under a placement arrangement of an Aboriginal child or a Torres Strait Islander child, a principle to be observed is that any placement of the child must, so far as is consistent with the child's best interests and is otherwise practicable, be in accordance with the following order of priority:</p> <p>(a) placement with a member of the child's family; or</p> <p>(b) placement with a person who is an Aboriginal person or a Torres Strait Islander in the child's community in accordance with local customary practice; or</p> <p>(c) placement with a person who is an Aboriginal person or a Torres Strait Islander; or</p> <p>(d) placement with a person who is not an Aboriginal person or a Torres Strait Islander but who, in the opinion of the CEO, is sensitive to the needs of the child and capable of promoting the child's ongoing affiliation with the child's</p>

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			49	<p>culture, and where possible, the child's family.</p> <p>(1) The CEO may apply to the Court for the extension of a protection order (supervision).</p> <p>(2) If an application under subsection (1) is made but not determined before the end of the period referred to in section 48(1), the order remains in force until the application is determined.</p> <p>(3) On an application under subsection (1) the Court may, if satisfied that it is in the best interests of the child to do so, extend the order for a period not exceeding 2 years that ends before the child reaches 18 years of age.</p> <p>(4) A protection order (supervision) must not be extended more than once under this section.</p> <p>(5) If, on an application under subsection (1), the Court is satisfied that each party to the initial proceedings consents to the application, the Court may extend the order in the absence of the parties.</p> <p>(6) The reference in subsection (5) to each party to the initial proceedings does not include the child unless:</p> <p>(a) the child has legal representation; or</p> <p>(b) the Court is satisfied that the child has sufficient maturity and understanding to give consent.</p>

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			56	<p>(1) The CEO may apply to the Court for the extension of a protection order (time-limited).</p> <p>(2) An application under subsection (1) may be made at any time while the order is in force but only after a review of the care plan for the child has been carried out under section 90.</p> <p>(3) If an application under subsection (1) is made but not determined before the day on which the order would otherwise expire, the order remains in force until the application is determined.</p> <p>(4) On an application under subsection (1) the Court may, if satisfied that it is in the best interests of the child to do so:</p> <p>(a) extend the order for a period not exceeding 2 years that ends before the child reaches 18 years of age; or</p> <p>(b) revoke the order and, subject to this Part, make another protection order in respect of the child.</p> <p>(5) A protection order (time-limited) may be extended more than once under this section.</p> <p>(6) If, on an application under subsection (1), the Court is satisfied that each party to the initial proceedings consents to the application, the Court may extend the order in the absence of the parties.</p> <p>(7) The reference in subsection (6) to each party to the initial proceedings does not include the child unless:</p>

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				<p>(a) the child has legal representation; or</p> <p>(b) the Court is satisfied that the child has sufficient maturity and understanding to give consent.</p>
			67	<p>(1) A party to the initial proceedings may apply to the Court for the revocation of a protection order.</p> <p>(2) On an application under subsection (1) the Court may, if satisfied that it is in the best interests of the child to do so:</p> <p>(a) confirm the order; or</p> <p>(b) revoke the order; or</p> <p>(c) revoke the order and, subject to this Part, make another protection order in respect of the child.</p>
			68	<p>(1) The CEO may apply to the Court for the revocation of a protection order and the making of another protection order in respect of a child.</p> <p>(2) An application under subsection (1) must specify the type of protection order sought.</p> <p>(3) If a protection order (special guardianship) is sought, the application must nominate the individual or individuals to whom parental responsibility for the child is proposed to be given under the order.</p> <p>(4) If an application under subsection (1) for the revocation of a protection order (supervision) or a protection order</p>

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				<p>(time-limited) is made but not determined before the day on which the order would otherwise expire, the order remains in force until the application is determined.</p> <p>(5) On an application under subsection (1) the Court may, if satisfied that it is in the best interests of the child to do so, revoke the order and, subject to this Part, make the protection order sought or another protection order in respect of the child.</p>
			102	<p>A person who has the care or control of a child and who leaves the child in a motor vehicle (as defined in the Road Traffic Act 1974 without proper supervision for such period or in such circumstances that:</p> <p>(a) the child becomes or is likely to become emotionally distressed; or</p> <p>(b) the child's health becomes or is likely to become permanently or temporarily impaired, is guilty of a crime, and is liable to imprisonment for 5 years.</p>
			113	<p>(1) A power conferred by this Division may be exercised by an authorised officer only if:</p> <p>(a) the child concerned:</p> <p>(i) is in the CEO's care; or</p> <p>(ii) is being moved, or has been moved, to a safe place under section 41; and</p>

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				<p>(b) the authorised officer believes on reasonable grounds that, unless the power is exercised, the child concerned is likely to:</p> <p>(i) endanger the health or safety of the child or another person; or</p> <p>(ii) cause serious damage to property.</p> <p>(2) A power conferred by this Division may be exercised by a police officer only if:</p> <p>(a) the child concerned is being moved, or has been moved, to a safe place under section 41 or to a secure care facility under a secure care arrangement; and</p> <p>(b) the police officer believes on reasonable grounds that, unless the power is exercised, the child concerned is likely to:</p> <p>(i) endanger the health or safety of the child or another person; or</p> <p>(ii) cause serious damage to property.</p> <p>(3) A power conferred by this Division may be exercised by an approved person only if:</p> <p>(a) the child concerned is in the CEO's care; and</p> <p>(b) the approved person believes on reasonable grounds that, unless the power is exercised, the child concerned is likely to:</p> <p>(i) endanger the health or safety of the child or another</p>

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				<p>person; or</p> <p>(ii) cause serious damage to property.</p>
			114	<p>An authorised person may restrain a child but only for the period, and to the extent, necessary, in the opinion of the authorised person, to prevent the child:</p> <p>(a) endangering the health or safety of the child or another person; or</p> <p>(b) causing serious damage to property.</p>
			116	<p>An authorised person may seize from a child anything or substance the seizure of which is necessary, in the opinion of the authorised person:</p> <p>(a) to prevent the child endangering the health or safety of the child or another person; or</p> <p>(b) to prevent the child causing serious damage to property.</p>
			148	<p>(4) A legal practitioner who represents a child in protection proceedings must act on the instructions of the child if the child:</p> <p>(a) has sufficient maturity and understanding to give instructions; and</p> <p>(b) wishes to give instructions, and in any other case must act in the best interests of the child.</p>

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			167	<p>(1) If the Court determines to transfer a home order to a participating State, the proposed terms of the order to be transferred (the proposed interstate order) must be terms that could be the terms of a child protection order made under the child welfare law of the participating State and that the Court believes to be:</p> <p>(a) to the same or a similar effect as the terms of the home order; or</p> <p>(b) otherwise in the best interests of the child.</p> <p>(2) The Court may include in the proposed interstate order any conditions that could be included in a child protection order of that type made in the relevant participating State.</p> <p>(3) In determining whether an order to the same or a similar effect as the home order could be made under the child welfare law of a participating State, the Court must not take into account the period for which it is possible to make such an order in that State.</p> <p>(4) The Court must determine, and specify in the proposed interstate order, the period for which it is to remain in force.</p> <p>(5) The period must not be longer than the maximum period for which a child protection order of that type made in the relevant participating State could remain in force.</p>
	Children's Court of Western Australia	WA	23	(1) This section applies to proceedings other than those to which section 45 of the <i>Young Offenders Act 1994</i> applies.

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	Act 1988			<p>(1A) In any proceedings in respect of or affecting a child, the Court shall inquire in to the reason if no parent or guardian of the child is present and, unless the Court considers that:</p> <p>(a) there is a valid reason to excuse attendance; or</p> <p>(b) it is not reasonable to delay proceedings for the attendance of a parent or guardian, the Court shall, by order served on a parent or guardian of the child, or any one or more of such persons, require such parent or guardian to attend during all stages of the proceedings, whether or not from time to time adjourned, unless subsequently excused from further attendance by the Court.</p> <p>(2) A person who fails without reasonable excuse to comply with the requirements of an order served on the person under subsection (1) commits an offence.</p> <p>Penalty: \$500.</p> <p>(3) The Court may, if it considers it expedient and just to do so, proceed with the hearing and determination of any proceedings notwithstanding the absence of any parent or guardian.</p> <p>(4) If the Court proceeds with the hearing and determination of proceedings in the absence of any parent or guardian, the Court shall do what it reasonably can to ensure that the parents or guardians of the child are notified in writing:</p> <p>(c) of any charge laid against the child alleging the</p>

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				<p>commission of an offence;</p> <p>(d) of any finding, order or decision made by the Court in the determination of the proceedings;</p> <p>(e) of any other information that the Court considers appropriate.</p>
			31	<p>At any hearing or trial relating to a charge against, or any application concerning, a child or where the interests of a child may be prejudicially affected, the Court may order that any persons shall be excluded from the court-room or place of hearing.</p>
			35	<p>(2) In the case of criminal proceedings in the Supreme Court or the District Court, including any appellate proceedings to which subsection (1) does not apply, the court may, after considering the public interest and the interests of the child or children concerned, order that no person shall publish or cause to be published in any newspaper or other publication or broadcast or cause to be broadcast by radio or television a report of those proceedings containing any particulars or other matter likely to lead to the identification of a child who is concerned in those proceedings:</p> <p>(a) as a person against whom those proceedings are taken;</p> <p>(b) as a witness; or</p> <p>(c) as a person against or in respect of whom an offence has or is alleged to have been committed.</p>

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			36A	<p>(1) The Supreme Court may, after considering the public interest and the interests of the child, by order allow the publication, broadcast or disclosure of any matter prohibited by section 35(1), (3) or 36 ('prohibited matter').</p> <p>(2) Without limiting the generality of subsection (1), the Court, in considering the public interest and the interests of the child, may have regard to all or any of the following:</p> <p>(a) the age, safety or well-being of the child; or</p> <p>(b) the safety or well-being of a person other than the child; or</p> <p>(c) the safety of the public or the protection of property; or</p> <p>(d) the public interest in the apprehension of escapees for the purpose of returning them to lawful custody; or</p> <p>(e) the public interest in the prevention or detection of a crime.</p>
	Commissioner for Children and Young People Act 2006	WA	3	In performing a function under this Act the Commissioner or any other person must regard the best interests of children and young people as the paramount consideration.
			4	<p>In the administration of this Act the following principles must be observed:</p> <p>(a) children and young people are entitled to live in a caring and nurturing environment and to be protected from harm and</p>

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				<p>exploitation;</p> <p>(b) the contributions made by children and young people to the community should be recognised for their value and merit;</p> <p>(c) the views of children and young people on all matters affecting them should be given serious consideration and taken into account;</p> <p>(d) parents, families and communities have the primary role in safeguarding and promoting the wellbeing of their children and young people and should be supported in carrying out their role.</p>
			19	<p>The Commissioner has the following functions:</p> <p>(a) to advocate for children and young people; and</p> <p>(b) to promote the participation of children and young people in the making of decisions that affect their lives and to encourage government and non-government agencies to seek the participation of children and young people appropriate to their age and maturity; and</p> <p>(c) to promote and monitor the wellbeing of children and young people generally; and</p> <p>(d) to monitor the way in which a government agency investigates or otherwise deals with a complaint made by a child or young person and the outcome of the complaint; and</p>

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				<p>(e) to monitor the trends in complaints made by children and young people to government agencies; and</p> <p>(f) to initiate and conduct inquiries into any matter, including any written law or any practice, procedure or service, affecting the wellbeing of children and young people; and</p> <p>(g) to monitor and review written laws, draft laws, policies, practices and services affecting the wellbeing of children and young people; and</p> <p>(h) to promote public awareness and understanding of matters relating to the wellbeing of children and young people; and</p> <p>(i) to conduct, coordinate, sponsor, participate in and promote research into matters relating to the wellbeing of children and young people; and</p> <p>(j) to conduct special inquiries under Part 5; and</p> <p>(k) on the Commissioner's own initiative or at the request of the Minister or the Standing Committee, to advise the Minister on any matter relating to the wellbeing of children and young people; and</p> <p>(l) to consider, and make recommendations in relation to, any written laws, draft laws, reports, policies, practices, procedures or other matters relating to the wellbeing of children and young people that are referred to the Commissioner by the Minister or the Standing Committee;</p>

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				<p>and</p> <p>(m) [(m) deleted]</p> <p>(n) to consult with children and young people from a broad range of socio-economic backgrounds and age groups throughout Western Australia each year; and</p> <p>(o) to do anything which the Commissioner considers is necessary or convenient to further the principle in section 3 or any of the guiding principles in section 4; and</p> <p>(p) to perform any other function conferred on the Commissioner by or under this Act or any other written law.</p>
			20	<p>(1) In performing the Commissioner's functions, the Commissioner must:</p> <p>(a) give priority to, and have special regard to, the interests and needs of:</p> <p>(i) Aboriginal children and young people and Torres Strait Islander children and young people; and</p> <p>(ii) children and young people who are vulnerable or disadvantaged for any reason; and</p> <p>(b) have regard to the United Nations Convention on the Rights of the Child; and</p> <p>(c) develop means of consulting with children and young people that are appropriate to their age and maturity; and</p>

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				<p>(d) develop guidelines for government agencies and non-government agencies regarding the participation by children and young people in decisions which affect them; and</p> <p>(e) adopt work practices that:</p> <p>(i) ensure the Commissioner is accessible to children and young people; and</p> <p>(ii) encourage the participation of children and young people in decision-making by the Commissioner; and</p> <p>(iii) work in cooperation with, and consult with, other government agencies and non-government agencies; and</p> <p>(iv) take reasonable steps to avoid the duplication of functions performed by other government agencies.</p>
			29	The Commissioner, on the Commissioner's own initiative or at the request of the Minister, may conduct a special inquiry into a matter affecting the wellbeing of children and young people.
			46	A report may include recommendations for changes to any written law, draft law, policy, practice or procedure, or for the taking of other action, that the Commissioner considers appropriate to safeguard and promote the wellbeing of children and young people.
			52(3)	The membership of advisory committees should include representatives of non-government agencies concerned with the rights, interests and wellbeing of children and young

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				people.
	Equal Opportunity Act 1984	WA	33	<p>(1) Nothing in section 11(1)(a) or (b) or 13(b) renders it unlawful for a person to discriminate against another person on the ground of the other person's sex in connection with a position as an employee or contract worker where the duties of the position involve the care of a child or children in the place where the child or children resides or reside.</p> <p>(2) Nothing in section 11(1)(a) or (b), 11(2)(c) or 13(b) renders it unlawful for a person to discriminate against another person on the ground of the other person's marital status in connection with a position as an employee or contract worker of a particular employer or principal, where:</p> <p>(a) the duties of the position involve the care of a child or children in the place where the child or children resides or reside; and</p> <p>(b) it is intended that the spouse of the occupant of the position would also occupy a position as an employee or contract worker of that employer or principal.</p>
	Family Court Act 1997	WA	37	<p>(1) The Court must, in the exercise of its non-federal jurisdiction under this Act, have regard, as is applicable to each case, to:</p> <p>(a) (a) the need to preserve and protect the institution of marriage as the union of a man and a woman to the exclusion of all others voluntarily entered into for life;</p> <p>(b) (b) the need to give the widest possible protection</p>

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				<p>and assistance to the family as the natural and fundamental group unit of society, particularly while it is responsible for the care and education of dependent children;</p> <p>(c) (c) the need to protect the rights of children and to promote their welfare;</p> <p>(d) (d) the need to ensure safety from family violence; and</p> <p>(e) (e) the means available for assisting parties to a marriage to consider reconciliation or the improvement of their relationship to each other and to the children of the marriage.</p>
			66	<p>(1) The objects of this Part are to ensure that the best interests of children are met by:</p> <p>(a) ensuring that children have the benefit of both of their parents having a meaningful involvement in their lives, to the maximum extent consistent with the best interests of the child; and</p> <p>(b) protecting children from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or family violence; and</p> <p>(c) ensuring that children receive adequate and proper parenting to help them achieve their full potential; and</p> <p>(d) ensuring that parents fulfil their duties, and meet their responsibilities, concerning the care, welfare and</p>

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				<p>development of their children.</p> <p>(2) The principles underlying these objects are that (except when it is or would be contrary to a child's best interests) :</p> <p>(a) children have the right to know and be cared for by both their parents, regardless of whether their parents are married, separated, have never married or have never lived together; and</p> <p>(b) children have a right to spend time on a regular basis with, and communicate on a regular basis with, both their parents and other people significant to their care, welfare and development (such as grandparents and other relatives); and</p> <p>(c) parents jointly share duties and responsibilities concerning the care, welfare and development of their children; and</p> <p>(d) parents should agree about the future parenting of their children; and</p> <p>(e) children have a right to enjoy their culture (including the right to enjoy that culture with other people who share that culture).</p> <p>(3) For the purposes of subsection (2)(e), an Aboriginal child's or Torres Strait Islander child's right to enjoy his or her Aboriginal or Torres Strait Islander culture includes the right:</p>

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				<p>(a) to maintain a connection with that culture; and</p> <p>(b) to have the support, opportunity and encouragement necessary:</p> <p>(i) to explore the full extent of that culture, consistent with the child's age and developmental level and the child's views; and</p> <p>(ii) to develop a positive appreciation of that culture.</p>
			66A	(1) In deciding whether to make a particular parenting order in relation to a child, a court must regard the best interests of the child as the paramount consideration.
			66B	(1) This Subdivision applies to any proceedings under this Part in which the best interests of a child are the paramount consideration.
			66C	<p>(1) Subject to subsection (6), in determining what is in the child's best interests, the court must consider the matters set out in subsections (2) and (3).</p> <p>(2) The primary considerations are:</p> <p>(a) the benefit to the child of having a meaningful relationship with both of the child's parents; and</p> <p>(b) the need to protect the child from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or family violence.</p>

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				<p>(3) Additional considerations are:</p> <p>(a) any views expressed by the child and any factors (such as the child’s maturity or level of understanding) that the court thinks are relevant to the weight it should give to the child’s views; and</p> <p>(b) the nature of the relationship of the child with:</p> <p>(i) each of the child’s parents; and</p> <p>(ii) other persons (including any grandparent or other relative of the child); and</p> <p>(c) the willingness and ability of each of the child’s parents to facilitate, and encourage, a close and continuing relationship between the child and the other parent; and</p> <p>(d) the likely effect of any changes in the child’s circumstances, including the likely effect on the child of any separation from:</p> <p>(i) either of his or her parents; or</p> <p>(ii) any other child, or other person (including any grandparent or other relative of the child), with whom he or she has been living; and</p> <p>(e) the practical difficulty and expense of a child spending time with and communicating with a parent and whether that difficulty or expense will substantially affect the child’s right to maintain personal relations and direct contact with both</p>

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				<p>parents on a regular basis; and</p> <p>(f) the capacity of:</p> <p>(i) each of the child's parents; and</p> <p>(ii) any other person (including any grandparent or other relative of the child), to provide for the needs of the child, including emotional and intellectual needs; and</p> <p>(g) the maturity, sex, lifestyle and background (including lifestyle, culture and traditions) of the child and of either of the child's parents, and any other characteristics of the child that the court thinks are relevant; and</p> <p>(h) if the child is an Aboriginal child or a Torres Strait Islander child:</p> <p>(i) the child's right to enjoy his or her Aboriginal or Torres Strait Islander culture (including the right to enjoy that culture with other people who share that culture); and</p> <p>(ii) the likely impact any proposed parenting order under this Part will have on that right; and</p> <p>(i) the attitude to the child, and to the responsibilities of parenthood, demonstrated by each of the child's parents; and</p> <p>(j) any family violence involving the child or a member of the child's family; and</p> <p>(k) any family violence order that applies to the child or a</p>

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				<p>member of the child's family, if:</p> <ul style="list-style-type: none"> (i) the order is a final order; or (ii) the making of the order was contested by a person; and <p>(l) whether it would be preferable to make the order that would be least likely to lead to the institution of further proceedings in relation to the child; and</p> <p>(m) any other fact or circumstance that the court thinks is relevant.</p> <p>(4) Without limiting subsection (3)(c) and (i), the court must consider the extent to which each of the child's parents has fulfilled, or failed to fulfil, his or her responsibilities as a parent and, in particular, the extent to which each of the child's parents:</p> <ul style="list-style-type: none"> (a) has taken, or failed to take, the opportunity: <ul style="list-style-type: none"> (i) to participate in making decisions about major long-term issues in relation to the child; and (ii) to spend time with the child; and (iii) to communicate with the child; and (b) has facilitated, or failed to facilitate, the other parent: <ul style="list-style-type: none"> (i) participating in making decisions about major long-term issues in relation to the child; and

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				<p>(ii) spending time with the child; and</p> <p>(iii) communicating with the child; and</p> <p>(c) has fulfilled, or failed to fulfil, the parent's obligation to maintain the child.</p> <p>(5) If the child's parents have separated, the court must, in applying subsection (4), have regard, in particular, to events that have happened, and circumstances that have existed, since the separation occurred.</p> <p>(6) If the court is considering whether to make an order with the consent of all the parties to the proceedings, the court may, but is not required to, have regard to all or any of the matters set out in subsection (2) or (3).</p> <p>(7) For the purposes of subsection (3)(h), an Aboriginal child's or a Torres Strait Islander child's right to enjoy his or her Aboriginal or Torres Strait Islander culture includes the right:</p> <p>(a) to maintain a connection with that culture; and</p> <p>(b) to have the support, opportunity and encouragement necessary:</p> <p>(i) to explore the full extent of that culture, consistent with the child's age and developmental level and the child's views; and</p>

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				(ii) to develop a positive appreciation of that culture.
			66G	<p>(1) In considering what order to make, the court must, to the extent that it is possible to do so consistently with the child's best interests being the paramount consideration, ensure that the order:</p> <p>(a) is consistent with any family violence order; and</p> <p>(b) does not expose a person to an unacceptable risk of family violence.</p> <p>(2) For the purposes of subsection (1)(b), the court may include in the order any safeguards that it considers necessary for the safety of those affected by the order.</p>
			70A	<p>(1) When making a parenting order in relation to a child, the court must apply a presumption that it is in the best interests of the child for the child's parents to have equal shared parental responsibility for the child.</p> <p>(2) The presumption does not apply if there are reasonable grounds to believe that a parent of the child (or a person who lives with a parent of the child) has engaged in:</p> <p>(a) abuse of the child or another child who, at the time, was a member of the parent's family (or that other person's family); or</p> <p>(b) family violence.</p> <p>(3) When the court is making an interim order, the</p>

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				<p>presumption applies unless the court considers that it would not be appropriate in the circumstances for the presumption to be applied when making that order.</p> <p>(4) The presumption may be rebutted by evidence that satisfies the court that it would not be in the best interests of the child for the child's parents to have equal shared parental responsibility for the child.</p>
			71(6)	<p>A court may, on being satisfied that it is in the best interests of a child, remove from office any guardian, whether appointed under the provisions of this Act or by will or otherwise and may also, if it considers it to be in the best interests of the child, appoint another guardian in place of the guardian so removed.</p>
			73	<p>(1) This section applies if, in proceedings under this Act, the care, welfare and development of a child who is under 18 years of age is relevant.</p> <p>(2) A court may direct a family consultant to give the court a report on such matters relevant to proceedings under this Act as the court thinks desirable.</p> <p>(3) If a court gives a direction under subsection (2), it may, if it thinks it necessary, adjourn the proceedings until the report has been given to the court.</p> <p>(3A) A family consultant who is directed to give the court a report on a matter under subsection (2) must:</p> <p>(a) ascertain the views of the child in relation to that matter;</p>

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				<p>and</p> <p>(b) include the views of the child on that matter in the report.</p> <p>(3B) Subsection (3a) does not apply if complying with that subsection would be inappropriate because of:</p> <p>(a) the child's age or maturity; or</p> <p>(b) some other special circumstance.</p> <p>(4) The family consultant may include in the report, in addition to the matters required to be included in it, any other matters that relate to the care, welfare or development of the child.</p> <p>(5) For the purposes of the preparation of the report, the court may make any other orders, or give any other directions, that the court considers appropriate (including orders or directions that a party to proceedings, or the child, attend an appointment or a series of appointments with a family consultant).</p> <p>(6) If a person fails to comply with an order or direction under subsection (5), the family consultant must report the failure to the court that made the order or gave the direction.</p> <p>(7) On receiving a report under subsection (6), a court may give such further directions in relation to the preparation of the report as it considers appropriate.</p> <p>(8) A report given to a court in accordance with a direction</p>

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				under subsection (2) may be received in evidence in any proceedings under this Act.
			75	<p>The parents of a child are encouraged:</p> <ul style="list-style-type: none"> (a) (a) to agree about matters concerning the child; and (b) (b) to take responsibility for their parenting arrangements and for resolving parental conflict; and (c) (c) to use the legal system as a last resort rather than a first resort; and (d) (d) to minimise the possibility of present and future conflict by using or reaching an agreement; and (e) (e) in reaching their agreement, to regard the best interests of the child as the paramount consideration.
			78A	<p>(1) If an adviser gives advice or assistance to people in relation to parental responsibility for a child following the breakdown of the relationship between those people, the adviser must:</p> <ul style="list-style-type: none"> (a) inform them that they could consider entering into a parenting plan in relation to the child; and (b) inform them about where they can get further assistance to develop a parenting plan and the content of the plan. <p>(2) If an adviser gives advice to people in connection with the making by those people of a parenting plan in relation to</p>

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				<p>a child, the adviser must:</p> <p>(a) inform them that, if the child spending equal time with each of them is:</p> <p>(i) reasonably practicable; and</p> <p>(ii) in the best interests of the child, they could consider the option of an arrangement of that kind; and</p> <p>(b) inform them that, if the child spending equal time with each of them is not reasonably practicable or is not in the best interests of the child but the child spending substantial and significant time with each of them is:</p> <p>(i) reasonably practicable; and</p> <p>(ii) in the best interests of the child, they could consider the option of an arrangement of that kind; and</p> <p>(c) inform them that decisions made in developing parenting plans should be made in the best interests of the child; and</p> <p>(d) inform them of the matters that may be dealt with in a parenting plan in accordance with section 76(2); and</p> <p>(e) inform them that, if there is a parenting order in force in relation to the child, the order may (because of section 85A) include a provision that the order is subject to a parenting plan they enter into; and</p> <p>(f) inform them about the desirability of including in the</p>

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				<p>plan:</p> <p>(i) if they are to share parental responsibility for the child under the plan, provisions of the kind referred to in section 76(2)(d) (which deals with the form of consultations between the parties to the plan) as a way of avoiding future conflicts over, or misunderstandings about, the matters covered by that paragraph; and</p> <p>(ii) provisions of the kind referred to in section 76(2)(g); and</p> <p>(iii) provisions of the kind referred to in section 76(2)(h); and</p> <p>(g) explain to them, in language they are likely to readily understand, the availability of programs to help people who experience difficulties in complying with a parenting plan; and</p> <p>(h) inform them that section 89AB requires the court to have regard to the terms of the most recent parenting plan in relation to the child when making a parenting order in relation to the child if it is in the best interests of the child to do so.</p> <p>(3) For the purposes of subsection (2)(b), a child will be taken to spend substantial and significant time with a parent only if:</p> <p>(a) the time the child spends with the parent includes both:</p>

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				<p>(i) days that fall on weekends and holidays; and</p> <p>(ii) days that do not fall on weekends or holidays; and</p> <p>(b) the time the child spends with the parent allows the parent to be involved in:</p> <p>(i) the child's daily routine; and</p> <p>(ii) occasions and events that are of particular significance to the child; and</p> <p>(c) the time the child spends with the parent allows the child to be involved in occasions and events that are of special significance to the parent.</p> <p>(4) Subsection (3) does not limit the other matters to which regard may be had in determining whether the time a child spends with a parent would be substantial and significant.</p> <p>(5) In this section:</p> <p>'adviser' means a person who is:</p> <p>(a) a legal practitioner; or</p> <p>(b) a family counsellor; or</p> <p>(c) a family dispute resolution practitioner; or</p> <p>(d) a family consultant.</p>

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			80(2) and (6)	<p>A court may, by order, vary the child welfare provisions in the plan if it considers the variation is required in the best interests of a child.</p> <p>...</p> <p>Even though the plan is registered, a court must not enforce the child welfare provisions if it considers that to do so would be contrary to the best interests of a child.</p>
			82	<p>(1) A court may set aside a registered parenting plan (the plan), and its registration, if the court is satisfied:</p> <p>(a) that the concurrence of a party was obtained by fraud, duress or undue influence;</p> <p>(b) that the parties want the plan set aside; or</p> <p>(c) that it is in the best interests of a child to set aside the plan.</p> <p>(2) In proceedings under subsection (1), to the extent that they are proceedings on the ground mentioned in subsection (1)(c), the best interests of the child concerned are the paramount consideration.</p>
			86A	<p>Section 66A provides that in deciding whether to make a particular parenting order in relation to a child, a court must regard the best interests of the child as the paramount consideration.</p>

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			89AA	<p>(1) If a parenting order provides (or is to provide) that a child's parents are to have equal shared parental responsibility for the child, the court must:</p> <p>(a) consider whether the child spending equal time with each of the parents would be in the best interests of the child; and</p> <p>(b) consider whether the child spending equal time with each of the parents is reasonably practicable; and</p> <p>(c) if it is, consider making an order to provide (or including a provision in the order) for the child to spend equal time with each of the parents.</p> <p>(2) If:</p> <p>(a) a parenting order provides (or is to provide) that a child's parents are to have equal shared parental responsibility for the child; and</p> <p>(b) the court does not make an order (or include a provision in the order) for the child to spend equal time with each of the parents, the court must:</p> <p>(c) consider whether the child spending substantial and significant time with each of the parents would be in the best interests of the child; and</p> <p>(d) consider whether the child spending substantial and significant time with each of the parents is reasonably practicable; and</p>

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				(e) if it is, consider making an order to provide (or including a provision in the order) for the child to spend substantial and significant time with each of the parents.
			89AB	When making a parenting order in relation to a child, the court is to have regard to the terms of the most recent parenting plan (if any) that has been entered into between the child's parents (to the extent to which that plan relates to the child) if doing so would be in the best interests of the child.
			95	<p>(1) If a court makes a parenting order in relation to a child, the court may also, subject to subsection (2), make either or both of the following orders:</p> <p>(a) an order requiring compliance with the parenting order, as far as practicable, to be supervised by a family consultant;</p> <p>(b) an order requiring a family consultant to give any party to the parenting order such assistance as is reasonably requested by that party in relation to compliance with, and the carrying out of, the parenting order.</p> <p>(2) In deciding whether to make a particular order under subsection (1) in relation to a child, a court must regard the best interests of the child as the paramount consideration.</p>
			118	<p>(1) Unless subsection (2) applies, a child maintenance order in relation to a child may be applied for by:</p> <p>(a) either or both of the child's parents;</p>

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				<p>(b) the child;</p> <p>(c) a grandparent of the child; or</p> <p>(d) any other person concerned with the care, welfare or development of the child.</p> <p>(2) A child maintenance order in relation to a child who is under the control or in the care (however described), of a person under a child welfare law may only be applied for by:</p> <p>(a) the child;</p> <p>(b) a parent of the child who has the daily care of the child;</p> <p>(c) a relative of the child who has the daily care of the child; or</p> <p>(d) a person who, under a child welfare law, has responsibility for the control or care (however described) of the child.</p>
			145	In deciding whether to make a location order in relation to a child, a court must regard the best interests of the child as the paramount consideration.
			154	In deciding whether to make a recovery order in relation to a child, a court must regard the best interests of the child as the paramount consideration.
			162	(1) In addition to the jurisdiction that a court has under this Act in relation to children, a court also has jurisdiction to

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				<p>make orders relating to the welfare of children.</p> <p>(2) In deciding whether to make an order under subsection (1) in relation to a child, a court must regard the best interests of the child as the paramount consideration.</p>
			164	<p>This section applies to proceedings under this Act in which a child's best interests are, or a child's welfare is, the paramount, or a relevant, consideration.</p> <p>(1) If it appears to a court that the child's interests in the proceedings ought to be independently represented by a lawyer, the court:</p> <p>(a) may order that the child's interests in the proceedings are to be independently represented by a lawyer; and</p> <p>(b) may make such other orders as it considers necessary to secure that independent representation of the child's interests.</p> <p>(2) A court may make an order for the independent representation of the child's interests in the proceedings by a lawyer:</p> <p>(a) on its own initiative; or</p> <p>(b) on the application of:</p> <p>(i) the child; or</p> <p>(ii) an organisation concerned with the welfare of children; or</p>

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				<p>(iii) any other person.</p> <p>(3) Without limiting subsection (2)(b), the court may make an order under that paragraph for the purpose of allowing the lawyer who is to represent the child's interests to find out what the child's views are on the matters to which the proceedings relate.</p> <p>(4) Subsection (4) does not apply if complying with that subsection would be inappropriate because of:</p> <p>(a) the child's age or maturity; or</p> <p>(b) some other special circumstance.</p>
			165	<p>(1) This section applies if an independent children's lawyer is appointed for a child in relation to proceedings under this Act.</p> <p>(2) The independent children's lawyer must:</p> <p>(a) form an independent view, based on the evidence available to the independent children's lawyer, of what is in the best interests of the child; and</p> <p>(b) act in relation to the proceedings in what the independent children's lawyer believes to be the best interests of the child.</p> <p>(3) The independent children's lawyer must, if satisfied that the adoption of a particular course of action is in the best interests of the child, make a submission to the court</p>

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				<p>suggesting the adoption of that course of action.</p> <p>(4) The independent children’s lawyer:</p> <p>(a) is not the child’s legal representative; and</p> <p>(b) is not obliged to act on the child’s instructions in relation to the proceedings.</p> <p>(5) The independent children’s lawyer must:</p> <p>(a) act impartially in dealings with the parties to the proceedings; and</p> <p>(b) ensure that any views expressed by the child in relation to the matters to which the proceedings relate are fully put before the court; and</p> <p>(c) if a report or other document that relates to the child is to be used in the proceedings:</p> <p>(i) analyse the report or other document to identify those matters in the report or other document that the independent children’s lawyer considers to be the most significant ones for determining what is in the best interests of the child; and</p> <p>(ii) ensure that those matters are properly drawn to the court’s attention; and</p> <p>(d) endeavour to minimise the trauma to the child associated with the proceedings; and</p> <p>(e) facilitate an agreed resolution of matters at issue in the</p>

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				<p>proceedings to the extent to which doing so is in the best interests of the child.</p> <p>(6) Subject to subsection (7), the independent children’s lawyer:</p> <p>(a) is not under an obligation to disclose to the court; and</p> <p>(b) cannot be required to disclose to the court, any information that the child communicates to the independent children’s lawyer.</p> <p>(7) The independent children’s lawyer may disclose to the court any information that the child communicates to the independent children’s lawyer if the independent children’s lawyer considers the disclosure to be in the best interests of the child.</p> <p>(8) Subsection (7) applies even if the disclosure is made against the wishes of the child.</p>
			176	<p>(1) In proceedings to make or vary a family violence order, a court may revive, vary, discharge or suspend:</p> <p>(a) (a) a parenting order, to the extent to which it provides for a child to spend time with a person, or expressly or impliedly requires or authorises a person to spend time with the child; or</p> <p>(b) (b) a recovery order (as defined in section 149) or any other order under this Act, to the extent to which it expressly or impliedly requires or</p>

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				<p>authorises a person to spend time with a child; or</p> <p>(c) (c) an injunction granted under section 235 or 235A, to the extent to which it expressly or impliedly requires or authorises a person to spend time with a child; or</p> <p>(d) (d) to the extent to which it expressly or impliedly requires or authorises a person to spend time with a child:</p> <ul style="list-style-type: none"> • (i) an undertaking given to, and accepted by, a court; or • (ii) a registered parenting plan within the meaning of section 76(6); or • (iii) a bond entered into under an order under this Act. <p>(2) The court may do so:</p> <p>(a) (a) on its own initiative; or</p> <p>(b) (b) on application by any person.</p> <p>(3) The court must not do so unless:</p> <p>(a) (a) it also makes or varies a family violence order in the proceedings (whether or not by interim order); and</p> <p>(b) (b) if the court proposes to revive, vary, discharge or suspend an order or injunction mentioned in subsection (1)(a), (b) or (c), the court has before it material that was not before the court that made that order or injunction.</p>

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				<p>(4) The court must not exercise its power under subsection (1) to discharge an order, injunction or arrangement in proceedings to make an interim family violence order or an interim variation of a family violence order.</p> <p>(5) In exercising its power under subsection (1), the court must:</p> <ul style="list-style-type: none"> (a) (a) have regard to the purposes of this Division (stated in section 173); and (b) (b) have regard to whether contact with both parents is in the best interests of the child concerned; and (c) (c) if varying, discharging or suspending an order or injunction mentioned in subsection (1)(a), (b) or (c) that, when made or granted, was inconsistent with an existing family violence order, be satisfied that it is appropriate to do so because a person has been exposed, or is likely to be exposed, to family violence as a result of the operation of that order or injunction. <p>(6) The regulations may require a copy of the court's decision to revive, vary, discharge or suspend an order, injunction or arrangement to be registered in accordance with the regulations.</p> <p>(7) Failure to comply with any requirement of the regulations referred to in subsection (6) does not affect the validity of the court's decision.</p>

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			205L	<p>(1) If:</p> <p>(a) the primary order is a parenting order in relation to a child; and</p> <p>(b) the current contravention resulted in a person not spending time with the child (or the child not living with a person for a particular period), a court:</p> <p>(c) may make a further parenting order that compensates the person for time the person did not spend with the child (or the time the child did not live with the person) as a result of the current contravention; and</p> <p>(d) must consider making that kind of order.</p> <p>(2) A court must not make an order under subsection (1)(c) if it would not be in the best interests of the child for the court to do so.</p>
			205O	<p>(1) If this Subdivision applies, a court may do any or all of the following:</p> <p>(a) make an order directing:</p> <p>(i) the person who committed the current contravention; or</p> <p>(ii) that person and another specified person, to attend a post-separation parenting program;</p> <p>(b) if the current contravention is a contravention of a parenting order in relation to a child, make a further parenting</p>

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				<p>order that compensates a person for time the person did not spend with the child (or time the child did not live with the person) as a result of the current contravention;</p> <p>...</p> <p>(5) A court must not make an order under subsection (1)(b) if it would not be in the best interests of the child for the court to do so.</p>
	Young Offenders Act 1994	WA	15A(1)	<p>Upon being requested to do so by the CEO (child welfare), the chief executive officer may provide the CEO (child welfare) with information relating to a young person where the provision of that information is necessary:</p> <p>(a) to protect a young person;</p> <p>(c) to protect the physical safety of a child, whether or not in the care of the welfare agency;</p> <p>(e) for the purpose of enabling the CEO (child welfare) or a person employed in the welfare agency to investigate an allegation of (i) abuse of the young person; or (ii) abuse by the young person of a child in the care of the Department, or facilitating such an investigation.</p>
			7(f)	<p>The general principles that are to be observed in performing functions under this Act are that responsible adults should be encouraged to fulfil their responsibility for the care and supervision of young persons, and supported in their efforts to do so</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			8(a)	While observing the general principles of juvenile justice as required by section 7, a person performing functions under this Act is also to have regard to the principles that responsible adults have an important responsibility for the behaviour of young persons under their care.
	Working with Children (Criminal Record Checking) Act 2004	WA	3	In performing a function under this Act, the CEO or the State Administrative Tribunal is to regard the best interests of children as the paramount consideration.
			12(8)	If subsection (5) or (6) applies in respect of an offence, the CEO is to decide whether he or she is satisfied in relation to the particular or exceptional circumstances of the case having regard to (a) the best interests of children
	Working with Children (Criminal Record Checking) Amendment Act 2010	WA	7	If subsection (5) or (6) applies in respect of an offence, the CEO is to decide whether he or she is satisfied in relation to the particular or exceptional circumstances of the case having regard to (a) the best interests of children
	Surrogacy Act 2008	WA	13	(1) In deciding whether to make a particular decision concerning a parentage order or proposed parentage order about a child, the court must regard the best interests of the child as the paramount consideration. (2) For the purposes of this Act it is presumed to be in the best interests of the child for the arranged parents to be the parents of the child, unless there is evidence to the contrary.

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			21(2)(g)	Before it makes a parentage order, the court has to be satisfied that it is in the best interests of the child for the court to make the proposed order.
			23	When the court makes a parentage order it may make any consequential or ancillary order it thinks fit in the interests of justice or for the welfare and in the best interests of the child whose parentage would be affected.
			27(5)	<p>The court is not to make an order under subsection (2) unless:</p> <p>(a) to do so would be for the welfare and in the best interests of the child whose parentage would be affected; and</p> <p>(b) the court is satisfied that reasonable efforts have been made to give notice of the application to:</p> <p>(i) each of the birth parents of the child whose parentage would be affected; and</p> <p>(ii) each of the arranged parents; and</p> <p>(iii) if the court considers it appropriate having regard to the child's age, the child whose parentage would be affected.</p>
			27(8)	Where an order is made under subsection (2), the court may make any consequential or ancillary order it thinks fit in the interests of justice or for the welfare and in the best interests of the child whose parentage would be affected, including any order relating to:

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(a) the ownership or possession of property; or</p> <p>(b) any matter affecting the child in relation to the duties, powers, responsibilities and authority which, by law, parents have in relation to children; or</p> <p>(c) the domicile of the child.</p>
	School Education Act 1999	WA	11(1)(a)	The Minister may by instrument exempt a child from the requirement to be enrolled in an educational programme for each year of the compulsory education period for that child, if the Minister is satisfied that it is in the best interests of the child to do so.
			61(1)(b)	The chief executive officer is responsible for determining, implementing and monitoring the standard of care provided to students in those schools.
			160(1)(e)	The Minister is to register the school if the Minister is satisfied that the school will provide satisfactory levels of care for the children concerned
			195(1)(e)	The Minister is to register the kindergarten as a community kindergarten if the Minister is satisfied that the kindergarten will provide satisfactory levels of care for the children concerned
			59	The Minister may by order published in the <i>Government Gazette</i> permanently close a government school under section 56, without complying with section 57 or 58, if he or she is of the opinion that the safety or welfare of ... students at the school may be at risk if the school is not closed as soon

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				as possible.
			63(1)(c)	The functions of the principal of a government school are to ensure the safety and welfare of students — (i) on the school premises; and (ii) away from the school premises but on school activities, so far as that can reasonably be done.
			91(a)(i)	A student may be excluded from attendance at a government school if he or she has committed a breach of school discipline in circumstances that have adversely affected or threaten the safety of any person who is on the school premises or participating in an educational programme of the school.
			200(1)(a)	The Minister may cancel the registration of a community kindergarten at any time if the Minister is satisfied that the buildings or facilities of the kindergarten present a risk to the safety or health of the children or staff at the kindergarten.
			218(4)	A licence for the use of tangible property that is vested in the Minister is not to be granted if the use of the property would adversely affect the safety or welfare of students, teaching staff or other persons employed at any school to which the property relates
			240(1)	If the chief executive officer suspects that a person employed at the premises of a government school may have committed a breach of discipline as referred to in section 80 of the PSMA (whether or not that section applies to the person) and that the continued presence of the person on the school premises constitutes a risk to the safety or welfare of students on the premises, the chief executive officer may, by order in

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				writing given to the person, require him or her to leave the school premises and remain away for a certain period.
				The principal of a school may require that a student not attend the school; or not participate in an educational programme of the school, during any day on which the student or any other student at the school is suffering from a medical condition to which this section applies.
	Prohibited Behaviour Orders Act 2010	WA	34(5)	In determining whether there are circumstances justifying an order being made under subsection (4) in relation to a PBO against a youth, the court must have regard to the wellbeing of the youth.
			9(3)	When considering whether to make a PBO against a person, a court may have regard to, if the person is a youth, a person responsible for the care, welfare or development of the person
	Police Regulations 1979			
	Parental Support and Responsibility Act 2008	WA	6	In performing a function or exercising a power under this Act in relation to a child, a person or a court must regard the best interests of the child as the paramount consideration.
			7	In sharing information, and in providing assistance to parents and children, government agencies must work together cooperatively and effectively so as to give parents the best chance of: (a) safeguarding and promoting the wellbeing of their

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>children;</p> <p>(b) exercising appropriate control over the behaviour of their children; and</p> <p>(c) complying with any responsible parenting agreement they may enter into or any responsible parenting order directed towards them.</p>
			19(1)(a)	The Court must not make a responsible parenting order unless satisfied that making the order is in the best interests of the child.
			23	A party to the initial proceedings for a responsible parenting order may apply to the Court for the order to be varied or revoked. The Court may confirm the order, vary the order in accordance with the application or vary the order in another way, or revoke the order, if the Court is satisfied that there are sufficient grounds for doing so and that it is in the best interests of the child to do so.
			30(2)	The lawyer must act on the instructions of the child if the child has sufficient maturity and understanding to give instructions and wishes to give instructions, and in any other case must act in the best interests of the child.
			5(1)	<p>The objects of this Act are:</p> <p>(a) to acknowledge and support the primary role of parents in safeguarding and promoting the wellbeing of children; and</p> <p>(b) to support and reinforce the role and responsibility of</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				parents to exercise appropriate control over the behaviour of their children.
			9	In performing a function or exercising a power under this Act in relation to a child, a person or a court must have regard to the shared responsibility that parents, family and the community have for the wellbeing of the child.

7. Northern Territory

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

NORTHERN TERRITORY

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>ARTICLE 3:</p> <p>1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.</p> <p>2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.</p> <p>3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.</p>	<p>Adoption of Children Act</p>	<p>NT</p>	<p>Section 8</p>	<p>Welfare and interests of child paramount consideration in administration of the Act.</p> <p>Ethnicity and religion of child's birth parents to be considered in considering welfare and interests of child.</p>
			<p>Section 10</p>	<p>Order for adoption of child not to be made unless wishes and feelings of child have been ascertained and duly considered.</p> <p>Child over 12 not to be adopted without its consent or, if no consent given, special reasons related to welfare and interest of child exist.</p>
			<p>Section 11</p>	<p>Court to satisfy itself of certain matters before ordering adoption of Aboriginal child including that every effort was made to arrange custody within child's extended family or with Aboriginal people with the correct relationship to the child under Aboriginal customary law.</p>
			<p>Sections 44, 15(3)(c), 36</p>	<p>The welfare and interests of the child is a factor to be considered by the Court in:</p> <p>(1) discharging an adoption order.</p> <p>(2) ordering the adoption of a child by a spouse of a parent</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>or a relative.</p> <p>(3) transferring the guardianship of a child awaiting adoption from the Minister to another person.</p>
			Section 53	Minister may supervise welfare and interests of a non-citizen child for 12 months in certain circumstances.
	Anti-Discrimination Act	NT	Section 37	<p>Exemption – irrelevant criminal record</p> <p>(1) A person may discriminate against another person on the grounds of irrelevant criminal record in the area of work if:</p> <p>(a) the work principally involves the care, instruction or supervision of vulnerable persons; or</p> <p>(b) the discrimination is reasonably necessary to protect the physical, psychological or emotional well-being of those vulnerable persons, having regard to all of the relevant circumstances of the case including the person's actions.</p> <p>(2) In subsection (1):</p> <p>'vulnerable persons' includes children, aged persons and persons with a physical or intellectual disability or mental illness.</p>
	Care and Protection of Children Act	NT	Section 4	Objects of Act include to promote the wellbeing of children.
			Section 10	Provides that when a decision involving a child is made, the best interests of the child are the paramount concern, and lists

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				a number of matters to be considered in determining the child's best interests.
			Part 2.1	Sets out obligations of persons regarding reporting of fact that a child is likely to or has suffered harm or exploitation or been a victim of a sexual offence (where the child under 14) or offence against Section 128 of Criminal Code. Also sets out related powers of CEO of Department and Police to respond to reports, investigate, move a child to a safe place, restrain, search and seize property. It also provides for the provision protection of a child by the CEO for no more than 72 hours.
			Part 2.2	Sets out obligations of CEO regarding children in the CEO's care (whether under a protection order or not) or who have left the CEO's care, including for the preparation of a care plan (taking into account the wishes of the child where reasonable and appropriate), the preparation of interim care plans, and the requirement to enter into a placement arrangement for the child.
			Part 2.3 Section 90	<p>Object of Part</p> <p>(1) The object of this Part is to create an appropriate judicial process for safeguarding the wellbeing of children, particularly children who are or might be in need of protection.</p> <p>(2) The object is to be achieved by:</p> <p>(a) establishing the family matters jurisdiction of the Local</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>Court (see Division 2); and</p> <p>(b) making provision for the jurisdiction, including:</p> <p>(i) the power of the Court to make various orders for children (see Division 4); and</p> <p>(ii) other procedural matters (see Divisions 3 and 5 to 7).</p>
			Part 2.3 Section 90	<p>Paramount consideration</p> <p>(1) The Court must regard the best interests of a child as paramount in exercising the family matters jurisdiction for the child.</p> <p>(2) Without limiting subsection (1), the Court must give priority to the child if the rights of the child conflict with the rights of an adult.</p>
			Part 2.3 Division 4	Empowers the Court to make various orders for the protection of children, including a temporary protection order giving daily care and control of the child to the CEO for (in most cases) 14 days, an assessment order to determine whether the child is in need of protection, or a protection order to safeguard the wellbeing of the child
			Section 123	<p>Directions in protection order</p> <p>(1) The proposed order must specify one or more of the following directions:</p> <p>(a) a direction (a 'supervision direction') requiring one or</p>

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				<p>more of the following:</p> <ul style="list-style-type: none"> (i) that a person must do, or refrain from doing, a specified thing directly related to the protection of the child; or (ii) that the CEO must supervise the protection of the child in relation to specified matters; and <p>(b) a direction (a 'daily care and control direction') giving daily care and control of the child to a specified person; and</p> <p>(c) a direction (a 'short-term parental responsibility direction') giving parental responsibility for the child to a specified person for a specified period not exceeding 2 years; and</p> <p>(d) a direction (a 'long-term parental responsibility direction') giving parental responsibility for the child to a specified person for a specified period that:</p> <ul style="list-style-type: none"> (i) exceeds 2 years; and (ii) ends before the child turns 18 years of age. <p>(2) Without limiting subsection (1)(a)(i), a supervision direction may:</p> <ul style="list-style-type: none"> (a) require a person not to have any direct or indirect contact with the child; or (b) require a person not to have any direct or indirect contact with the child except when a specified person or a person

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				belonging to a specified group is present.
			Part 3.1	This Part provides for the screening of persons engaged in child-related employment and makes it an offence to engage in or hire a person to engage in child related employment without a clearance notice.
			Part 3.2	<p>This Part provides for the protection of children who are in employment, by creating the below offences and consequential provisions:</p> <p>Obligation of employers and parents</p> <p>(1) An employer of a child is guilty of an offence if:</p> <p>(a) the employer requires the child to perform any work at any time after 10 pm at night and before 6 am in the morning; and</p> <p>(b) the child is less than 15 years of age.</p> <p>Maximum penalty: 400 penalty units.</p> <p>(2) An employer of a child must not require the child to perform any work that is harmful, or likely to be harmful, to the child's physical, mental or emotional wellbeing.</p> <p>Maximum penalty: 100 penalty units or imprisonment for 12 months.</p> <p>(3) An employer of a child must not require the child to</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>perform any work that involves the exploitation of the child.</p> <p>Maximum penalty: 800 penalty units or imprisonment for 4 years.</p> <p>(4) A parent of a child is guilty of an offence if:</p> <p>(a) the parent permits or requires the child to perform any work at any time after 10 pm at night and before 6 am in the morning; and</p> <p>(b) the child is less than 15 years of age.</p> <p>Maximum penalty: 50 penalty units or imprisonment for 6 months.</p> <p>(5) A parent of a child must not permit or require the child to perform any work that is harmful, or likely to be harmful, to the child's physical, mental or emotional wellbeing.</p> <p>Maximum penalty: 100 penalty units or imprisonment for 12 months.</p> <p>(6) A parent of a child must not permit or require the child to perform any work that involves the exploitation of the child.</p> <p>Maximum penalty: 800 penalty units or imprisonment for 4 years.</p>
			Part 3.3	This Part deals with the prevention of child deaths by establishing provisions for:

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				<p>(a) maintaining a database on child deaths; and</p> <p>(b) conducting research about child deaths, and diseases and accidents involving children; and</p> <p>(c) the development of appropriate policy to deal with such deaths, diseases and accidents.</p>
			Part 5.1	<p>This Part establishes the office of the Children's Commissioner. Section 260 provides that the Commissioner has the following functions and powers:</p> <p>(1) The following are the Commissioner's functions:</p> <p>(a) to investigate:</p> <p>(i) a complaint about services required to be provided to vulnerable children by service providers (see sections 263 to 265); or</p> <p>(ii) on the Commissioner's own initiative, a matter that may form the grounds for making a complaint (irrespective of when the matter occurred and whether or not a complaint was made); and</p> <p>(b) to monitor the ways in which service providers respond to reports made by the Commissioner; and</p> <p>(c) to monitor the administration of this Act in so far as it relates to vulnerable children; and</p> <p>(d) to monitor the implementation of any government</p>

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				<p>decision arising from the Inquiry into the Protection of Aboriginal Children from Sexual Abuse; and</p> <p>(e) to act in accordance with section 261 in relation to submissions received by the Commissioner about recommendations arising from the Board of Inquiry into the Child Protection System of the Northern Territory; and</p> <p>(f) to report to the Minister on a matter relating to the Commissioner's functions as requested by the Minister.</p> <p>(2) The Commissioner has powers necessary to perform the Commissioner's functions.</p>
	Child Protection (Offender Reporting and Registration) Act	NT	Part 4	Provides for the establishment and maintenance of a Child Protection Offender Register
			Part 5	Empowers the Court to make a child protection prohibition order preventing a person from engaging in conduct specified in the order if the person is a reportable offender and there is reason to believe that the person poses a risk to the lives or sexual safety of one or more children or children generally.
			Part 6	Provides that reportable offenders under the Act must not apply for or engage in child related employment during the prohibited period.
	Criminal Code Act	NT	Section 149	<p>Duty of person in charge of child or others</p> <p>It is the duty of every person having charge of a child under</p>

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				<p>the age of 16 years or having charge of any person who is unable to withdraw himself from such charge by reason of age, sickness, unsoundness of mind, detention or other cause and who is unable to provide himself with the necessaries of life:</p> <p>(a) to provide the necessaries of life for that child or other person; and</p> <p>(b) to use reasonable care and take reasonable precautions to avoid or prevent danger to the life, safety or health of the child or other person and to take all reasonable action to rescue such child or other person from such danger.</p>
	Domestic and Family Violence Act	NT	Section 29	Provides that a police officer or child protection officer must apply for a domestic violence order for the protection of a child if they reasonably believe that domestic violence has been committed, or is being committed or is likely to be committed and the child's wellbeing has or is likely to be adversely affected by the violence.
			Part 4.1 Division 3	Provides special rules for evidence to be given by a child, including that evidence is given by written or recorded statement and that cross-examination of a child is prohibited.
			Section 8	One of the bases for the granting of a domestic violence order is economic abuse, which is defined in this section to include withholding money reasonably necessary for the maintenance of a child of a person.

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	Education Act	NT	Section 20C	Creates an offence where a person with actual custody of a child fails to ensure that the child attends school.
			Section 45	Minister may make provisions for education of children who are handicapped or whose educational progress will suffer unless they have access to special learning arrangements.
	Family Provision Act	NT	Section 7 and 8	A child of a deceased person is entitled to order for adequate provision for their proper maintenance, education and advancement in life from the estate of the deceased person.
	Guardianship of Infants Act	NT	Section 17	Where two persons are joint guardians of an infant, and are unable to agree on any question affecting the welfare of the infant, either of them may apply to the Court for its direction and it shall make such order as relating to the custody of the infant and right of access of the mother or father as it thinks fit, having regard to the welfare of the infant.
	Mental Health and Related Services Act	NT	Section 100(8A)	If a complaint is made to the person in charge of an approved treatment facility or agency, regarding a matter that could be the subject of a complaint under the Care and Protection of Children Act, the person may refer the complaint to the Children's Commissioner or give written notice about the complaint to the Children's Commissioner.
	Youth Justice Act	NT	Section 173	The superintendent of a youth detention centre must ensure that a detainee is given access to a medical practitioner for the purpose of medical consultation and treatment, on request.

8. Tasmania

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

TASMANIA

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>ARTICLE 3:</p> <p>1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.</p> <p>2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.</p> <p>3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.</p>	Adoption Act 1988	TAS	Section 9	Welfare and interests of the child or adopted person concerned shall be regarded as the paramount consideration at all times in administration of Act (granting of adoption orders)
			Part II, Part III	Set out processes for legal adoption by arrangement or adoption order
			Section 43	Where Secretary is the guardian of a child for 12 months, a report shall be made to the court concerning the welfare and interests of the child, and the court shall make such order for the care, control and custody of the child as it thinks fit
			Section 47	The Secretary may supervise the welfare and interests of children adopted overseas
			Section 44	Principal officers of approved adoption agencies must furnish the Secretary with a report in writing concerning the welfare and interests of the child after 9 months of guardianship being accepted by the Secretary
			Section 45	Natural parents have a right of access to children, subject to the Secretary's discretion
		Age of Majority Act	Tas	Section 8

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
	1973			were to be paid to him before he attains majority age.
	Anti-Discrimination Act 1998	Tas	Section 39	Person may discriminate against a child by requiring adult accompaniment where there is a reasonable risk that the child may endanger himself or herself or any other person if not accompanied by an adult
			Section 50	A person may discriminate against another person on the ground of irrelevant criminal record in relation to the education, training or care of children if it is reasonably necessary to do so in order to protect the physical, psychological or emotional wellbeing of children having regard to the relevant circumstances.
			Section 28	A person may discriminate against another person on the ground of family responsibilities (i.e. responsibilities to care for or support a child who is wholly or substantially dependent) if that other person requires special services and facilities the supply of which would impose unjustifiable hardship.
	Births, Deaths and Marriages Registration Act 1999	Tas	Section 24	A magistrate may, on application by a child's parent, approve a proposed change of name for the child if satisfied that the change is in the child's best interests.
			Section 25	A change of a name of a child of more than 12 years of age must not be registered unless: (a) the child consents to the change of name; (b) or the child is unable to understand the meaning and implications of the change of name.

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
	Child Care Act 2001	Tas	Section 5	Objects of the Act are to...provide for the establishment and maintenance of standards for the provision of quality child care; child care that is a safe, nurturing and educational experience; and child care programs that promote the emotional, intellectual, social and physical development of children.
			Section 6	The interests of children are to be regarded as the paramount consideration in the interpretation, enforcement and administration of this Act, the regulations and the Standards.
			Section 8	A person must not operate or provide child care or a child care service except as authorised by a licence or registration.
			Section 16	The Secretary must not grant a child care licence unless the Secretary is satisfied that the applicant is a fit and proper person to hold that licence.
			Section 25	The Secretary may take disciplinary action if satisfied that the holder of a licence is no longer a fit and proper person to hold the licence, has contravened the licence conditions, Act or Regulations or relevant standards
			Section 29	<p>Offences:</p> <p>At all times during which a child is provided with child care under a licence, carers must ensure the child is provided with a safe environment and proper and appropriate care and supervision; and every reasonable precaution is taken to protect the child from a hazard likely to cause injury.</p> <p>Standards may be developed to specify the measures,</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				practices and procedures that must be implemented to avoid breach of the Act, and may specify that compliance with any particular or all relevant provisions of the Standards is sufficient to ensure compliance with the Act.
			Part 5 - 6	Provides for powers of enforcement of Act
			Part 7	The Secretary must issue Child Care Standards regulating child care services and breach of the standards may be an offence
	Child Protection (International Measures) Act 2003	Tas	Section 3	Purpose of Act is to recognise that a child's best interests are a primary consideration in relation to a measure for protecting the person of the child or a measure for protecting the child's property.
			Part 2	Enables Tasmanian authorities to exercise jurisdiction for personal protection measures for children (being a measure (within the meaning of the Child Protection Convention) under Tasmanian law that is directed to the protection of the person of the child) in certain circumstances
	Child Protection (International Measures) Act 2003	Tas	Part 3	Enables Tasmanian authorities to exercise jurisdiction for property protection measures for children (being a measure (within the meaning of the Child Protection Convention) under Tasmanian law for appointing, or deciding the powers of, a guardian of the child's property) in certain circumstances
			Section 31	A Tasmanian authority must obtain the consent of a competent authority of a Convention country before placing a child in a foster family, or in institutional care, in the

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				Convention country
			Section 32	A Tasmanian authority must inform a competent authority of another country of any information the Tasmanian authority may have about any serious danger to a child whose residence has moved from Tasmania to the other country; or who is present in the other country.
			Section 33	<p>A Tasmanian court hearing proceedings concerning contact with a child must admit into evidence and consider the findings (if any) of a competent authority of a Convention country on the suitability of a parent to have contact with the child.</p> <p>The Court may adjourn such proceedings pending the outcome of a finding on the suitability of the parent to have contact with the child.</p> <p>On the application of an Australian resident parent seeking to obtain or keep contact with a child, a Tasmanian court may make a finding on the suitability of that parent to have contact with the child.</p>
	Child, Young Persons and their Families Act 1997	Tas	Section 5	A person who has guardianship, of a child under this Act has the same rights, powers, duties, obligations and liabilities as a natural parent of the child would have.
			Section 6	A person who has custody of a child under this Act has the right to have, and the responsibility for, the daily care and control of the child and has the right to make, and the responsibility for making, decisions concerning the daily care

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				and control of the child.
			Section 7	<p>The object of this Act is to provide for the care and protection of children in a manner that maximises a child's opportunity to grow up in a safe and stable environment and to reach his or her full potential.</p> <p>The Minister must seek to further the object of this Act and, to that end, should endeavour to promote, and assist in the development of:</p> <p>(a) a partnership approach between the Government, local government, non-Government agencies and families in taking responsibility for and dealing with the problem of child abuse and neglect; and</p> <p>(b) coordinated strategies for dealing with the problem of child abuse and neglect; and</p> <p>Minister is to provide, or assist in the provision of</p> <p>(c) services for dealing with the problem of child abuse and neglect and for the care and protection of children; and</p> <p>(d) preventative and support services directed towards strengthening and supporting families and reducing the incidence of child abuse and neglect; and</p> <p>(e) information or education services for guardians, prospective guardians and other members of the community in relation to the developmental, social and safety</p>

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				<p>requirements of children; and</p> <p>(f) education to persons who are required to notify the Secretary if they know or reasonably believe or suspect that a child is being, or is likely to be, abused or neglected; and</p> <p>(i) services to help persons who have been under the guardianship or in the custody of the Secretary during childhood to make a successful transition to adulthood; and</p> <p>Minister is to:</p> <p>(ii) assist recognised Aboriginal organisations to establish and provide preventative and support services directed towards strengthening and supporting families and reducing the incidence of child abuse and neglect within the Aboriginal community</p> <p>(iii) collect and publish relevant data or statistics or to assist in their collection or publication</p> <p>(iv) promote, encourage and undertake research into child abuse and neglect</p> <p>(v) encourage the provision, by educational institutions, of courses offering instruction about child abuse and neglect and its prevention and treatment; and</p> <p>(vi) generally do such other things which the Minister believes will further the object of this Act.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			Section 8	<p>This section outlines the Principles to be observed in dealing with children, including that:</p> <p>(a) the primary responsibility for a child's care and protection lies with the child's family; and</p> <p>(b) priority is to be given to supporting and assisting families carry out that primary responsibility in preference to commencing proceedings for care and protection orders; and</p> <p>(c) if a family is not able to meet its responsibilities to the child and the child is at risk, the Secretary may accept those responsibilities.</p> <p>In any exercise of powers under this Act in relation to a child, the best interests of the child must be the paramount consideration and serious consideration must be given to the desirability of keeping the child within his or her family; preserving and strengthening family relationships, whether or not the child is to reside within his or her family; not withdrawing the child unnecessarily from familiar environment, culture or neighbourhood; not interrupting unnecessarily a child's education or employment; preserving and enhancing the child's sense of ethnic, religious or cultural identity, and making decisions and orders that are consistent with ethnic traditions or religious or cultural values; preserving the child's name; not subjecting the child to unnecessary, intrusive or repeated assessments; and the powers, wherever practicable and reasonable, must be exercised in a manner that takes into account the views of all persons concerned with the welfare of the child.</p>

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				<p>In any exercise of powers in relation to a child, if a child is able to form and express views as to his or her ongoing care and protection, those views must be sought and given serious consideration, taking into account the child's age and maturity.</p> <p>In any proceeding under this Act that may lead to any separation of a child from his or her family, the child's family and other persons interested in the child's wellbeing must be given the opportunity to present their views in respect of the child's wellbeing.</p> <p>In any proceeding in relation to a child, the child's family and other persons interested in the child's wellbeing should be provided with information sufficient to enable them to participate fully in the proceeding.</p> <p>All proceedings under this Act must be dealt with expeditiously, with due regard to the degree of urgency of each particular case.</p>
			Section 9	Further principles are provided in addition to those in section 8 regarding dealings with Aboriginal children, that require regard to be had to a general principal that an Aboriginal child should remain within the Aboriginal community, Aboriginal traditions and cultures and consultation with recognised Aboriginal organisations.
			Part 2	This part provides that care agreements may be entered into by the guardians of a child and the Secretary. Agreements may not be entered into if the Secretary has reasonable grounds for suspecting, believing or knows that that the child

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				is at risk for any reason other than that the guardian is or will be temporarily unable to maintain the child or exercise adequate supervision and control over the child. If a child under the age of 16 years appears to have a sufficient understanding of the consequences of a care agreement, the child must be consulted by the Secretary before a care agreement relating to the child can be entered into or extended.
			Part 3	This part imparts a responsibility upon adults to take steps to prevent the occurrences of abuse or neglect of children. The same responsibility is imparted on prescribed persons (including medical practitioners, child care providers, police officers etc.) who must notify the secretary or a community-based intake service of actual or suspected neglect or abuse. The part also provides for the identity of the notifier.
			Part 4	This part empowers the Secretary to carry out assessments of the circumstances of a child if it has reasonable grounds to suspect that a child is at risk. The Secretary may obtain the assistance of the Commissioner of Police in undertaking the assessment, can require the child to be taken for the assessment and maintain short-term custody of a child for 120 hours in certain circumstances, including if there is a reasonable likelihood that the child is at risk and further assessment is warranted.
			Part 5	This part enables the Court to make care and protection orders or restraint orders if satisfied that it is necessary to secure the care and protection of a child.

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			Part 5A	This part empowers the Secretary to provide and share information with relevant persons
			Part 5B	This part empowers the Secretary to enter into agreements with organisations to carry out the functions of a community-based intake service (to assist with risk notifications and make referrals), who must comply with certain guidelines regarding the administration, procedures and practices of that service.
			Section 54	In proceedings, the court must consider the best interests of the child to be the paramount consideration
			Section 55	The court must consider certain matters in determining what is in a child's best interests
			Section 56	A child must have reasonable opportunity to give his or her views to a court regarding his or her ongoing protection.
			Part 7	The Secretary may place children in guardianship or custody of the Secretary or consent to the adoption of a child
			Part 9	This part establishes a commissioner for children with powers to exercise certain functions under the Act, requires the Secretary to establish advisory panels and approve facilitators.
			Part 10	This part creates various offences in respect of child care and protection, including for failure to protect children and leaving children unattended. Further a magistrate may issue a warrant to take a child into safe custody in certain

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				circumstances.
	Corrections Act 1997	Tas	Section 25	<p>The Director may permit a prisoner's child to live its parent in the prison if satisfied it is in the best interests of the child to live with his or her parent or guardian in the prison and the management, good order or security of the prison will not be threatened by the child living in the prison.</p> <p>If the Director considers that the child's behaviour is threatening the security or good order of the prison or the child's safety is threatened, the Director may cause the child to be removed from the prison.</p>
	Education Act 1994	Tas	Section 82A	Prohibits the use of corporal punishment by teachers and principals of schools.
			Section 5	A child may be exempted from the requirement to be enrolled at school if the Secretary is satisfied that it is in the best interests of the child to be exempted.
			Section 7	The Secretary may permit a child to attend school part-time if satisfied that it is in the best interests of the child's education to do so.
			Section 84	The Minister may enter into an agreement with a person to provide a hostel for school students. The person must comply with any instructions issued by the Secretary for the management of the hostel.
	Education and Care Services National Law (Application)	Tas	Section 4	Applies the Education and Care Services National Law as a law of Tasmania.

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	Act 2011			
	Evidence (Children and Special Witnesses) Act 2001	Tas	Section 4	A child is entitled to the presence of a support person when giving evidence in any proceeding.
	Family Violence Act 2004	Tas	Section 8	It is an offence under the Act to pursue a course of conduct of economic abuse of a spouse of partner, and this includes disposing of property owned by an affected child or withholding or threatening to withhold the financial support reasonably necessary for the maintenance of an affected child.
			Section 14	Empowers a police officer to make a police family violence order and issue it to a person if they have committed or are likely to commit a family violence offence, and the order can require the person to refrain from approaching an affected child.
			Section 15	An affected child may make an application for a family violence order.
	Guardianship and Custody of Infants Act 1934	Tas	Section 7	In the event of guardians being unable to agree upon a question affecting the welfare of an infant, any of them may apply to the Court for its direction, and the Court may make such order or orders regarding the matter as it shall think proper.
			Section 10	The Court may, upon the application of the mother or father of any infant (who may apply without next friend), make such order as it thinks fit regarding the custody of such infant and the right of access thereto of either parent, having regard

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				to the welfare of the infant and to the conduct of the parents, and to the wishes as well of the mother as of the father, and may alter, vary or discharge such order on the application of either parent, or, after the death of either parent, of any guardian under this Act, and in any case may make such order respecting the costs of the mother and the liability of the father for the same or otherwise as to costs as it may think just.
			Section 16	Nothing in this Act shall interfere with or affect the power of the Court to consult the wishes of the child in considering what order ought to be made, or diminish the right which any child now possesses to the exercise of its own free choice.
	Magistrate's Court (Children's Division) Act 1998	Tas	Section 7	The Court has a duty to consider the opinion of a child to whom proceedings before the Court relate if the Court considers the child able to understand the proceedings and their consequences and to form a rational opinion.
	Youth Justice Act 1997	Tas	Section 129	A detainee in a detention centre under the Act is entitled to have his or her developmental needs catered for, to receive visits from guardians, relatives, lawyers and others, to have reasonable efforts made to meet his or her medical, religious and cultural needs and to complain to the Secretary or the Ombudsman about the standard of care, accommodation or treatment he or she is receiving inside the detention centre. The Secretary must ensure that the rights of a detainee are not infringed.

9. Australian Capital Territory

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

AUSTRALIAN CAPITAL TERRITORY

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>ARTICLE 3:</p> <p>1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.</p> <p>2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.</p> <p>3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.</p>	<p>Adoption Act 1993</p>	<p>ACT</p>	<p>Section 4</p>	<p>Objects of Act include to ensure the best interests of a child or young person is the paramount consideration in adoption and to provide an adoption process that promotes the wellbeing and care of children.</p>
			<p>Section 5</p>	<p>Provides that a person making a decision under the Act must regard the best interests of the child or young person as the paramount consideration.</p>
			<p>Sections 18 and 19</p>	<p>Provides for the approval of suitable persons to adopt and the maintenance of a register of such persons.</p>
			<p>Section 34F</p>	<p>Deciding application for adoption order for child or young person</p> <p>(1) The court must not make an adoption order for a child or young person unless:</p> <p>(a) each consent required under division 3.3 has been given; and</p> <p>(b) the period within which each required consent may be revoked has expired without the consent having been revoked; and</p> <p>(c) after considering the report or reports given to it under</p>

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				<p>section 39D (Report on proposed adoption) or section 57A (Report on child for inter-country adoption) and any other evidence, the court considers that:</p> <p>(i) each applicant is of good reputation and able to fulfil the responsibility of the parent of a child or young person (including protecting a child's or young person's physical and emotional wellbeing); and</p> <p>(ii) each applicant is suitable to adopt the particular child or young person having regard to:</p> <p>(A) the applicant's age, education and attitude to adoption; and</p> <p>(B) the applicant's physical, mental and emotional health, particularly as it impacts on capacity to nurture the child or young person; and</p> <p>(C) any other relevant consideration; and</p> <p>(iii) the adoption is in the best interests of the child or young person.</p> <p>(2) In deciding whether or not to make an adoption order, the court must have regard to:</p> <p>(a) the views expressed by the child or young person in the consultation required under section 39E (Consultation with child or young person before adoption order made); and</p> <p>(b) any preferences expressed in an adoption plan given to</p>

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				the court as part of a report required under section 39D (Report on proposed adoption).
	Children and Young People Act 2008	ACT	Section 8	Provides that a decision maker under the Act must regard the best interests of the child or young person as the paramount consideration.
			Division 1.3.2	Sets out provisions regarding the responsibility of parents, carers and other persons in relation to young people.
			Part 2.1	Establishes the functions of the Director-General, including a range of matters regarding the care and protection of young people.
			Section 64	The Director General must consider particular information in determining whether an entity is suitable to be appointed a specified function under the Act.
			Section 138	<p>Treatment of young detainees generally</p> <p>Functions under the criminal matters chapters in relation to a young detainee must be exercised as follows:</p> <p>(a) to respect and protect the young detainee's human rights; and</p> <p>(b) to ensure the young detainee's decent, humane and just treatment; and</p> <p>(c) to preclude torture or cruel, inhuman or degrading treatment; and</p>

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				<p>(d) to ensure the young detainee is not subject to further punishment (in addition to deprivation of liberty) only because of the conditions of detention; and</p> <p>(e) to ensure the young detainee's conditions in detention comply with section 141 (Detention places—minimum living conditions); and</p> <p>(f) to promote, as far as practicable, the young detainee's reintegration into society; and</p> <p>(g) for a young detainee who is a young offender—to promote, as far as practicable, the young detainee's rehabilitation.</p>
			Section 141 and Part 6.5	Sets out minimum living conditions for young detainees in detention places under the Act.
			Chapter 10	Sets out general provisions in relation to the care and protection chapters of the Act, including definitions of abuse and neglect, and when children are at risk of abuse or in need of care.
			Section 349	Sets out the factors to be considered in determining the best interests of a child or young person for the purpose of the care and protection chapters of the Act.
			Section 350	Establishes the care and protection principles to be applied to decisions under the care and protection chapters of the Act, including the primacy of the parent and family, importance of contact with family, safety and wellbeing and others.

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			Section 352	Provides that a decision maker must give a child or young person a reasonable opportunity to express his or her views or wishes personally unless they are satisfied that the child or young person does not have sufficient developmental capacity to do so.
			Chapter 11	Sets out provisions regarding the reporting, investigation and appraisal of abuse and neglect of children and young people, including offences relating to failure to report and false reports, and the making of appraisal orders by the Court for the Director-General to appraise the care and protection of a child or young person.
			Chapter 12	Provides for the use of voluntary agreements to transfer or share parental responsibility of a child or young person.
			Chapter 13	Provides for the taking of emergency action in certain circumstances, including transferring the daily care responsibility for a child to the Director-General or a Police officer, and related provisions.
			Chapter 14	Provides for the application for, consideration of and making of care and protection orders, being orders for the care and protection (including residence, contact, supervision and other issues) of children and young people, and related provisions.
			Chapter 15	Sets out provisions which apply where the Director-General has an aspect of parental responsibility in relation to a child or young person, including for consultation with parents or other carers,

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			Part 15.4	Sets out provisions which apply where a child or young person is in the care of an out-of-home carer, including a foster carer or residential care service, and includes the criteria for authorisation of out-of-home carers and revocation of authorisation.
			Chapter 16	Provides for the making of therapeutic protection orders to direct a child to be confined to a therapeutic protection place for implementation of a therapeutic protection plan.
			Chapter 20	Sets out provisions regulating the operation, quality and licencing of child care services, including day care and child care centres.
	Domestic Violence and Protection Orders Act 2008	ACT	Section 17	Provides that in an application for a protection order, the paramount consideration includes (for a domestic violence order) the need to ensure that any child at risk of exposure to domestic violence is protected from domestic violence.
	Education and Care Services National Law (ACT) Act 2011	ACT	Section 6	Adopts in ACT law the Education and Care Services National Law.
	Family Provision Act 1969	ACT		Empowers a child of a deceased person to apply for provision out of the estate of a deceased person if adequate provision for the proper maintenance, education or advancement in life of the applicant is not available under the will of the deceased.
	Human Rights Act 2004	ACT	Section 11	Provides that every child has the right to the protection needed by the child because of being a child, without

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				distinction or discrimination of any kind.
	Parentage Act 2004	ACT	Section 26	States that the Supreme Court must make a parentage order about a child if it is satisfied that the making of the order is in the best interests of the child (in addition to other criteria).
	Working with Vulnerable People (Background Checking) Act 2011	ACT	Section 7	Provides that a ' vulnerable person ' under the Act includes a child and therefore that a range of activities including child care, child education, child accommodation, counselling and commercial services for children are activities for which participants must be background-checked and registered in case of risk to children.