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				child would then become a person who is not a national or citizen of any country.
	Australian Citizenship Act 2007	Cth	47(2)	<p>Section 47(1) and (3) provide that, if the Minister makes a decision under the Act in relation to a person, the Minister must give the person notice of the decision (and reasons, if it is an adverse decision).</p> <p>Section 47(2) provides that, if the person is a child, the Minister satisfies the notice requirement by giving the required notice to a parent of the child. 'Child' is defined in s 3 of the Act and includes a child within the meaning of the Family Law Act 1975 and an adopted, step or ex-nuptial child).</p>
	Australian Citizenship Act 2007	Cth	46(2A)	<p>Section 46(2A) provides that an application for Australian citizenship by a child under 16 must be set out on a form that contains no other application or on a form that also contains an application by 1 responsible parent of the child.</p> <p>'Responsible parent' is defined in s 6 and includes a person who has guardianship or custody of the child under Australian or foreign law and a person required by a parenting order to live with the child or have parental responsibility for the child's long-term or day-to-day care, welfare and development.</p>
	Australian Human Rights Commission Act 1986	Cth	Various	This Act contains various provisions which would facilitate a parent, guardian or other representative to assist a child or act on a child's behalf in making a complaint of a human rights violation, including a violation of the CRC. For example, s

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				20(1)(b) and 32(1)(b) acknowledge that a complaint may be made by <i>or on behalf of</i> a person aggrieved by an act or practice alleged to be inconsistent with a human right or alleged to constitute discrimination.
	Crimes Act 1914	Cth	Various	<p>(1) s 3ZI(1)(e) and (f) - A strip search must not be conducted on a person under 10 years, and may only be conducted on a person who is at least 10 but under 18 if:</p> <p>(a) the person has been arrested and charged or a magistrate orders the search to be conducted; and</p> <p>(b) the search is conducted in the presence of a parent or guardian of the of the person being searched (or, if that is not acceptable to the person, in the presence of another person (other than a constable) who is capable of representing the interests of the person and who, as far as is practicable in the circumstances, is acceptable to the person).</p> <p>(2) s 3ZI(4) - The principle in s 3ZI(1)(c) that a strip search must not be conducted in the presence or view of a person of the opposite sex, does not apply to a parent, guardian or personal representative of the person being searched (provided the person being searched has no objection to that person being present).</p> <p>(3) s 3ZJ(8) - The taking of identification material (as defined in s 3ZJ(1), eg fingerprints, voice recordings, handwriting samples, photographs or videos) from a person who is under 18 must be done in the presence of a parent or guardian of the person (or, if the parent or guardian is not acceptable to the person, another person (other than a</p>

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				<p>constable) who is capable of representing the interests of the person and who, as far as is practicable in the circumstances, is acceptable to the person).</p> <p>(4) s 3ZJ(10) - Despite s 3ZJ, identification material (as defined in s 3ZJ(1), eg fingerprints, voice recordings, handwriting samples, photographs or videos) may be taken from a person who is not a suspect, is at least 10 but under 18 and is capable of managing his or her affairs, if:</p> <p>(a) the person agrees in writing to the taking of the material and a parent or guardian of the person also agrees in writing (or, if a parent or guardian is not acceptable to the person, another person (other than a constable) who is capable of representing the interests of the person and who, as far as is practicable in the circumstances, is acceptable to the person also agrees in writing); or</p> <p>(b) a parent or guardian agrees in writing but the person does not, or the person agrees in writing but the parent (or other acceptable person as set out in (a)) does not, and a magistrate orders that the material be taken.</p> <p>(5) s 3ZN (1) and (3) - An identification parade must not be held for a suspect who is under 10, and must not be held for a suspect who is at least 10 but under 18 and is capable of managing his or her affairs, unless:</p> <p>(a) the suspect agrees to or requests in writing the holding of the parade and a parent or guardian of the suspect agrees in writing to it (or, if a parent or guardian is not acceptable to the suspect, another person (other than a constable) who is</p>

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				<p>capable of representing the interests of the suspect and who, as far as is practicable in the circumstances, is acceptable to the suspect agrees in writing to it); or</p> <p>(b) a parent or guardian agrees in writing but the suspect does not, or the suspect agrees in writing but a parent or guardian (or other acceptable person as set out in (a)) does not, and a magistrate orders that the parade be held.</p> <p>(6) s 3ZN (5) - An identification parade for a suspect who is under 18 or is incapable of managing his or her affairs must be held in the presence of a parent or guardian of the suspect (or, if the parent or guardian is not acceptable to the suspect, another person (other than a constable) who is capable of representing the interests of the suspect and who, as far as is practicable in the circumstances, is acceptable to the suspect).</p> <p>(7) s 3ZQC - An investigating official will be taken to have obtained the required consents for a 'prescribed procedure' (a procedure specified by regulations for determining a person's age - see s 3ZQA(1)) if he or she obtains agreement in writing from:</p> <p>(a) the person in respect of whom it is sought to carry out the procedure; and</p> <p>(b) a parent or guardian of the person (or, if a parent or guardian is not available or not acceptable to the person, an independent adult person (other than an investigating official involved in the investigation) who is capable of representing the interests of the person and who, as far as is practicable in</p>

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				<p>the circumstances, is acceptable to the person).</p> <p>(8) s 23K(1)-(3) - Subject to section 23L, if an investigating official:</p> <p>(a) interviews a person as a suspect (whether under arrest or not) for a Commonwealth offence, and believes on reasonable grounds that the person is under 18; or</p> <p>(b) believes on reasonable grounds that a person who is under arrest or a protected suspect is under 18, the official must not question the person unless an interview friend¹ is present while the person is being questioned and, before the start of the questioning, the official has allowed the person to communicate with the interview friend in circumstances in which, as far as practicable, the communication will not be overheard.</p> <p>The interview friend may be excluded from the questioning if he or she unreasonably interferes with it.</p>
	Criminal Code Act 1995	Cth		<p>(1) s 105.35 - A person being detained under a preventative detention order (which will not be a person under 16 years but may be a person of 16 or 17 years: see s 105.5(1)) is entitled to contact (among others) a family member (which includes a parent, step-parent, guardian or carer) by telephone, fax or email solely for the purpose of letting them know the person is safe but is not able to be contacted for the</p>

¹ An interview friend is defined in s23K(3) to include a parent or guardian or, if none of those is available, a relative or friend.

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				<p>time being.</p> <p>(2) s 105.39 - If the person being detained under a preventative detention order is under 18 years of age, the person is entitled, while detained, to have contact with a parent or guardian or another person who is able to represent the person's interests and otherwise satisfies the criteria in s 105.39(2)(b), for 2 hours per day or a longer period specified in the detention order or permitted by the police officer detaining the person. See also ss 105.8(7) and 105.12(7) which allow a detention order to specify a period of longer than 2 hours per day for this contact.</p> <p>(3) s 105.43(6) - The taking of identification material (as defined in s 100.1, eg fingerprints, voice recordings, handwriting samples, photos and videos) from a person who is under 18 years must be done in the presence of a parent or guardian of the person (or, if a parent or guardian is not acceptable to the person, another appropriate person who is capable of representing the person's interests and otherwise satisfies the criteria in s 105.43(11)). Despite this, identification material may be taken from a person who is under 18 years and capable of managing his or her affairs if:</p> <p>(a) that person and a parent or guardian of that person (or, if a parent or guardian is not acceptable to the person, another appropriate person (as defined in s 105.43(11)) agrees in writing; or</p> <p>(b) that person agrees in writing and a Federal Magistrate orders that the material be taken; or</p>

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				<p>(c) a parent or guardian of that person agrees in writing and a Federal Magistrate orders that the material be taken.</p> <p>(s 105.43(7)).</p>
	<p>Evidence Act 1995</p>	<p>Cth</p>	<p>s 18 S 20</p>	<p>(1) Section 18(2) provides that, in criminal proceedings, a parent of a defendant may object to being required to give evidence, or to give evidence of a communication between the child and the parent, as a witness for the prosecution.</p> <p>(2) Section 18(6) provides that a parent who makes such an objection must not be required to give the evidence if the court finds that:</p> <p>(a) there is a likelihood that harm would or might be caused (whether directly or indirectly) to the parent, or to the relationship between the parent and the child, if the parent gives the evidence; and</p> <p>(b) the nature and extent of that harm outweighs the desirability of having the evidence given.</p> <p>(3) Section 18(7) sets out factors to be taken into account by the court in making an assessment for the purpose of s 18(6).</p> <p>(4) Section 20 provides that the judge or any party (other than the prosecutor) may comment on a failure to give evidence by a parent of the defendant. However, unless the comment is made by another defendant in the proceeding, the comment must not suggest that the parent failed to give evidence because the defendant was guilty or the parent</p>

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				<p>believed the defendant was guilty.</p> <p>'Child' means a child of any age and includes an adopted child, ex-nuptial child or a child living with the parent as a member of the parent's family (Dictionary incl. at Pt 2, s 10)).</p>
	<p>Immigration (Guardianship of Children) Act 1946</p>	<p>Cth</p>	<p>Various</p>	<p>The long title of this Act is: an Act to make provision for and in connection with the guardianship of certain alien children.</p> <p>Key provisions include:</p> <p>(1) s 4AA - Subject to the relative's consent, the Minister may direct that a child under 18 shall be the Minister's ward, where:</p> <p>(a) the child enters Australia as a non-citizen in the charge of, or for the purpose of living under the care of, a relative of the person (other than a parent) not less than 21 years of age; and</p> <p>(b) the child intends to become, or is intended to become, a permanent resident of Australia; and</p> <p>(c) the Minister is satisfied that it is necessary in the interests of the child to direct that the child shall be the Minister's ward.</p> <p>(2) s 6 - The Minister shall be the guardian of the person and Australian estate of every 'non-citizen child' who arrives in Australia, to the exclusion of the parents and every other guardian of the child and shall have the same rights, powers, duties, obligations and liabilities as a natural guardian of the</p>

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				<p>child, until the child reaches 18 years or leaves Australia permanently or the provisions of the Act cease to apply to the child.</p> <p>'Non-citizen child' is defined in s 4AAA and means a child under 18 who enters Australia as a non-citizen and intends or is intended to become a permanent resident of Australia, <i>excluding</i> children who enter Australia in the charge of, or for the purposes of living in Australia under the care of:</p> <p>(a) a parent; or</p> <p>(b) a relative who has turned 21; or</p> <p>(c) an intending adoptive parent; or</p> <p>(d) an adult (being a person who has turned 21), where a prescribed adoption class visa is in force when the child enters Australia and the adult intends to reside with the child in a declared State or Territory.</p> <p>(3) s 7 - The Minister may place a non-citizen child (see definition above) in the custody of a person who is willing to be the custodian of the child and is, in the Minister's opinion, a suitable person to be custodian of that child. The Minister may remove the child from that person's custody and place the child in someone else's custody, if he or she considers it necessary to do so in the interests of the child.</p>
	Migration Act 1958	Cth	s 192A	If a minor (i.e. a person under 18) or incapable person is required under s 188 or 192 to provide a personal identifier (e.g. their photograph or signature), their parent or guardian

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				(or an independent person if no parent or guardian is readily available) may request that an authorisation be obtained under s 192A before an officer can require the personal identifier to be provided.
	Migration Act 1958	Cth	s 252B	<p>s 252B(1)(g) - A strip search under s 252A of a detainee (i.e. a person in immigration detention) who is at least 10 but under 18 or is incapable of managing his or her affairs, must be conducted in the presence of:</p> <p>(i) the detainee's parent or guardian if that person is in immigration detention with the detainee and is readily available at the same place; or</p> <p>(ii) if that is not acceptable to the detainee or subparagraph (i) does not apply, another person (other than an authorised officer) who is capable of representing the detainee's interests and who, as far as practicable in the circumstances, is acceptable to the detainee.</p> <p>252B(2) - The requirement that a strip search of a detainee not be conducted in the presence or view of a person of the opposite sex to the detainee or a person whose presence is not necessary, does not apply to a parent of the detainee or a person present because of s 252B(g)(ii), if the detainee has no objection to that person being present.</p>
	Migration Act 1958	Cth	s 261AL	s 261AL(2) - A non-citizen who is a minor (i.e. under 18) must not be required under s 40, 46, 188 or 192 to provide a personal identifier (e.g. their photograph or signature) by way of an identification test carried out by an authorised officer unless a parent or guardian of the minor, or an independent

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				<p>person if no parent or guardian of the minor is readily available or the Minister is the minor's guardian, consents to the minor providing the personal identifier.</p> <p>s 261AL(4) - Before obtaining the consent of a parent or guardian or the independent person, an officer or authorised officer must inform the parent, guardian or independent person of the matters of which the minor must be informed under s 258B (being the fact that an authorisation may be requested under s 192A and other such matters as are prescribed).</p> <p>s 261AL(5) - If a non-citizen who is a minor provides a personal identifier, in accordance with a requirement under the Act, by way of an identification test carried out by an authorised officer, the test must be carried out in the presence of a parent or guardian of the minor or an independent person.</p>
	<p>Schools Assistance (Learning Together - Achievement Through Choice and Opportunity) Act 2004</p>	Cth	Sections 15 and 32	<p>s 15 - An agreement between a State and the Commonwealth for a payment under this Act for government schools for a program year, must include a commitment by the State to ensure that each government school in the State gives student reports relating to each child at the school, to the parents, guardians or other persons who have care and control of that child. The reports must satisfy the requirements in s 15 and be followed by an opportunity for the child and the parents, guardians or other persons who have care and control of the child to meet with the child's teachers to discuss all aspects of the report and for the school to give constructive advice</p>

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				<p>about supporting the child's further progress at school.</p> <p>s 32 contains the same provision, but in relation to non-government schools or approved school systems.</p>

2. New South Wales

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

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<p>ARTICLE 5: States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.</p>	<p>Adoption Act 2000</p>	<p>NSW</p>	<p>Various</p>	<p>This Act contains the following provisions relevant to Article 5:</p> <p>8(2)(e) - In determining the best interests of the child, a decision maker is to have regard to (among other things) any wishes expressed by either or both of the parents of the child.</p> <p>Part 2, Div 2 (Aboriginal Children):</p> <p>(1) s 33 - The Director-General or appropriate principal officer must ensure that that either of the following is consulted about the placement of an Aboriginal child:</p> <p>(a) an Aboriginal person with relevant experience in working with Aboriginal children who is approved pursuant to s 195 as a person who may provide advice and assistance to Aboriginal families or kinship groups in relation to care options for Aboriginal children for the purposes of the Act; or</p> <p>(b) a person nominated by the child's parents, extended family or kinship group as recognised by the Aboriginal community to which the child belongs, or by that community, with expertise in relation to the adoption or substitute care of Aboriginal children.</p> <p>(2) s 35(2)(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</p>

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				<p>Aboriginal community, or one of the communities, to which the birth parent or birth parents of the child belongs.</p> <p>Part 2, Div 3 contains corresponding provisions regarding Torres Strait Islander children.</p> <p>45A - If an application to adopt a child is made by a couple, background information relating to the couple that is obtained by the Director-General or principal officer in connection with the application is, at the request of the birth parents of the child, to be provided to the birth parents before any adoption order may be made in relation to that child. 'Background information' includes information about the couple's social and cultural background, religious beliefs, domestic relationship and living arrangements, but does not include any information that identifies the couple.</p> <p>45B - 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. Nothing in the Anti-Discrimination Act 1977 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> <p>52 - The Court must not make an adoption order in relation to a child who is less than 18 years of age unless consent has been given by each parent of the child (or adoptive parent if</p>

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				<p>the child has previously been adopted) and any person who has parental responsibility for the child. (See also ss 53 to 56 re how a parent can give consent, circumstances in which parental consent is not required, consent of the child and consent of the birth father.)</p> <p>67(1)(c) - Section 67 sets out circumstances in which the Court may make an order dispensing with the requirement for a person's consent to a child's adoption. These include where there is a 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 person who has parental responsibility for the child.</p> <p>88(1) - The Court may not make an adoption order unless at least 14 days' notice of the application for the order (containing the particulars, if any, prescribed by the regulations) has been given to:</p> <p>(a) any person whose consent to the adoption of the child is required under the Act and has not been given (or the requirement for which has been dispensed with by the Court); and</p> <p>(b) any person (not being a person whose consent is so required) with whom the child resides or who has parental responsibility for the child.</p> <p>Part 11 relates to the effect of an adoption order and relevantly contains provisions about the rights and responsibility of adoptive parents once such an order has</p>

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				<p>been made.</p> <p>133C(3) - An adopted person who is less than 18 years of age is not entitled to receive his or her original birth certificate or adopted person's birth record, or prescribed information, except with the consent of:</p> <p>(a) his or her surviving adoptive parents; or</p> <p>(b) the Director-General if there are no surviving adoptive parents or if they cannot be found or if there is, in the opinion of the Director-General, any other sufficient reason to dispense with their consent.</p>
	Child Protection (International Measures) Act 2006	NSW	23(3)(b), 23(5), 25(3), 26(1), 26(3)(a), 34, 36 and 37(1)	<p>(1) This Act relates (inter alia) to the recognition in NSW of measures (as referred to in the <i>Child Protection Convention</i>²) taken by a competent authority of a foreign country for which that convention is in force (a 'Convention country'), for:</p> <p>(a) protecting the person of a child (being a person under 18 years) (a 'foreign personal protection measure'); or</p> <p>(b) appointing, or deciding the powers of, a guardian of the child's property (a 'foreign property protection measure').</p> <p>It also relates to such measures taken under NSW law ('NSW personal protection measures' and 'NSW property</p>

² Meaning the *Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children* signed at The Hague on 19 October 1996.

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				<p>protection measures' respectively).</p> <p>Section s 23(3)(b) provides that a NSW court may order that a foreign personal protection measure relating to a child be refused recognition on the ground that, in taking the measure, the competent authority of the Convention country is taken to have acted contrary to the fundamental principles of procedure under NSW law as mentioned in s 23(4). Section 23(4)(a) provides that the competent authority is take to have acted so contrary, where it did not give the child, or a person with parental responsibility for the child, an opportunity to be heard before taking the measure, and the measure was not taken as a matter of urgency. 'Parental responsibility' is defined as in the Child Protection Convention and includes 'parental authority, or any analogous relationship of authority determining the rights, powers and responsibilities of parents, guardians or other legal representatives in relation to the person or the property of the child' (s 5(1) of the Act; art 1(2) of the Convention).</p> <p>Section 26(2)(d) allows a NSW court to cancel the registration in NSW of a foreign personal protection measure or a foreign property protection measure if, in taking the measure, the competent authority of the Convention country is taken to have acted contrary to the fundamental principles of procedure under NSW law as mentioned in s 26(3). Section 26(3)(a) provides that the competent authority is take to have acted so contrary, where it did not give the child, or a person with parental responsibility for the child, an opportunity to be heard before taking the measure, and the</p>

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				<p>measure was not taken as a matter of urgency.</p> <p>Section 34(1) and (4)(a) provide that NSW courts and the Director - General of the NSW Department of Community Services, when hearing matters concerning contact with a child, must consider evidence and the findings (if any) of a competent authority of a Convention country on the suitability of a parent to have contact with the child. Section 34(2) and (4)(b) provide that NSW courts and the Director-General may adjourn/postpone a matter concerning contact with a child, pending the outcome of a request by a parent to a competent authority of a Convention country for a finding on the suitability of the parent to have contact with the child.</p> <p>Section 36(1) provides that a person who is to exercise parental responsibilities under a NSW personal protection measure or a NSW property protection measure may apply to a New South Wales authority (defined in s 5(1) to mean a NSW court, the Director-General (in the case of a personal protection measure) or the NSW Trustee and Guardian (in the case of a property protection measure) for information about the particular way in which the person may exercise the person's responsibilities under that measure.</p> <p>The Act also makes various provisions for an 'interested person' (defined in s 5(1) to include a parent of the child or any other person concerned with the care, welfare or development of the child) to be involved (for example, to be joined as a party) in proceedings relating to the child, - see sections 23(5), 25(3), 26(1) and 37(1).</p>

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	Child Protection (Offenders Registration) Act 2000	NSW	s 12A	<p>This Act imposes registration and reporting requirements on certain offenders who commit sexual and other serious offences against children ('registrable offences'). A person who a court has sentenced in respect of a registrable offence is a 'registrable person' for the purpose of the Act (s 3A(1)).</p> <p>Part 3 of the Act provides for registrable persons to make certain reports to the Commissioner of Police containing certain information about the registrable person. Sections 12A(4) and (5) provide that, if a registrable person is a child (i.e. under 18), any parent, guardian, carer or other person nominated by the child may make these reports on the child's behalf.</p>
	Children (Criminal Proceedings) Act 1987	NSW	ss 13(1)(a)(i) and 48T	<p>Section 13(1)(a) provides that any statement, confession, admission or information made or given to a member of the police force by a 'child' (being a person under 18) who is a party to criminal proceedings shall not be admitted in evidence in those proceedings unless:</p> <p>(a) there was present at the place where, and throughout the period of time during which, it was made or given:</p> <p>(i) a 'person responsible' for the child (defined in s 3(1) to include a person who has parental responsibility for the child (meaning all the duties, powers, responsibilities and authority which, by law, parents have in relation to their children) or has the care of the child);</p> <p>(ii) an adult (other than a member of the police force) who was present with the consent of the person responsible for the</p>

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				<p>child;</p> <p>(iii) in the case of a child who is of or above the age of 14 years—an adult (other than a member of the police force) who was present with the consent of the child; or</p> <p>(iv) an Australian legal practitioner of the child’s own choosing; or</p> <p>(b) the person acting judicially in those proceedings:</p> <p>(i) is satisfied that there was proper and sufficient reason for the absence of such an adult; and</p> <p>(ii) considers that, in the particular circumstances of the case, the statement, confession, admission or information should be admitted in evidence in those proceedings.</p> <p>Section 38(3) provides that, if the Children's Court makes an order requiring any photos, finger-prints, palm prints or other prescribed records to be destroyed pursuant to s 38(1) or (2), a copy of the order must be given to the person charged with the relevant offence and, if that person is a child, to a person responsible for the child.</p> <p>Section 48T essentially provides that a person must not disclose the name of, or any other identifying information about, a child or a victim of a child that the person has obtained in connection with the government's Supporting Children, Supporting Families program. However, this rule does not apply where the disclosure is to a person having parental responsibility for the child and the child (if capable</p>

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				in law of giving consent) has given consent to that disclosure: s 48T(3)(a)(ii)).
	Children (Education and Care Services) National Law and the Children (Education and Care Services) National Law Application Act 2010	NSW	s 189(4)	Section 189(4) provides that, if the Regulatory Authority removes a child from education and care service premises under s 189(2) (which relates to removal for to immediate danger to the health or safety of a child or children being educated and cared for), the Regulatory Authority must ensure that the child's parents are immediately notified of the situation and the child's current location.
	Children (Education and Care Services) Supplementary Provisions Act 2011	NSW	ss 6, 32 and 33	<p>(1) Section 6(e) & (f) (which are intended to give guidance and direction in the administration of the Act but do not create any enforceable rights or entitlements) states that the provision of State regulated education and care services should be based on principles including that:</p> <p>(a) parents have a right to information about the State regulated education and care services which their children attend; and</p> <p>(b) parents have both a right and a responsibility to be involved in the making of decisions by a State regulated education and care service in so far as those decisions affect their children.</p> <p>(2) Section 32 requires that an approved provider of a State regulated education and care service must provide parents of children enrolled in the service with ready access to the following information, and inform them of the availability of</p>

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				<p>that information:</p> <p>(a) all written policies required to be provided by the regulations and other policies and procedures relating to the conduct of the service developed by the approved provider; and</p> <p>(b) details of procedures for dealing with parents' concerns and complaints about the service, and</p> <p>(c) such other information relating to the service, or to the safety, welfare or well-being of children who attend the service, as the Regulatory Authority, by notice in writing to the approved provider, requires.</p> <p>(3) Section 33(1) requires that an approved provider of a State regulated education and care service must give any parent contact with his or her child at any time that the service is being provided to the child. However, the provider may deny a parent contact (until the parent's right to contact has been established) if the provider:</p> <p>(a) has reason to believe a court has denied the parent that contact; or</p> <p>(b) is requested to do so by the Director-General, an officer of the Ministry of Health, a police officer or any other appropriate authority.</p>
	Children (Interstate Transfer of	NSW	ss 6 and 19	This is an Act to (inter alia) facilitate the transfer of ' young offenders ' to, from or through New South Wales.

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	Offenders) Act 1988			<p>A 'young offender' is defined in s 3 and is essentially a person under 18 years who has committed an offence against the laws of another State or is subject to control (within the meaning of the <i>Children (Detention Centres) Act 1987</i>) or a certain type of order under the <i>Children (Criminal Proceedings) Act 1987</i>.</p> <p>(1) Section 6(1) provides that an arrangement for the transfer of a young offender from NSW to another State must not be made unless (inter alia):</p> <p>(a) the young offender or a 'person responsible' for the young offender (defined in s 3 to include a parent or person who has care for the young offender) applies for the transfer to be made; and</p> <p>(b) the Director-General is of the opinion that the transfer is appropriate, having regard to all the circumstances including (inter alia) the place or intended place of residence of the parents or other relatives of the young offender.</p> <p>For the purpose of deciding whether or not to arrange for the transfer of a young offender from NSW to another State, the Director-General may ask the young offender or a 'person responsible' for the young offender for any necessary information (s 6(2)).</p> <p>Section 19 provides that, for the purpose of forming an opinion or exercising a discretion under the Act, the Director-General may be informed as he or she thinks fit, and may have regard to reports from any 'person responsible' for a young offender or any person who has had the custody, care</p>

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	<p>Children (Protection and Parental Responsibility) Act 1997</p>	NSW	Various	<p>or supervision of the young offender, in NSW or another State.</p> <p>The long title of this Act is: an Act with respect to the responsibility of parents for the behaviour of their children; to enable police to escort certain children from public places to their parents' residences and other places; to make provision for local crime prevention plans and safer community compacts; to repeal the <i>Children (Parental Responsibility) Act 1994</i>; and for other purposes.</p> <p>For the purpose of this Act, 'child' means a person under 18 years of age and 'parent' includes a guardian or person who has custody of the child.</p> <p>Key provisions include:</p> <p>s 7 - A court exercising criminal jurisdiction with respect to a child may require the attendance in court of one or more parents of the child.</p> <p>s 8 & 9 - Sections 8 and 9 respectively allow a court which finds a child guilty of an offence to release the child on the condition that the child or the parent gives an appropriate undertaking to the court. For example, the court might require an undertaking from the child to submit to parental or other supervision as ordered by the court (s 8(1)(a)) or an undertaking from the parent to take specified action to assist the child's development and guard against the commission by the child of any further offences (s 9(1)(b)(ii)).</p> <p>s 10 - A court may require a child who it finds guilty of an</p>

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				<p>offence and the child's parent or parents to undergo such specified counselling as the court considers would be beneficial in assisting the progress of the child.</p> <p>s 11 - A parent who, by wilful default, has contributed directly or in a material respect to the commission of an offence of which the child has been found guilty, is guilty of an offence. Instead of or in addition to imposing a penalty, the court may require a parent convicted of such an offence to undergo counselling or do such other things that [sic] would in the opinion of the court advance the welfare and best interests of the child.</p> <p>Part 3 - Permits a police officer to remove a child who the police officer believes on reasonable grounds is under 16 from certain designated public places, where the officer believes on reasonable grounds that the child is not subject to the supervision or control of a responsible adult and is in the public place in circumstances that place the child at risk (ss 18, 19). Any child so removed will be escorted to the residence of a parent or carer (or if that is not possible, to the residence of a relative nominated by the child) and left there (subject to various exceptions, e.g. if there is no responsible adult present and the police officer is not satisfied the child may safely be left there in the absence of a responsible adult).</p>
	Children and Young Persons (Care and Protection Act) 1998	NSW	Various	<p>Section 8 states that the objects of this Act include to provide:</p> <p>(a) that children and young person's receive such care and protection as is necessary for their safety, welfare and well-being, having regard to the capacity of their parents or other</p>

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				<p>persons responsible for them; and</p> <p>(c) that appropriate assistance is rendered to parents and other persons responsible for children and young persons in the performance of their child-rearing responsibilities in order to promote a safe and nurturing environment.</p> <p>NB. In this Act, 'child' means a person under 16 years and 'young person' means a person aged 16 years or above but under the age of 18 years.</p> <p>Key provisions include:</p> <p>(1) Chapter 2, Part 1 sets out principles to be applied in administering the Act in respect of Aboriginal and Torres Strait Islander people, including that:</p> <p>(a) they are to participate in the care and protection of their children and young persons with as much self-determination as possible (s 11(1)); or</p> <p>(b) subject to the objects and principles of the Act in ss 8 and 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 a member of their extended family or kinship group, as recognised by their Aboriginal or Torres Strait Islander community (s 13(1)(a)) (unless that is impracticable, in which case ss 13(1)(b) to (c) set out alternative placements).</p> <p>s 21 - A parent of a child or young person may seek assistance from the Director-General in order to obtain</p>

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				<p>services that will enable the child or young person to remain in, or return to, the care of his or her family.</p> <p>s 34 -The Director-General may, instead of taking a matter before the Children's Court, develop a care plan in consultation with a child or young person's parents, or a parental responsibility contract in consultation with one or more primary care-givers. Part 3 (ss38-38G) and s 78 of the Act deal with care plans and parental responsibility contracts in more detail.</p> <p>s 51 - If a child or young person is in the care responsibility of the Director-General, the Director-General must notify each parent of the child or young person who can reasonably be located, of:</p> <p>(a) the fact that the child or young person is in the care responsibility of the Director-General; and</p> <p>(b) the fact that an application may be made for the child or young person to be discharged from the Director-General's care responsibility and the procedure for such an application.</p> <p>In the case of a child (i.e. someone under 16 years), the Director-General must also ensure the child's parents are kept informed of the whereabouts of the child.</p> <p>s 64 (1) and (4) - The Director-General must make reasonable efforts to notify the parents of a child or young person of the making of a care application by the Director-General in relation to that child or young person. As soon as practicable after the care application is made, the Director-General must</p>

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				<p>serve a copy of the application and all documentary evidence that accompanies it, on the parents who can reasonably be located (subject to s 64A which makes certain exceptions regarding evidence in the form of a recording).</p> <p>s 73 - If the Children's Court, after inquiring into a care application, is satisfied that the child or young person is in need of care and protection, it may make an order accepting such undertakings from a responsible person for the child or young person (which includes a parent, primary care-giver or person with parental responsibility or care responsibility) as it thinks fit.</p> <p>s 74 - This sections allows the Children's Court to make an order directing a person or organisation to provide support for a child or young person for a period not exceeding 12 months. A note to the section states that the parents of a child or young person cannot be compelled to accept the provision of support services, particularly if the services relate to the parents rather than to the child or young person.</p> <p>s 79 - If the Children's Court finds that a child or young person is in need of care and protection, it may make an order allocating parental responsibility, or specific aspects of parental responsibility (e.g. residence, contact, education, religious upbringing, medical treatment, etc.), to one parent, both parents, the Minister or another suitable person or persons.</p> <p>Chapter 6 relates to Children's Court procedure and confers various rights or obligations on parents in respect of that</p>

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				<p>procedure. For example:</p> <p>the Court may require the attendance in court of any parent or any other person who has, or has had, care responsibility for the child or young person (s 96);</p> <p>any person having parental responsibility for the child or young person may appear in person or be legally represented in any proceedings with respect to the child or young person, and may examine and cross-examine witnesses on matters relevant to the proceedings (s 98).</p> <p>Chapter 7, Part 1 (ss 110-119), enables the Director-General to arrange advice or assistance for parents and children/young persons, upon request by the parent, child/young person or any other person in certain circumstances where the safety, welfare or well-being of the child/young person is in jeopardy. Section 112 states that the principle to be applied in administering this Part in its application to children (i.e. people under 16 years) 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 they do so.</p> <p>Chapter 8, Part 2, Division 1A (ss 149B to 149K) - This division requires an agency responsible for the placement of a child or young person in out-of-home care to disclose certain information concerning that placement to any parent and any other person who is significant to the child or young person and makes a written request for the information.</p> <p>ss 230 and s230A - These sections prohibit a person from tattooing or body piercing a child or young person without</p>

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				<p>first obtaining the consent of a parent of the child or young person. This consent must be given in person whilst accompanying the child or in writing.</p> <p>Ch 14A, Part 2, Div 1 (ss 231C to 231F) - This Division relates to transfers by the Director-General of a child protection order made in NSW to a participating State. Section 231D provides that consent by the parents to the transfer is required in certain circumstances. Section 231F requires notification of the transfer to be served on the parents as soon as practicable and no later than 3 working days after the decision to make the transfer.</p>
	<p>Classification (Publications, Films and Computer Games) Enforcement Act 1995</p>	NSW	Sections 9, 13, 14, 24, 30, 32 and 53.	<p>'Minor' is defined in this Act as a person under 18.</p> <p>A person must not do the following unless the person is a parent or guardian of the minor:</p> <p>(1) sell or deliver to a minor a film classified RC or X 18+ or an unclassified film that would, if classified, be classified RC or X 18+ (s 9(2)); and</p> <p>(2) sell or deliver to a minor under 15 a film classified MA 15+ (s 9(4)); and</p> <p>(3) privately exhibit in the presence of a minor a film classified R 18+, or an unclassified film that would, if classified, be classified R 18+ (s 14(2)); and</p> <p>(4) sell or deliver to a minor a publication classified Category 1 restricted or Category 2 restricted (s 24(2));</p>

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				<p>(5) sell or deliver to a minor under 15 a computer game classified MA 15+ or an unclassified computer game that would, if classified, be classified MA 15+ (s 30(2)).</p> <p>It is a defence to prosecution for an offence under s 9(4) (which prohibits selling or delivering a film classified MA 15+ to a minor) to prove that the parent or guardian of the minor had consented to the sale (s9(5)(c)).</p> <p>A person must not publicly exhibit a film classified MA 15+ if a minor under 15 is present during any part of the exhibition, and the minor is not accompanied by his or her parent or guardian (s13(1)).</p> <p>A person must not publicly demonstrate a computer game classified MA 15+ if a minor under 15 is present during any part of the demonstration and the minor is not accompanied by his or her parent or guardian (s 32(1)(b)).</p> <p>A public library, or any person employed in a public library, does not commit an offence under this Act in respect of any MA material or restricted material that is held in the library if the requirements in s 53(2) are complied with, including that minors under 15 are not permitted to borrow MA material without parental or guardian consent (s 53(2)).</p>
	Crimes Act 1900	NSW	s 61AA - Defence of 'lawful correction'	Section 61AA provides for a defence of ' lawful correction ' to criminal proceedings arising out of the application of physical force to a child under 18 years. It is a defence that the physical force was applied for the purpose of the punishment of the child, but only if:

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				<p>(a) the force was applied by the parent of the child or by a 'person acting for a parent of the child' (see below), and</p> <p>(b) (b) the application of that force was reasonable having regard to the age, health, maturity or other characteristics of the child, the nature of the alleged misbehaviour or other circumstances.</p> <p>A 'person acting for the parent' of the child is defined as a person who:</p> <p>(a)</p> <p>(i) is a step-parent, a de facto partner of the parent, a relative (by blood or marriage) of a parent, or a person to whom the parent has entrusted the care and management of the child; and</p> <p>(ii) is authorised by a parent of the child to use physical force to punish the child; or</p> <p>(b) where the child is an Aboriginal or Torres Strait Islander, is recognised by the Aboriginal or Torres Strait Islander community to which the child belongs as being an appropriate person to exercise special responsibilities in relation to the child.</p> <p>(s 61AA(6)).</p> <p>The application of physical force, unless that force could reasonably be considered trivial or negligible in all the</p>

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				<p>circumstances, is not reasonable if the force is applied:</p> <p>(a) to any part of the head or neck of the child; or</p> <p>(b) to any other part of the body of the child in such a way as to be likely to cause harm to the child that lasts for more than a short period (s 61AA(2)).</p> <p>Subsection 61AA(8) states that the Attorney General is to review this section to determine whether its provisions continue to be appropriate for securing the policy objectives of the section. The review was to be undertaken as soon as possible after the period of 3 years from the commencement of this section. (Section s 61AA commenced on 5 December 2002, a year after the assent of the Act which introduced it (the Crimes Amendment (<i>Child Protection - Physical Mistreatment</i>) Act 2001).) A report on the outcome of the review was to be tabled in each House of Parliament within 6 months after the end of the period of 3 years. We have not ascertained whether this review occurred or report was tabled.</p>
	Crimes Act 1900	NSW	s 86(6)	A person who takes or detains a child under 16 does not commit an offence under s 86 (kidnapping) if the person is the parent of the child or is acting with the consent of a parent of the child, and the person is not acting in contravention of any court order relating to the child.
	Education Act 1990	NSW	Various	This is an Act relating to the education of school children. Key provisions relevant to Article 5 include: ss 22 and 23 - It is the duty of the parent of a child of

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				<p>compulsory school-age to cause the child to attend school or receive home schooling. Failure to do so is an offence.</p> <p>Compulsory school-age is defined in s 21B and means between the age of 6 and either:</p> <p>(a) the age of 17; or</p> <p>(b) the completion of Year 10 if the child participates in paid work (if 15 or above) or full-time approved education or training.</p> <p>s 26 - The parent of a child enrolled at a government school may conscientiously object on religious grounds to the child being taught a particular part of a course of study. The Director-General may accept any such objection and grant a certificate exempting the child from attending the relevant classes.</p> <p>s 26E, 26I, 26J, 26K - Part 5A of the Act gives the Director-General power to direct that a student is not to be enrolled in a government school other than a school of a specified type, where the Director-General believes on reasonable grounds that enrolling the child in any other school would constitute a risk (because of the behaviour of the student) to the health or safety of any person (including the student). Part 5A gives various rights to parents in this context, primarily:</p> <p>(a) the right to be consulted during the assessment of risk and development of strategies to minimise risk (s 26E);</p> <p>(b) the right to be given notice, information and the</p>

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				<p>opportunity to make representations (which the Director-General must take into consideration) prior to the Director-General making a direction under Part 5 about their child's enrolment (s 26I);</p> <p>(c) the right to be given notice of a direction under Part 5 about their child's enrolment and the grounds for that direction (s 26J); and</p> <p>(d) the right to apply for a direction under Part 5 about their child's enrolment to be revoked (s 26K).</p> <p>s 33 and 33A - No child at a government school is to be required to receive any general religious education or special religious education if the parent of the child objects to the child's receiving that education. If a parent so objects, the child is entitled to receive special education in ethics if the parent requests it and it is reasonably practicable for the school to make it available.</p> <p>Part 7, Division 6 (ss 70-74) - Permits a parent to apply to the Minister for registration of the child for home schooling. If granted, the child must receive instruction in accordance with the conditions specified in the certificate of registration (which will include anything required by regulations made under the Act and (subject to those regulations) a requirement that the relevant requirements of Part 3 regarding the minimum curriculum for schools are met).</p>
	Evidence Act 1995	NSW	Sections 18(2), 18(6) and 20	Section 18(2) provides that, in criminal proceedings, a parent of a defendant may object to being required to give evidence, or to give evidence of a communication between the child

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				<p>and the parent, as a witness for the prosecution.</p> <p>Section 18(6) provides that a parent who makes such an objection must not be required to give the evidence if the court finds that:</p> <p>(a) there is a likelihood that harm would or might be caused (whether directly or indirectly) to the parent, or to the relationship between the parent and the child, if the parent gives the evidence; and</p> <p>(b) the nature and extent of that harm outweighs the desirability of having the evidence given.</p> <p>Section 18(7) sets out factors to be taken into account by the court in making an assessment for the purpose of s 18(6).</p> <p>Section 20 provides that the judge or any party (other than the prosecutor) may comment on a failure to give evidence by a parent of the defendant. However, unless the comment is made by another defendant in the proceeding, the comment must not suggest that the parent failed to give evidence because the defendant was guilty or the parent believed the defendant was guilty.</p> <p>'Child' means a child of any age and includes an adopted child, ex-nuptial child or a child living with the parent as a member of the parent's family (Dictionary incl. at Pt 2, s 10).</p>
	Guardianship Act 1987	NSW	Part 5 (ss 32-48)	Part 5 of the Act provides for a person who is incapable of giving consent to necessary medical or dental treatment to nonetheless receive that treatment, if consent has been given

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				<p>by a 'person responsible' for that person or a guardian of that person. For the purposes of Part 5, a person is incapable of giving consent to medical or dental treatment if the person is incapable of understanding the general nature and effect of the proposed treatment or incapable of indicating whether he or she consents to it (s 33(2)).</p> <p>Part 5 only applies to people who are 16 years or older (s 34(1)(a)). So, in the context of Part 5, a 'child' (defined in s 3 of the Act) is a person who has reached 16 years of age but is under 18 years of age. The 'person responsible' for such a child is the person having parental responsibility (within the meaning of the <i>Children and Young Persons (Care and Protection) Act 1998</i>) for the child (unless the child is in the care of the Minister or the Director-General, in which case the person responsible is the Minister or Director-General (as the case may be) (s 33A(2)). This is likely to be the parent but may be someone else given 'parental responsibility' under the <i>Children and Young Persons (Care and Protection) Act 1998</i>.</p> <p>Consent to medical or dental treatment on a patient to whom Part 5 applies may be given by the person responsible for the patient or by the Guardianship Tribunal (s 36(1)). A guardian of the patient may also consent to continuing or further special treatment if the Tribunal has previously consented to the carrying out of the treatment and has authorised the guardian to consent to the continuation of that treatment or to further treatment of a similar nature (s 36). However, consent given by a person responsible for, or the guardian of,</p>

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				<p>the patient, has no effect if:</p> <p>(a) the person carrying out or supervising the proposed treatment is aware or ought reasonably to be aware that the patient objects to the carrying out of the treatment; or</p> <p>(b) the proposed treatment is to be carried out for any purpose other than that of the promoting or maintaining the health and well-being of the patient (s 46(3)).</p>
	<p>Health Records and Information Privacy Act 2002</p>	<p>NSW</p>	<p>ss 7 and 8</p>	<p>Section 7 permits an authorised representative of an individual to do an act authorised, permitted or required by the Act if the individual is incapable (despite the provision of reasonable assistance by another person) by reason of age, injury, illness, physical or mental impairment of:</p> <p>(a) understanding the general nature and effect of the act; or</p> <p>(b) communicating the individual's intentions with respect to the act.</p> <p>Section 8 provides that an authorised representative includes:</p> <p>(a) a guardian within the meaning of the Guardianship Act 1987 or a person responsible within the meaning of Part 5 of that Act; or</p> <p>(b) a person having parental responsibility for the individual, if the individual is a child.</p> <p>Accordingly, a parent or guardian (or other person falling within the definition of authorised representative) may make</p>

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				<p>privacy decisions and exercise privacy rights on behalf of their child (for example, consenting to a certain use or disclosure of the child's health information), if the child is incapable (despite the provision of reasonable assistance) of understanding the general nature and effect of the act or decision, or communicating his or her intentions with respect to the act or decision. For further information, see the NSW Privacy Commissioner's <i>Handbook to Health Privacy</i> at section 1.4 ('Capacity') - http://www.privacy.nsw.gov.au/lawlink/privacynsw/ll_pnsw.nsf/pages/privacy_handbooktohealth</p>
	<p>Health Records and Information Privacy Act 2002</p>	<p>NSW</p>	<p>Sch 1 (Health Privacy Principles), clause 11(g)</p>	<p>HPP 11(g) provides that an organisation may disclose health information about an individual for a secondary purpose (despite the general prohibition on such disclosure in HPP 11) if the disclosure consists of providing the information to an immediate family member (which is defined to include a parent) of the individual for compassionate reasons and:</p> <p>(a) the disclosure is limited to the extent reasonable for those compassionate reasons, and</p> <p>(b) the individual is incapable of giving consent to the disclosure of the information, and</p> <p>(c) the disclosure is not contrary to any wish expressed by the individual (and not withdrawn) of which the organisation was aware or could make itself aware by taking reasonable steps.</p>

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	Infants Custody and Settlements Act 1899	NSW	Sections 5 and 9	<p>This is an Act to consolidate the law relating to the custody of minors and the settlement of the property of minors. A 'minor' for the purpose of the Act is a person under 18 years. 'Parent' is defined to include the father and mother and any person at law liable to maintain the child or entitled to custody of the child. (s 3)</p> <p>Section 5(1) (read with s 5(6)) provides that the Supreme Court may, upon the application of the mother or father of any minor, make such order as it may think fit regarding the custody of the minor and the right of access thereto of either parent, having regard to the welfare of the minor, and to the conduct of the parents, and to the wishes as well of the mother as of the father. The fact that a parent contemplates leaving the State shall not of itself be regarded as a reason for denying such parent the custody of the minor or depriving such parent thereof if the court is satisfied that the welfare of the minor will best be served by allowing such parent to have or retain such custody.</p> <p>Section 5(7) provides that, in any case in which a parent of a minor is dead, the court may, on the application of any relative of that parent, make such order as to access to the minor by such relative as to the court seems fit.</p> <p>Section 5(8) provides that any order made under s 5 may, on the application either of the father or the mother or any guardian of the minor, be varied or discharged by a subsequent order.</p> <p>Section 9 provides that:</p>

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				<p>(1) Upon any application by the parent of a minor for the production or custody of the minor, if the Court is of the opinion that the parent ought not to have the custody of the minor, and that the minor is being brought up in a different religion from that in which the parent has a legal right to require that the minor should be brought up, the Court may make such order as it may think fit to secure that the minor shall be brought up in the religion in which the parent has a legal right to require that the minor should be brought up.</p> <p>(2) Nothing in this Act shall interfere with or affect the power of the Court to consult the wishes of the minor in considering what order ought to be made, or diminish the right which a minor now possesses to exercise free choice.</p>
	Mental Health Act 2007	NSW	Various	<p>Section 6 sets out various rights of parents where their child under 16 years is admitted (or seeks to be admitted) by an authorised medical officer as a voluntary patient of a mental health facility. Specifically, the authorised medical officer must:</p> <p>(i) as soon as practicable after admitting the child, take all reasonably practicable steps to notify a parent of the child of the admission; and</p> <p>(ii) discharge the child if he or she is of 14 or 15 years of age and a parent of the child objects to the admission, unless the child elects to continue as a voluntary patient; and</p> <p>(3) not admit a person under the age of 14 years as a voluntary patient if a parent of the person objects to that</p>

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				<p>admission; and</p> <p>(4) discharge a person under the age of 14 years who has been admitted as a voluntary patient if a parent of the person requests that the person be discharged.</p> <p>The Act provides for various rights and powers of 'primary carers' (defined to include parents) in relation to the treatment of their children in mental health facilities. Where the patient is a child, 'primary carer' is defined in s 71 as:</p> <p>(a) the guardian of the patient (if any); or</p> <p>(b) the parent of the patient (subject to any nomination referred to in (b) below); or</p> <p>(c) if the patient is over 14 and is not a person under guardianship, the person nominated by the patient as the primary carer under Part 1 of Chapter 4 of the Act; or</p> <p>(d) if none of (a) to (c) applies, any person who is primarily responsible for providing support or care to the patient (other than wholly or substantially on a commercial basis) or a 'close friend or relative' of the patient as defined in s 71(2).</p> <p>Provisions relating to the rights of a 'primary carer' include:</p> <p>(a) ss 18(1)(g) and 26 - a person may be detained in a declared mental health facility in certain urgent circumstances on a written request made to the authorised medical officer by the primary carer or a relative or friend of</p>

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				<p>the person;</p> <p>(b) s 34(2) - The primary carer of an assessable person may, with the approval of the Tribunal, appear at a mental health inquiry regarding that person;</p> <p>(c) s 43(1) - the primary carer of an involuntary patient or another person detained in a mental health facility may, at any time, apply to an authorised medical officer of the facility for the discharge of the patient or person. The officer may discharge the patient or person if:</p> <p>(i) the applicant gives a written undertaking that the patient or person will be properly taken care of, and</p> <p>(ii) the officer is satisfied that adequate measures will, so far as is reasonably practicable, be taken to prevent the patient or person from causing harm to him- or herself or others.</p> <p>(d) s 57(4) - The director of community treatment of a declared mental health facility implementing a treatment plan under a community treatment order must provide to the affected person particulars of the kind and dosages of medication that are being or have recently been administered to the person, if requested to do so by the affected person or their primary carer.</p> <p>(e) s 73 - On request by the primary carer of a patient or person detained in a mental health facility, an authorised medical officer must provide particulars of the types of medication and dosages currently or recently administered to</p>

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				<p>the patient or person.</p> <p>(f) s 75 - An authorised medical officer must, no later than 24 hours after a person is detained in a mental health facility, take all reasonably practicable steps to notify the primary carer of the person.</p> <p>(g) s 76 - an authorised medical officer must, in accordance with the regulations, take all reasonably practicable steps to give notice of a proposed mental health inquiry to the primary carer of the relevant assessable person;</p> <p>(h) s 78 - an authorised medical officer must take all reasonably practicable steps to notify the primary carer of a patient or person detained in the facility if any of the event specified in s 78(1) occur. Those events include:</p> <p>(i) the patient being absent from the facility without permission; or</p> <p>(ii) the patient is transferred (or proposed to be transferred) to another facility; or</p> <p>(iii) the patient is discharged; or</p> <p>(iv) the patient is re-classified as a voluntary patient.</p> <p>(i) s 79 - an authorised medical officer must take all reasonably practicable steps to:</p> <p>(i) ensure that a patient or person detained in the facility, and their primary carer, are consulted in relation to planning the</p>

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				<p>patient's discharge and any subsequent treatment or other action considered in relation to the patient; and</p> <p>(ii) provide any such patient or person who is discharged, and their primary carer, with appropriate information as to follow-up care; and</p> <p>(j) s 134 - A patient or person detained in a mental health facility or an affected person under a community treatment order who is being treated by a mental health facility, or the primary carer of any such person, may notify the medical superintendent or director of community treatment of the facility, orally or in writing, that the patient or person or carer desires to see an 'official visitor'. (An 'official visitor' is a medical practitioner, registered psychologist or other appropriately qualified or interested person who is nominated by the Minister under s 129 and performs perform the functions in s 129(3) including inspecting mental health facilities and acting as an advocate for patients.) The medical superintendent or director must inform an official visitor of the patient's or person's or primary carer's desire to see an official visitor not later than 2 days after receiving the notification.</p> <p>Section s 72(2) allows a person to nominate persons who are excluded from being given notice or information about the person under the Act. However, s 72(3) provides that a person who is over 14 and under 18 may not exclude the person's parent by such a nomination.</p>
	Minors (Property)	NSW	s 43(1)(a)	This Act relates to the contractual and testamentary capacity

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	and Contracts) Act 1970			<p>and proprietary rights and obligations of people under the age of 21 years, including 'minors' (defined as people under 18 years).</p> <p>43(1)(a) - Where, in proceedings under any of sections 19, 26, 27, 30, 31, 32, 34, 37 and 50, a question arises whether a civil act⁺ or some other matter is or was for the benefit of a person who at any material time is a minor, the court may refer the question to a parent of the minor or to a guardian of his or her person or of his or her estate or to any other person.</p> <p>Part 3 (sections 16 to 39) sets out limited circumstances in which a civil act performed by a minor will be binding on the minor. Section 50 relates to the Supreme Court's powers to make orders for the benefit of a minor in respect of property to which the minor is beneficially entitled.</p> <p>⁺'Civil act' is defined in s 6(1) and includes a contract, an election to rescind or determine a contract, a disposition of property and any act relating to contractual or proprietary rights or obligations or to any chose in action.)</p>
	Minors (Property and Contracts) Act 1970	NSW	s 46	<p>Section 46(1) permits a person under the age of 21 years to appoint an agent and, by that agent, participate in any civil act and otherwise do or suffer anything which a person aged 21 years or upwards may participate in or do or suffer by an agent. Whilst this section does not expressly refer to parents or guardians, it is included as relevant to Article 5 because it is reasonably likely that a person under age 21 would select a parent or guardian as his or her agent.</p> <p>Section 46(2) provides that a civil act in which a minor</p>

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				(being a person under 18) participates by an agent and anything which a minor otherwise does or suffers by an agent, has no greater validity or effect ' as against the minor ' than it would if participated in or done or suffered by the minor without an agent.
	Minors (Property and Contracts) Act 1970	NSW	s 49(1)	s 49(1) - Where medical treatment or dental treatment of a minor aged less than 16 years is carried out with the prior consent of a parent or guardian of the person of the minor, the consent has effect in relation to a claim by the minor for assault or battery in respect of anything done in the course of the treatment as if, at the time when the consent is given, the minor were aged 21 years or upwards and had authorised the giving of the consent.
	Privacy and Personal Information Protection Act 1998	NSW	s 9	Section 9(b) allows a public sector agency to collect personal information relating to an individual from a parent or guardian of the individual, if the individual is under the age of 16 years. This is an exception to the general rule in s 9 that a public sector agency must collect personal information directly from the individual to whom the information relates.
	Young Offenders Act 1997	NSW	Various	This Act makes various provisions for a parent or a 'person responsible' (being a parent or a person who has the care of the child) to be involved where their child is subject to the cautions, warnings or youth justice provided for by the Act. A ' child ' for the purpose of the Act is a person over the age of 10 and under the age of 18. Relevant provisions are:

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				<p>7(f) - The principle that parents are to be recognised and included in justice processes involving children and that parents are to be recognised as being primarily responsible for the development of children.</p> <p>10(a) - An admission by a child of an offence is not an admission for the purposes of the Act unless it takes place in the presence of a person responsible, an adult who is present with the consent of a person responsible, an adult chosen by the child (if the child is 14 years or over) or an Australian legal practitioner chosen by the child.</p> <p>16A - An investigating official who gives a warning to a child in respect of an offence committed by the child, or a youth liaison officer, may notify the parents of the child that a warning has been given (unless the official or officer is of the opinion that such notification would pose an unacceptable risk to the safety, welfare or well-being of the child).</p> <p>22(2)(a) - If practicable, an explanation by an investigating official under s 22(1) (being an explanation prior to a caution being given) must take place in the presence of a person responsible, an adult who is present with the consent of a person responsible, an adult chosen by the child (if the child is 14 or over) or an Australian legal practitioner chosen by the child.</p> <p>28 - This section lists people who are permitted to be present when a caution is given to a child. They include a person responsible for the child.</p> <p>29(3) - It is the duty of a person who gives a caution to a</p>

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				<p>child to ensure, as far as practicable, that a person responsible or an adult chosen by the child is present when the caution is given. See also s 29(2A)(a) to similar effect.</p> <p>39(2)(a) - If practicable, an explanation by a specialist youth officer under s 39(1) (being an explanation prior to referring a matter to a youth justice conference under Part 5 of the Act) must take place in the presence of a person responsible, an adult who is present with the consent of a person responsible, an adult chosen by the child (if the child is 14 or over) or an Australian legal practitioner chosen by the child.</p> <p>45(2)(a) and (3)(b), 47(1)(c) - provisions for a person responsible for a child the subject of a youth justice conference to attend the conference and to be consulted in relation to the date, time, place and attendees of the conference.</p> <p>48(6) - A youth justice conference may be adjourned 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>66(2)(a) - Records of or relating to cautions and conferences under the Act may be divulged to a person responsible for the child (despite the general restriction in s 66(1) on divulging information or records prepared or acquired in the exercise of functions under the Act).</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 5: States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.</p>	<p>Adoption Act 1984</p>	<p>Vic</p>	<p>Various</p>	<p>This Act contains various provisions about parents' and adoptive parents' rights and involvement in the adoption process, which might be seen as relevant to Article 5. The provisions most obviously relevant to Article 5 include:</p> <p>s 15(1)(b) & (c) - The Court shall not make an order for the adoption of a child unless it is satisfied that the Secretary or principal officer has given consideration to any wishes expressed by a parent of the child:</p> <p>(a) in relation to the religion, race or ethnic background of the proposed adoptive parent or adoptive parents of the child; and</p> <p>(c) after consent was given or dispensed with about access to or information about the child and any arrangements agreed between the parent and the proposed adoptive parents of the child for access to the child or for the giving of information about the child.</p> <p>s 19 - An 'eligible person' including a natural parent of the adopted child, can apply for an adoption order to be discharged on the grounds of fraud, duress or other improper means or because of other special circumstances (s 19(1)). The Court may allow any natural or adoptive parent of the child to address the Court in the hearing of such an application (s 19(9)).</p>

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				<p>s 33 - The Court shall not make an order for adoption unless satisfied that consent to the adoption has been given by the child's parents.</p> <p>s 37(1) - A consent by a parent to the adoption of a child in which the wish is expressed under section 50 that the child be adopted within the Aboriginal community, may be made subject to a condition that that parent, and such relatives of the child as are specified in the consent and members of the Aboriginal community to which the child belongs have a right of access to the child in accordance with the prescribed terms.</p> <p>s 50 - Where a parent who is an Aborigine (or who believes the other parent is an Aborigine) expresses the wish that their child be adopted within the Aboriginal community, the Court shall not make an order for the adoption of the child unless it is satisfied that:</p> <p>(a) the parent has received, or has in writing expressed the wish not to receive, counselling from an Aboriginal agency; and</p> <p>(b) the proposed adoptive parents (or at least one of them) are:</p> <p>(i) members of the Aboriginal community to which a parent who gave consent belongs; or</p> <p>(ii) if such a person is not reasonably available, members of an Aboriginal community; or</p>

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				<p>(c) if neither (i) or (ii) is reasonably available, the proposed adoptive parents are persons approved by or on behalf of the Secretary or principal officer of an approved agency and by an Aboriginal agency as suitable persons to adopt an Aboriginal child.</p> <p>s 59 - Where the consent of a parent to the adoption of an Aboriginal child was given subject to a condition in accordance with section 37, the adoption order may, subject to and in accordance with consents given to the adoption, be made subject to a condition that a parent or the parents, relatives of the child and members of the Aboriginal community to which the child belongs have such right to have access to the child as is specified in the order.</p> <p>s 60(3) - An application for an adoption order to be varied to include a condition pursuant to s 59 or 59A (which, broadly, permit conditions which allow natural parents access to their adopted children), made by an adoptive parent, a parent who gave consent to the adoption or by or on behalf of the child.</p> <p>s 94(2) - If an adopted person under the age of 18 years makes an application to a relevant authority for information about themselves (including information from which the identity of their natural parents can be ascertained), the application must be accompanied by the agreement in writing, or evidence of the death, of each adoptive parent of the person.</p> <p>s 94(3) - A relevant authority shall not give an adopted</p>

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				<p>person any information from which the identity of their natural parents can be ascertained unless the relevant authority has obtained the agreement in writing, or evidence of the death, of the natural parent.</p> <p>s 95(2) - A relevant authority shall not give a natural parent of an adopted person under the age of 18 years any information from which the adoptive parents may be identified or the whereabouts of the adopted person ascertained, unless the relevant authority has obtained the agreement in writing, or evidence of the death, of each adoptive parent.</p> <p>s 97(3)(a)(iii) - A relevant authority shall not give a natural relative of an adopted person under 18 years any information from which the adoptive parents may be identified or the whereabouts of the adopted person ascertained, unless the relevant authority (among other things) has obtained the agreement in writing, or evidence of the death, of each adoptive parent.</p> <p>s 98(2) - A relevant authority shall not give an adoptive parent any information from which a natural parent may be identified, unless the relevant authority has obtained the agreement in writing, or evidence of the death, of that natural parent.</p> <p>s 121(3) - If the adopted child has reached 10 years but not 18 years, consent (under s 121(2)) to publication of any matter that identifies the adopted child as a party to an adoption, must be given by the child's parent or guardian as well as by</p>

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				<p>the child.</p> <p>s 122(2) - Provides an exception to the offence in s 122(1) (which, broadly, relates to unauthorised arrangements for the adoption of a child) in the case where a parent, guardian or relative makes arrangements for the adoption of the child by a relative (or a relative and their spouse) of the child.</p>
	<p>Child Employment Act 2003</p>	<p>Vic</p>	<p>Sections 8, 9, 11, 13, 19, 23 and 27</p>	<p>'Child' is defined in this Act as a person under 15 years of age.</p> <p>A child may be employed in accordance with a permit and with the prior written consent of the parent or guardian of the child (s 8; s 27).</p> <p>A parent or guardian of a child must not allow the child to engage in employment unless a permit has been issued for the employment (s 9(2)).</p> <p>A parent or guardian of a child must not allow the child to engage in employment if the nature and extent of the employment is such as to prejudice the child's attendance at school or their capacity to benefit from instruction (s 11(2)).</p> <p>An application for a permit for child employment:</p> <p>(a) other than in entertainment, must be signed by (among others) the parent or guardian of the child; or</p> <p>(b) in entertainment, must contain an undertaking that the prospective employer will ensure that the parent or guardian of the child: (a) consents in writing to the employment; and</p>

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				<p>(b) has sufficient information about certain specified matters before giving consent to the employment (s 13(2)(e)(i) & (ii)).</p> <p>An employer or prospective employer of a child must, on request by the parent or guardian, provide the name of any supervisor of the child and the number of the supervisor's current assessment notice under the Working with Children Act 2005 (s 19(4)).</p> <p>The Secretary to the Department of Business and Innovation can generally specify in a permit that certain conditions in ss 21 and 22 of the Act do not apply to the employment of a child. However, the Secretary must not do so unless he or she has regard to (among other things) the views of the parent or guardian of the child (s 23(3)).</p>
	<p>Children, Youth and Families Act 2005</p>	<p>Vic</p>	<p>Various</p>	<p>General principles</p> <p>Section 10 sets out 'best interests principles' to give guidance in the administration of the Act, which relevantly include that, in determining what decision to make or action to take in the best interests of the child, consideration must be given to:</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 ensure that intervention into that relationship is limited to that necessary to secure the safety and wellbeing of the child; and</p> <p>(g) that a child is only to be removed from the care of his or</p>

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				<p>her parent if there is an unacceptable risk of harm to the child; and</p> <p>(h) if a child is to be removed from his or her parent, 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> <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.</p> <p>Section 11 sets out 'decision-making principles' to give guidance in the administration of the Act, which relevantly include that, in making a decision or taking an action in relation to a child, consideration must be given to principles including:</p> <p>(a) that the child's parent should be assisted and supported in reaching decisions and taking actions to promote the child's safety and wellbeing; and</p> <p>(i) if the child has a particular cultural identity, a member of the appropriate cultural community who is chosen or agreed to by the child or by his parent, should be permitted to attend meetings held as part of the decision-making process.</p> <p>Aboriginal children</p> <p>Section 12 sets out additional decision-making principles for decisions regarding Aboriginal children, including that</p>

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				<p>consideration be given to the following principles:</p> <p>(a) that, in making a decision or taking an action in relation to an Aboriginal child, an opportunity should be given, where relevant, to members of the Aboriginal community to which the child belongs and other respected Aboriginal persons to contribute their views; and</p> <p>(b) that a decision in relation to the placement of, or other significant decision in relation to, an Aboriginal child, should involve a meeting convened by an Aboriginal convener and, wherever possible, attended by the child, the child's parent, members of the extended family of the child and other appropriate members of the Aboriginal community as determined by the child's parent.</p> <p>Section 18(4) provides that, before the Secretary authorises the principal officer of an Aboriginal agency to perform functions and exercise powers in relation to a protection order in respect of an Aboriginal child, he or she must have regard to any view expressed by the child and the parent of the child if those views can be reasonably obtained.</p> <p>s 13 sets out the 'Aboriginal Child Placement Principle', which provides that, in placing an Aboriginal child in out-of-home care, regard must be had to (among other things) the principle that:</p> <p>(a) as a priority, wherever possible, the child must be placed within the Aboriginal extended family or relatives and where this is not possible other extended family or relatives; and</p>

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				<p>(b) if, after consultation with the relevant Aboriginal agency, placement with extended family or relatives is not feasible or possible, the child may be placed with:</p> <p>(i) an Aboriginal family from the local community and within close geographical proximity to the child's natural family; or</p> <p>(ii) an Aboriginal family from another Aboriginal community; or</p> <p>(iii) as a last resort, a non-Aboriginal family living in close proximity to the child's natural family.</p> <p>See also ss 14(3), (4) and (5) which form part of the Aboriginal Child Placement Principle (by virtue of s 13(1)(c) and relate to continuing involvement by a child's parents or community in their care.</p> <p>The Aboriginal Child Placement Principle is then referred to in various other provisions of the Act. For example, s 170(6) provides that a stability plan for an Aboriginal child (being a plan prepared by the Secretary for stable long-term out-of-home care) must accord with the Aboriginal Child Placement Principle.</p> <p>Section 176 requires that a cultural plan setting out how the Aboriginal child is to remain connected to his or her Aboriginal community, is to be prepared for Aboriginal children placed in out of home care.</p>

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				<p>Applications which can be made by a parent</p> <p>The Act contains many provisions giving parents power to make applications on behalf of or in relation to their children, including:</p> <p>(a) s 42(1) - application to VCAT for review of a decision re the recording of information about the child by a community-based child and family service; and</p> <p>(b) s 158(1) - application to VCAT for review of a decision made under or in relation to a child care agreement relating to the care of a child; and</p> <p>(c) s 235(1) - application to vary or revoke a temporary assessment order (being an order permitting entry to a child's home to assess whether the child needs protection) that has been made without notice to the child and the parent; and</p> <p>(d) s 239(1)(b) - appeal against a temporary assessment order; and</p> <p>(e) s 257(1)(c) and s 258(5) - application to vary the conditions of, or revoke, a therapeutic treatment order or a therapeutic treatment (placement) order; and</p> <p>(f) s 262(2), 268(1), 270(1), 271(1) - application for an interim accommodation order; variation to an interim accommodation order; new interim accommodation order; appeal against an interim accommodation order; and</p> <p>(g) s 273(1) - application to vary an undertaking or any</p>

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				<p>conditions of an undertaking or to revoke an undertaking pursuant to s 272; and</p> <p>(h) s 279(1) - application to vary an undertaking or any conditions of an undertaking or to revoke an undertaking pursuant to s 278; and</p> <p>(i) s 304(1) - application to revoke a supervision order, custody to third party order, supervised custody order, custody to Secretary order, guardianship to Secretary order (see also s 305(1)), long-term guardianship to Secretary order (see also s 306(1)) or interim protection order; and</p> <p>(j) s 326(1)(b) - application to vary or revoke a permanent care order; and</p> <p>(k) s 328(2) - appeal to County or Supreme Court against various types of orders. This can be on the child's behalf and in the child's name if the child is under 15 years (s 328(3)).</p> <p>s 333 - application to VCAT for review of a decision in a case plan prepared under s 167, any other decision by the Secretary concerning the child or a decision relating to the recording of information in the central register.</p> <p>Sch 1, cl 22 - application to revoke the registration of any document filed under clause 19 of Sch 1 (being a copy of a child protection order transferred to Victoria under an interstate law or a copy of an order under an interstate law to transfer a child protection proceeding to Victoria).</p> <p>Provisions directed at keeping parents with (or involved</p>

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				<p>with) children</p> <p>s 146(b) & (d) - The Secretary must not approve the entering into of a long-term child care agreement unless satisfied that (among other things):</p> <p>(a) there are no alternative means available that would enable the parent of the child to resume the care of the child; and</p> <p>(b) 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> <p>s 169(d) - A stability plan (being a plan prepared by the Secretary for stable long-term out-of-home care for a child) may include details of planning for arrangements for access by the child to the child's parent and siblings.</p> <p>s 558(c) - A disposition report (being a report prepared for the Court under s 557 ahead of the Court making a protection order) which recommends the child be removed from the custody or guardianship of his or her parent, must include a statement setting out the steps taken by the Secretary to provide the services necessary to enable the child to remain in the custody or under the guardianship of the parent.</p> <p>Provisions requiring parents to attend Court with children under 15 years</p> <p>s 366(1) - If it appears to the Court that a person has failed to comply with an undertaking given under s 365 (being an undertaking by a parent or child after the child has been</p>

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				<p>found guilty of an offence), the Court may direct that the person (and, if the person is under 15, his or her parent) be served with a notice to appear before the Court at a specified time.</p> <p>s 371(1) - If it appears to the Court that a person has failed to be of good behaviour or to observe any condition of a good behaviour bond under s 367, the Court may direct that the person (and, if the person is under 15, his or her parent) be served with a notice to appear before the Court at a specified time.</p> <p>s 384(1) - If it appears to the Court or the Secretary that a person has failed to observe any condition of a probation order, the Court or Secretary may cause the person (and, if the person is under 15, his or her parent) to be served with a notice to appear before the Court at a specified time.</p> <p>s 392(1) - If it appears to the Court or the Secretary that a person has failed to observe any condition of a youth supervision order, the Court or Secretary may cause the person (and, if the person is under 15, his or her parent) to be served with a notice to appear before the Court at a specified time.</p> <p>Other</p> <p>s 222 - A dispute resolution conference shall be attended by the child's parent and the Secretary (and other people as ordered by the Court). (A conference ordered under s 217 in respect of any application made to the Family Division under the Act. The conference is designed to give the parties to the</p>

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				<p>application the opportunity to agree or advise on the action that should be taken in the best interests of the child.)</p> <p>s 344A(5) and (7) - If a child has consented (under s 344A) to proceedings being commenced against the child more than 6 months after a summary offence, that consent may be withdrawn by the child's parent after the child has obtained legal advice, if the child is under 15 years and is not legally represented. In addition, any hearing referred to in s 344A (which presumably means a hearing of proceedings against a child for a summary or indictable offence) must be adjourned to enable a parent or guardian of the child to attend, if the child is under 15 years.</p> <p>s 346(7) - If a member of the police force inquiries into a case under s 10 of the Bail Act 1977 (i.e. because it is not practicable to bring the arrested person before a court forthwith), a parent or guardian of the child in custody, or an independent person, must be present.</p> <p>s 356(2) and (4) - If a child is charged with an indictable offence other than murder, attempted murder, manslaughter, child homicide, defensive homicide, arson causing death or culpable driving causing death:</p> <p>(a) the Court must before the hearing of any evidence, inform the child and his or her parent, if present, that the child may object to the charge being heard and determined summarily; and</p> <p>(b) the Court may, if the parent is not present and the child is under 15 years, adjourn the hearing for the purpose of</p>

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				<p>securing the parent's attendance or may proceed to hear and determine the proceeding in the parent's absence; and</p> <p>(c) the child's parent may object on the child's behalf to the charge being heard and determined summarily, if the child is under 15 years and not legally represented.</p> <p>s 430ZB - If a child under 15 years is appealing against conviction of an offence, the appeal may be made by the child's parent on the child's behalf and in the name of the child.</p> <p>s 522 - As far as practicable, the Court must in any proceeding:</p> <p>(a) take steps to ensure the proceeding is comprehensible to the child and the child's parents; or</p> <p>(b) allow the child and (in the case of a proceeding in the Family Division) the child's parents to participate fully in the proceeding.</p> <p>s 544(1)(b) - A youth justice officer's duties include, if required by the Criminal Division or the Secretary, visiting and supervising any child as directed by the Court and in consultation and co-operation with the child's parents.</p> <p>Sch 1 (Transfer of Child Protection Orders and Proceedings), clauses 3(1)(d) and 4(1) - The Secretary may transfer a custody to Secretary order, supervision order or supervised custody order from Victoria to a participating State if (among other things) consent is obtained from the child's parents and</p>

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	<p>Classification (Publications, Films and Computer Games) Enforcement Act 1995</p>	Vic	Sections 12, 14, 20, 29, 37, 39, 42 and 58.	<p>any other person who is granted access to the child under the order.</p> <p>'Minor' is defined in this Act as a person under 18.</p> <p>A person must not do the following unless the person is a parent or guardian of the minor:</p> <p>(a) sell or deliver to a minor a film classified R 18+ (s 20(2)); or</p> <p>(b) sell or deliver to a minor under 15 a film classified MA 15+ (s 20(5)); or</p> <p>(c) sell or deliver to a minor a publication classified Category 1 restricted or Category 2 restricted (s 29(1)); or</p> <p>(d) sell or deliver to a minor under 15 a computer game classified MA 15+ (s 42(2)).</p> <p>It is a defence to prosecution for an offence under s 12(1) (which prohibits exhibiting a film classified RC, X 18+ or R 18+ (or an unclassified film which would, if classified, be classified RC, X 18+ or R 18+) in a place other than a public place, in the presence of a minor) to prove that the parent or guardian of the minor consented to the minor being present at the exhibition of the film (s12(2)(b)).</p> <p>A person must not exhibit in a public place a film classified MA 15+ if a minor under 15 is present during any part of the exhibition, and the minor is not accompanied by his or her</p>

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				<p>parent or guardian (s14(1)).</p> <p>It is a defence to prosecution for an offence against s 20(4) (which prohibits selling or delivering to a minor under 15 a film classified MA 15+) to prove that the accused believed on reasonable grounds that the parent or guardian of the minor had consented to the sale or delivery (s20(6)).</p> <p>A person must not demonstrate a computer game classified MA 15+ in a public place unless (among other things) entry to the place is restricted to adults or minors who are in the care of a parent or guardian while in the public place (s 37(b)).</p> <p>It is a defence to prosecution for an offence under s 39(1) (which prohibits demonstrating, in a place other than a public place, in the presence of a minor, a computer game classified RC or an unclassified computer game which would, if classified, be classified RC) to prove that the parent or guardian of the minor consented to the minor being present at the demonstration of the computer game (s39(2)(b)).</p> <p>It is a defence to prosecution for an offence under s 42(2) (which prohibits selling or delivering to a minor under 15 a computer game classified MA 15+) to prove that the parent or guardian of the minor had consented to the sale or delivery (s42(3)(b)).</p> <p>It is a defence to prosecution for an offence under s 58(4) (which prohibits using an online information service to publish, transmit or make available for transmission material to a minor under 15, knowing it to be unsuitable for minors</p>

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				under 15) to prove that the accused believed on reasonable grounds that the parent or guardian of the minor had consented to the material being published, transmitted or made available for transmission to the minor (s58(5)).
	Corrections Act 1986	Vic	s 31	<p>For the purpose of this section, 'parent' is defined as a person who would have day to day care and control of the child and with whom the child would ordinarily be resident if the person were not in prison.</p> <p>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 (s 31(1)).</p> <p>The prisoner is responsible for the safety and care of the prisoner's child while the child lives in the prison (s 31(4)).</p> <p>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 (s 31(3)).</p>
	Crimes Act 1958	Vic	s 464E	s 464E(1) - If a person in custody is under the age of 18 years, an investigating official must not (subject to s 464E(2)) question or carry out an investigation under s 464A(2) unless:

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				<p>(a) a parent or guardian of the person in custody or, if a parent or guardian is not available, an independent person, is present; and</p> <p>(b) before the commencement of any questioning or investigation, the investigating official has allowed the person in custody to communicate with his or her parent or guardian or the independent person in circumstances in which as far as practicable the communication will not be overheard.</p> <p>s 464E(2) provides that s 464E(2) does not apply if the investigating official believes on reasonable grounds that the communication would result in the escape of an accomplice or the fabrication or destruction of evidence, or the questioning or investigation is so urgent, having regard to the safety of other people, that it should not be delayed.</p>
	Crimes Act 1958	Vic	s 464K(8)(a)	If a person from whom fingerprints are required pursuant to s 464K is a child aged 15, 16 or 17 years, a parent or guardian of the child (or, if a parent or guardian cannot be located, an independent person) must be present during the request for fingerprints, the giving of the information referred to in s 464K(2) (being certain information the police must give the person to be fingerprinted) and the taking of the fingerprints.
	Crimes Act 1958	Vic	s 464L	<p>464L(2) - A member of the police force may take, or cause to be taken by an authorised person, the fingerprints of a child aged 10 years or more but under 15 years who:</p> <p>(a) is believed on reasonable grounds to have committed; or</p>

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				<p>(b) has been charged with; or</p> <p>(c) has been summoned to answer a charge for an indictable offence or a summary offence referred to in Schedule 7 of the Act, if:</p> <p>(d) both the child and a parent or guardian of the child consent; or</p> <p>(e) where consent is refused or the parent or guardian cannot be located, the Children's Court makes an order under s 464M(5).</p> <p>464L(3) - A member of the police force wishing to fingerprint a child referred to in s 464L(2) must inform the child and their parent or guardian of various matters specified in s 464L(3) including the purpose for which the fingerprints are required, the offence which the child is believed to have committed, that the child's parent or guardian may refuse consent to the fingerprints being taken.</p> <p>464L(4) - (8) contain various other provisions regarding a parent or guardian's involvement where a child between 10 and 15 is fingerprinted, including that the parent or guardian:</p> <p>(a) must be present during the request for fingerprints, the giving of the information referred to in s 464L(3) and the taking of the fingerprints (s 464L(4)); and</p> <p>(b) is entitled to a copy of the police's audio or audio-visual recording and any transcript of the information being given pursuant to s 464L(3) and the parent and child's responses</p>

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	<p>Disability Act 2006</p>	Vic	Various	<p>(s 464L(7)).</p> <p>NB. 'guardian' is not defined in this Act, nor in the Interpretation of Legislation Act 1984, but presumably includes a parent.</p> <p>If a person appears to be incapable of reading and understanding information provided under this Act, a disability service provider must use reasonable endeavours to convey the information to the person in the language, mode of communication or terms which the person is most likely to understand (s 7(3)). For the purpose of s 7(3), the disability service provider may give a copy of the information to a family member, carer, guardian, advocate or other person chosen by the person with a disability (s 7(4)).</p> <p>The prohibition in s 39(3) on disclosure of information relating to the provision of disability services does not apply where the guardian of the person to whom the information relates has given consent (s 39(4)(c)).</p> <p>s 52(1) provides that planning for disability services in accordance with the principles in s 52(2) should be undertaken to the extent reasonably practicable. s 52(2)(d) provides that, where possible, planning should strengthen and build capacity of families and carers to support children with a disability.</p> <p>Where a disability service provider proposes to use a restraint or seclusion on a person with a disability, the provider must develop a behaviour support plan in accordance with s 141(2) and, in doing so, must consult with the guardian (if any) of</p>

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				<p>the person for whom the plan is prepared (s 141(3)(b)). Similarly, when reviewing a behaviour support plan under s 142, the disability service provider must consult with the guardian of the person for whom it was prepared (s 142(3)(b)).</p> <p>Where a disability service provider proposes to use restraint or seclusion on a person with a disability, the provider must develop a behaviour support plan in accordance with s 141(2) and, in doing so, must consult with the guardian (if any) of the person for whom the plan is prepared (s 141(3)(b)). Similarly, when reviewing a behaviour support plan under s 142, the disability service provider must consult with the guardian (if any) of the person for whom it was prepared (s 142(3)(b)).</p> <p>Where a person who is preparing a treatment plan for a person with a disability proposes to use restraint or seclusion on that person, the first person must, in preparing the plan, consult with the guardian (if any) of the person for whom the plan is prepared (s 201E(3)(b)).</p> <p>Provisions re guardian's involvement where person with a disability receives residential services</p> <p>NB. 'Residential service' is defined in s 3(1) and essentially means residential accommodation provided by, on behalf of or by arrangement with a disability service provider, in which residents are provided with disability services. Although it is probably less likely, the definition of 'resident's guardian' in s 3(1) contemplates that a resident may be a child.</p>

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				<p>(a) A disability service provider providing residential services must provide a copy of the residential statement (a document specifying certain details about the residential services) to both the resident and the resident's guardian or administrator, if any (s 57(1)(b)).</p> <p>(b) A disability service provider must give at least 60 days' notice in writing of a proposed increase in the residential charge to a resident in a group home and the resident's guardian or the resident's administrator, if any (s 66(1)).</p> <p>(c) If a disability service provider gives a resident a notice to vacate a group home, the notice must be given to both the resident and the resident's guardian or administrator, if any (s 76(6)(d)).</p> <p>(d) A notice of intention to vacate may be given in writing on behalf of the resident by the resident's guardian or resident's administrator, if any (s 80(3)).</p> <p>(e) A disability service provider providing residential services may manage or control an amount of money of a resident, being not greater than the prescribed amount, if the disability service provider has written consent to do so from the resident's guardian (s 93(1)(b)).</p> <p>(f) A community visitor who visits a premises at which a disability service provider is providing a residential service pursuant to s 129, is entitled to inspect any medical record relating to a resident, with the consent of the resident or the resident's guardian (s 130(1)(e)).</p>

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	<p>Education and Training Reform Act 2006</p>	Vic	Various	<p>In this Act, 'parent' is defined to include a guardian, every person who has parental responsibility for the child (including under the Family Law Act (Cth)) and any person with whom a child normally or regularly resides (s 1.1.3).</p> <p>Section 1.2.1(b)(iii) states that the principles to which Parliament has had regard in enacting this Act include that all Victorians should have access to a high quality education that (among other things) allows parents to take an active part in their child's education and training.</p> <p>It is the duty of the parent of a child of not less than 6 nor more than 17 years of age:</p> <p>(a) to enrol the child at a registered school and to ensure the child attends the school at all times when the school is open for the child's instruction; or</p> <p>(b) to register the child for home schooling in accordance with the regulations and to ensure that the child receives instruction in accordance with the registration (s 2.1.1).</p> <p>It is an offence for a parent to, without reasonable excuse, to fail to comply with that duty (s 2.1.2). Section 2.1.3 sets out various reasonable excuses for this purpose, including that the child is attending or observing a religious event or obligation as a result of a genuinely held belief of the child or a parent of the child (s 2.1.3(f)).</p> <p>Section 2.2.11(2)(c) provides that attendance for special religious instruction in a government school is not to be compulsory for any student whose parents desire that he or</p>

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				<p>she be excused from attending.</p> <p>Section 5.4.5 allows the placement of certain school students over the age of 15 years with an employer for training as part of a course of study accredited by the Victorian Curriculum and Assessment Authority. This can only occur if the school principal, employer, student and parent have made an arrangement about that placement (s 5.4.5(1)).</p> <p>A structured workplace learning arrangement (being an arrangement made under s 5.4.5, referred to above) must (among other things) be signed by the parent of the student, if the student is under 18 years (s 5.4.8(1)(c)(iv)).</p> <p>Where a student is in a work experience or structured workplace learning arrangement with a not-for-profit educational, charitable or community welfare organisation, and the student decides to donate his payment back to the organisation, the student's parent must consent to the donation in order for the student's decision to be stated in the arrangement (s 5.4.9(2)(c)).</p> <p>Subject to Division 1 of Part 5.4 of the Act (which relates to work experience and structured workplace learning arrangements), an Act or law relating to the prohibition or regulation of the employment of children or young persons does not apply to the employment of a child or young person who is a student at a school, is of or over 14 years of age and is employed under a work experience arrangement (5.4.11(1)(c)).</p> <p>Generally, the parties to a training contract are the employer,</p>

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				<p>and the parent, as a witness for the prosecution.</p> <p>Section 18(6) provides that a parent who makes such an objection must not be required to give the evidence if the court finds that:</p> <p>(a) there is a likelihood that harm would or might be caused (whether directly or indirectly) to the parent, or to the relationship between the parent and the child, if the parent gives the evidence; and</p> <p>(b) the nature and extent of that harm outweighs the desirability of having the evidence given.</p> <p>Section 18(7) sets out factors to be taken into account by the court in making an assessment for the purpose of s 18(6).</p> <p>Section 20 provides that the judge or any party (other than the prosecutor) may comment on a failure to give evidence by a parent of the accused. However, unless the comment is made by another accused in the proceeding, the comment must not suggest that the parent failed to give evidence because the accused was guilty or the parent believed the accused was guilty.</p> <p>'Child' means a child of any age and includes an adopted child, ex-nuptial child or a child living with the parent as a member of the parent's family (Dictionary incl. at Pt 2, s 10)).</p>
	Family Violence Protection Act 2008	Vic	Various	This is an Act to prevent and reduce family violence (which is defined in s 5 and includes behaviour towards a family member that is abusive, threatening or coercive) and

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				<p>maximise safety for children and adults who have experienced family violence (s 1).</p> <p>Provisions relevant to Article 5 are:</p> <p>(1) s 45(d) and (e) - If the person affected by the family violence is a child, an application for a family violence intervention order may be made by a parent of the child, another person with the consent of the parent or the court's leave, or the child if the child is 14 years or over. A guardian under the Guardianship and Administration Act 1986 may also make such an application on behalf of a child: s 45(e).</p> <p>(2) Sections 78(2) and (3) sets out certain circumstances in which a court may make a final order against a respondent who has committed family violence, or an order varying, revoking or extending such an order, where the parties to a proceeding for such an order have consented or not opposed the order. Section 78(3) provides that, where the application for the order was made with the consent of an affected family member's parent or guardian (with 'guardian' meaning a guardian under the Guardianship and Administration Act 1986) that parent or guardian is taken to be a party for the purposes of consenting to or not opposing the making of the order.</p> <p>(3) s 108(1) - Where the protected person is a child, an application to the court to vary, revoke or extend a family violence intervention order may be made by:</p> <p>(a) a parent of the child, other than the respondent for the</p>

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				<p>order; or</p> <p>(b) any other person with the written consent of such a parent; or</p> <p>(c) the protected person with the leave of the court, if the protected person is 14 years or older; or</p> <p>(d) a police officer; or</p> <p>(e) a guardian of the protected person under the Guardianship and Administration Act 1986.</p> <p>(1) s 111(b) - If the applicant for the variation, revocation or extension of a family violence intervention order is not the protected person, the protected person's guardian (defined as a guardian under the Guardianship and Administration Act 1986), the respondent for the order or a police officer, the application may only be made with the written consent of the protected person, his or her parent (if the protected person is a child) or his or her guardian (if any).</p> <p>(2) s 118(1)(b)(ii) - If an appeal against a family violence intervention order (or decision not to make such an order) is made by the applicant for the order and that applicant is not the protected person, the County Court or Supreme Court must not start or continue the hearing of the appeal if any of the following persons objects:</p> <p>(a) the protected person; or</p> <p>(b) the parent of the protected person (where the protected</p>

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				<p>person is a child and the application for the order was made with the parent's consent); or</p> <p>(c) the protected person's guardian under the Guardianship and Administration Act 1986 (if any).</p>
	<p>Guardianship and Administration Act 1986</p>	<p>Vic</p>	<p>Various</p>	<p>This Act provides for a person with a disability to have a guardian or administrator appointed to make various types of decisions on their behalf. A parent may be a guardian or administrator (see, eg, s 23(3) and 47(3)), hence the Act is potentially relevant to Article 5 in respect of children with a disability (defined as intellectual impairment, mental disorder, brain injury, physical disability or dementia).</p> <p>In addition to any extra powers provided for by the Act, a guardian appointed under the act will have "all the powers and duties which the [guardian] would have if he or she were a parent and the [represented person] his or her child" (subject to the terms of the appointing instrument in the case of an enduring guardian) (see ss 24(1) and 47(3)). The Act suggests (without legislating) that those parental powers and duties include the power to:</p> <p>(a) decide where the child is to live, whether permanently or temporarily; or</p> <p>(b) decide with whom the child is to live; or</p> <p>(c) decide whether the child should be permitted to work and, if so, the nature or type of work, for whom the child will work and matters related thereto; or</p>

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				<p>(d) consent to any health care that is in the child's best interests; or</p> <p>(e) restrict visitors to such extent as may be necessary in the child's best interests and prohibit visits by any person if the parent reasonably believes that visits by that person would have an adverse effect on the child (see Schedule 4, Form 1 - Appointment of Enduring Guardian).</p>
	Information Privacy Act 2000	Vic	s 27	Section 27 allows a parent or any other individual chosen by the child or by a parent of the child, to make a complaint to the Victorian Privacy Commissioner about an act or practice by an organisation which is contrary to the Information Privacy Principles (in Sch 1 to the Act) or an applicable code of practice (see s 27 read with ss 25 and 14(3)).
	Information Privacy Act 2000	Vic	s 64	<p>Section 64(1) and (2) permit an authorised representative (which includes a parent or guardian) of an individual to:</p> <p>(a) give consent on behalf of the individual to the collection, use or disclosure of personal information or the transfer of personal information outside Victoria, where:</p> <p>(i) the individual is incapable of giving consent; and</p> <p>(ii) the consent is reasonably necessary for the lawful performance of functions or duties or exercise of powers in respect of the individual by the authorised representative; and</p> <p>(b) request access to or the correction of personal information or exercise a right of access to personal</p>

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				<p>information, where:</p> <p>(i) the individual is incapable of making the request or exercising the right of access; and</p> <p>(ii) the personal information to be accessed is reasonably necessary for the lawful performance of functions or duties or exercise of powers in respect of the individual by the authorised representative.</p> <p>Section 64(3) sets out a test for whether the individual is 'incapable' for the purposes of s 64(1) and (2).</p> <p>The authorised representative must not give the consent or make the request if he or she knows or believes that this does not accord with the wishes expressed, and not changed or withdrawn, by the individual before he or she became incapable: s 64(4).</p>
	Health Records Act 2001	Vic	s 47	<p>Section 47 allows a parent or any other person chosen by the child or by a parent of the child, to make a complaint to the Health Services Commissioner about an act or practice by an organisation which is an interference with the privacy of the child, i.e. an act or practice which:</p> <p>(a) breaches Part 5 of the Act or a Health Privacy Principle (HPP) (in Sch 1 to the Act) in relation to health information that relates to the child; or</p> <p>(b) breaches HPP 7 (which imposes various restrictions on the use of unique identifiers by organisations in connection</p>

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				<p>with a person's health information); or</p> <p>(c) is or results in a failure to provide access to health information that relates to the individual in accordance with Part 5 or HPP 6 (see s 47 read with ss 45 and 18).</p>
	<p>Health Records Act 2001</p>	<p>Vic</p>	<p>s 85</p>	<p>Section 85(1) and (2) permit an authorised representative (which includes a parent or guardian) of an individual to:</p> <p>(a) give consent on behalf of the individual to the collection, use or disclosure of health information or the transfer of health information outside Victoria, where:</p> <p>(i) the individual is incapable of giving consent; and</p> <p>(ii) the consent is reasonably necessary for the lawful performance of functions or duties or exercise of powers in respect of the individual by the authorised representative; and</p> <p>(b) request access to or the correction of health information or exercise a right of access to health information, where:</p> <p>(i) the individual is incapable of making the request or exercising the right of access; and</p> <p>(ii) the health information to be accessed is reasonably necessary for the lawful performance of functions or duties or exercise of powers in respect of the individual by the authorised representative.</p> <p>Section 85(3) sets out a test for whether the individual is</p>

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				<p>'incapable' for the purposes of s 85(1) and (2).</p> <p>Subject to the <i>Guardianship and Administration Act 1986</i>, the authorised representative must not give the consent or make the request if he or she knows or believes that this does not accord with the wishes expressed, and not changed or withdrawn, by the individual before he or she became incapable: s 85(4).</p>
	<p>Health Records Act 2001</p>	<p>Vic</p>	<p>Sch 1 (Health Privacy Principles), cl 2.4</p>	<p>HPP 2.4 provides that a health service provider may disclose health information about an individual for a secondary purpose (despite the general prohibition on such disclosure in HPP 2) if the disclosure consists of providing the information to an immediate family member (which is defined to include a parent) of the individual where:</p> <p>(a) the disclosure is made for compassionate reasons or necessary to provide appropriate health services to or care of the individual; and</p> <p>(b) the disclosure is limited to the extent reasonable and necessary for the purposes mentioned in (a) above; and</p> <p>(c) the individual is incapable of giving consent to the disclosure within the meaning of s 85(3) (which sets out test for whether someone is 'incapable'); and</p> <p>(d) the disclosure is not contrary to any wish expressed by the individual (and not withdrawn) before the individual became incapable, or of which the organisation is aware or could be made aware by taking reasonable steps.</p>

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	Human Services (Complex Needs) Act 2009	Vic		<p>This is an Act to facilitate the delivery of welfare, health mental health, disability, drug and alcohol treatment and housing and support services to certain persons with multiple and complex needs by providing for their assessment and the development and implementation of care plans.</p> <p>Under the Act, care plans may be developed in respect of 'eligible persons' as defined in s 7. Essentially, an eligible person is a person above 16 years who has a mental disorder, acquired brain injury, intellectual impairment or severe substance dependence, has exhibited or is exhibiting violent or dangerous behaviour that caused or is reasonably likely to cause serious harm or is in need of intensive supervision and support and would derive benefit from a care plan.</p> <p>Relevantly to Article 5, s 21 provides that a care plan or any notice required to be given to a person under s 9, 10 or 15 must also be given to the parent or guardian, if the person is under 18 years of age.</p> <p>s 9 relates to notices prior to determining whether someone is an 'eligible person'; s 10 relates to notice of a determination whether someone is an eligible person; and s 15 relates to notices to be given to an eligible person together with their care plan.</p>
	Mental Health Act 1986	Vic	Various	s 12AE - If a person becomes an involuntary patient (defined in s 3), the authorised psychiatrist must ensure that any guardian of the person is notified that the person has become an involuntary patient and the grounds for the person becoming an involuntary patient.

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				<p>s 19A(b) - In preparing, reviewing and revising a treatment plan for a patient, the authorised psychiatrists must take into account (unless the patient objects) the wishes of any guardian, family member or primary carer who is involved in providing ongoing care and support to the patient.</p> <p>s 73(3) - Despite the general prohibitions in ss 73(1) and (2) on performing electroconvulsive therapy on a person who has not given informed consent, such therapy may be performed where the patient is incapable of giving informed consent, the authorised psychiatrist has authorised the therapy after being satisfied of certain matters and all reasonable efforts have been made to notify the patient's guardian or primary carer of the proposed performance of the therapy.</p> <p>s 85(1)(b) - Despite the general prohibitions in s 84 on performing non-psychiatric treatment on any patient without obtaining informed consent, such treatment may be performed where the patient is incapable of giving informed consent as specified in s 84(1) and consent has been given by (in the case of a patient under 18 years) any of the following who is reasonably available, willing and able to make a decision concerning the proposed treatment:</p> <p>(a) a person with parental responsibility (within the meaning of the Family Law Act 1975 (Cth), which includes parents) for the patient;</p> <p>(b) a guardian of the patient appointed under a law of the Commonwealth or of a State or Territory;</p> <p>(c) a person who, under section 597 of the <i>Children, Youth</i></p>

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				<p><i>and Families Act 2005</i> (Vic), can consent to the performance of the proposed treatment on the patient;</p> <p>(d) the authorised psychiatrist if there is no person with parental responsibility, guardian or custodian who is reasonably available, willing and able to make decisions concerning the proposed treatment.</p> <p>s 120A(3)(ca) - Despite the general prohibition in s 120A(2) on psychiatric service providers disclosing information about their patients, such information may be disclosed if it is disclosed by a member of medical staff (or another prescribed class of staff) to a guardian, family member or primary carer of the patient who will be involved in the on-going care of the patient and the information is reasonably required for that on-going care.</p>
	<p>Public Health and Wellbeing Act 2008</p>	Vic	s 138(3)(a)	<p>Sections 134 and 135 provide for the making of an order for the testing of a person, or a person's urine or blood sample, for infectious diseases in certain circumstances.</p> <p>Section 138(3)(a) provides that, if a child tested (or whose urine or blood was tested) under an order or authorisation pursuant to s 134 or 135 does not have or regain capacity to consent to testing, the person who made the order or gave the authorisation must ensure that a parent of the child is given post-test counselling by a registered medical practitioner in accordance with s 138. This counselling includes providing the parent with:</p> <p>(a) details of the test conducted; and</p>

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				<p>(b) the reasons why the test was conducted; and</p> <p>(c) the results of the test; and</p> <p>(d) if the test indicated the presence of an infectious disease, the effects of the disease on an infected person and the risk to public health of the disease.</p>
	<p>Sex Offenders Registration Act 2004</p>	Vic	Sections 23, 24, 27 and 29	<p>s 23(4) and (5) - If a registrable offender is a child (defined as a person under 18), any parent or guardian of the child (or an independent person if no parent or guardian is available) may make a report pursuant to s 23(1) on behalf of the registrable offender.</p> <p>s 24(1) - If a registrable offender is a child, he or she must be accompanied by a parent or guardian (or an independent person if no parent or guardian is available) when making a report under Part 3 of the Act at a police station or a place approved by the Chief Commissioner of Police.</p> <p>s 27 (2) - A member of the police force may only take, or cause to be taken, the fingerprints or a finger scan of a child under s 27(1) if the child is accompanied by his or her parent or guardian (or an independent person if no parent or guardian is available).</p> <p>s 29(5) - A registrable offender who is to be photographed under section 27A and is a child, must be accompanied by his or her parent or guardian (or an independent person if no parent or guardian is available).</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 5: States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.</p>	<p>Adoption Act 2009</p>	<p>Qld</p>	<p>Various</p>	<p>This Act contains various provisions about parents' and adoptive parents' rights and involvement in the adoption process, which might be seen as relevant to Article 5. Provisions most obviously relevant to Article 5 include:</p> <p>s 6(2)(e) - It is a guiding principle under which the Act shall be administered that the process for adoption should include considering the views of the child's parents and the child, if he or she is able to form and express views about the adoption, having regard to the child's age and ability to understand.</p> <p>s 6(2)(f) - It is a guiding principle under which the Act shall be administered that an adopted child of a particular ethnic or other cultural background should have opportunities to develop and maintain a connection with the child's ethnicity or culture and opportunities to maintain contact with the child's community or language group.</p> <p>s 7 sets out additional guiding principles for Aboriginal and Torres Strait Islander children, including that:</p> <p>(a) because adoption (as provided for in the Act) is not a part of Aboriginal tradition or Island custom, it should be considered only if there is no better available option;</p> <p>(b) it is in the best interests of an Aboriginal or Torres Strait</p>

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				<p>Islander child to be cared for within an Aboriginal or Torres Strait Islander community and to maintain contact with the child's community or language group.</p> <p>ss 16 and 175 - A child's parents must consent under Part 2 of the Act to the adoption before the Children's Court may make an adoption order. Part 2 provides for various measures to facilitate informed consent, e.g. giving information (Div 3) and counselling opportunities (Div 4) to parents and attempting, in certain circumstances, to notify the child's father of the opportunity to consent top adoption or apply for a parenting order (s 33). Division 6 of Part 2 provides for the dispensation of the requirement for consent from a certain parent in certain circumstances. A parent may revoke consent only by a signed notice within 30 days after the consent is given (s 20).</p> <p>s 50(5) - a 'care agreement' between a child's parent/s and the chief executive who is arranging the child's adoption must state: (a) arrangements for contact between the child and the parents; and (b) the type of decisions relating to the child for which the parents must be consulted. The chief executive must not enter a care agreement with one parent of a child against the wishes of another parent of the child (s 52).</p> <p>s 157 - In selecting prospective adoptive parents, the chief executive must have regard to any preferences of the child's parents (excluding preferences that the chief executive considers likely to be contrary to the child's wellbeing or best interests) including, for example, preferences about:</p>

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				<p>(a) the child's religious upbringing; or</p> <p>(b) the characteristics of the child's adoptive parents and adoptive family; or</p> <p>(c) the degree of openness in the adoption.</p> <p>s 182(6) - A person who has given consent to the child's adoption but wishes to contest an application for an interim order for the adoption of the child by the prospective adoptive parents, may apply to the court to be a respondent to that application. s 206(2) provides similarly in relation to applications for a final adoption order by a step-parent.</p>
	Child Care Act 2002	Qld	Various	<p>s 9(d) and (e) - The guiding principles under which the Act is to be administered include that:</p> <p>(a) parents have the primary responsibility for the upbringing, protection and development of their children, and should be supported in that role; and</p> <p>(b) child care should be planned and provided in a way that involves parents and other members of the community.</p> <p>s 76(2)(a) and (d) - A child care service's written policies must address (inter alia) the participation of parents in the conduct of the service and processes for dealing with any concerns of parents, guardians or carers.</p> <p>The Act provides that various documents or information about child care services must be given, on request, to a</p>

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				<p>parent of a child in care. These include:</p> <p>(a) s 76(3) - a child care service's written policies under s 76(1) about the conduct of the service; and</p> <p>(b) s 77(1)(b) - a child care service's role statements under s 77(1) in relation to each staff position in the service; and</p> <p>(c) s 86 - access to inspect or copy a record kept by the licensee of the child care service about the parent's child; and</p> <p>(d) ss 88M and 88N - access to inspect, or a copy of parts of, a licensed service's log book containing the licensee's compliance history.</p> <p>s 78 - Whenever child care is being provided to a child in the course of a licensed service, the licensee must ensure the child's parents or guardians are allowed access to observe the provision of the child care (provided such access does not contravene an order of a court or tribunal).</p> <p>s 87 - The provisions in s 87 for protection of records containing personal information relating to a child in care, are qualified by the following rights of parents or guardians:</p> <p>(a) a parent or guardian of the child is entitled to access the records or personal information, despite the general prohibition on disclosing them (s 87(1) and (2)); and</p> <p>(b) the prohibition on access/disclosure does not apply to access or disclosure which occurs with the consent of the</p>

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				<p>child's parent or guardian (s 87(3)).</p> <p>s 168 - The prohibitions in s 167 on recording, using or disclosing confidential information obtained by a chief executive, public service employee or authorised officer in administering the Act, do not apply where the information relates to a child and the parent or guardian has consented to the relevant recording, use or disclosure.</p>
	<p>Child Employment Act 2006</p>	<p>Qld</p>		<p>s 8A(2) - The prohibition in s 8A(1) on requiring or permitting a child to work while the child is nude or while the child's sexual organs or anus (or, if a female over 5 years, breasts) are visible, does not apply where:</p> <p>(a) the work is in the entertainment industry; and</p> <p>(b) the child is under 12 months old; and</p> <p>(c) a parent of the child has given the employer written consent to the relevant work which would otherwise be prohibited under s 8A(1); and</p> <p>(d) a parent of the child is present while the child is performing the relevant work.</p> <p>s 10(1)(a) - An employer must not require or permit a school-aged or young child to perform work unless the employer has a parent's consent form under s 10(3) or a special circumstances certificate under s 12.</p> <p>s 12 - A child or an adult on a child's behalf may apply to the chief executive for a special circumstances certificate (being</p>

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				<p>a certificate authorising the child or an employer to do certain things the Act or a regulation would otherwise prohibit) (s 12(1)). The application must be supported by a parent of the child, unless the child does not have a parent or lives independently from his or her parents (s 12(2)(c)).</p>
	<p>Child Protection (International Measures) Act 2003</p>	<p>Qld</p>	<p>Various</p>	<p>This Act relates (inter alia) to the recognition in Qld of measures (within the meaning of the <i>Child Protection Convention</i>³) taken by a competent authority of a foreign country for which that convention is in force (a 'Convention country'), for:</p> <p>(a) protecting the person of a child (being a person under 18 years) (a 'foreign personal protection measure'); or</p> <p>(b) appointing, or deciding the powers of, a guardian of the child's property (a 'foreign property protection measure').</p> <p>It also relates to such measures taken under Qld law ('Qld personal protection measures' and 'Qld property protection measures' respectively).</p> <p>Section s 23(3)(b) provides that a Qld court may order that a foreign personal protection measure relating to a child be refused recognition on the ground that, in taking the measure, the competent authority of the Convention country is taken to have acted contrary to the fundamental principles of procedure under Qld law as mentioned in s 23(4). Section</p>

³ Meaning the *Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children* signed at The Hague on 19 October 1996.

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				<p>23(4)(a) provides that the competent authority is take to have acted so contrary, where it did not give the child, or a person with parental responsibility for the child, an opportunity to be heard before taking the measure, and the measure was not taken as a matter of urgency. 'Parental responsibility' is defined as in the Child Protection Convention and includes 'parental authority, or any analogous relationship of authority determining the rights, powers and responsibilities of parents, guardians or other legal representatives in relation to the person or the property of the child' (Sch 4 to the Act; art 1(2) of the Convention).</p> <p>Section 26(2)(d) allows a Qld court to cancel the registration in Qld of a foreign personal protection measure or a foreign property protection measure if, in taking the measure, the competent authority of the Convention country is taken to have acted contrary to the fundamental principles of procedure under Qld law as mentioned in s 26(3). Section 26(3)(a) provides that the competent authority is take to have acted so contrary, where it did not give the child, or a person with parental responsibility for the child, an opportunity to be heard before taking the measure, and the measure was not taken as a matter of urgency.</p> <p>Section 33(1) and (4)(a) provide that Qld courts and the relevant Qld government department, when hearing matters concerning contact with a child, must consider evidence and the findings (if any) of a competent authority of a Convention country on the suitability of a parent to have contact with the child. Section 33(2) and (4)(b) provide that Qld courts and the department may adjourn/postpone a matter concerning</p>

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				<p>contact with a child, pending the outcome of a request by a parent to a competent authority of a Convention country for a finding on the suitability of the parent to have contact with the child.</p> <p>Section 33(3) provides, on the application of a parent who is an Australian resident seeking to obtain or keep contact with a child, a Qld court may admit evidence, make a finding on the suitability of that parent to have contact with the child and specify conditions for that contact.</p> <p>Section 35(1) provides that a person who is to exercise parental responsibilities under a Qld personal protection measure or a Qld property protection measure may apply to a Qld authority (defined in s 5(1) to mean a Qld court, the department (in the case of a personal protection measure) or the Qld public trustee (in the case of a property protection measure) for information about the particular way in which the person may exercise the person's responsibilities under that measure.</p>
	Classification of Computer Games and Images Act 1995	Qld	s 10(1) s 18(1)	<p>s 10(1) - A person must not demonstrate, or attempt to demonstrate, in a public place an MA 15+ computer game if a child under 15 years who is not accompanied by an adult is present.</p> <p>s 18(1) - A person must not sell or deliver, or attempt to sell or deliver, an MA 15+ computer game to a child under 15 years unless the child is accompanied by an adult.</p>
	Classification of	Qld	Sections 22, 23,	NB. ' Minor ' is not defined in this Act, but the upper and lower age for a 'minor' is usually (though not always)

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	Films Act 1991		25, 33 and 38.	<p>specified in the relevant provision.</p> <p>s 22(1) - A person must not exhibit or attempt to exhibit, in a public place, a film classified as MA15+ if a minor between 2 and 15 years will be present, unless the minor is accompanied by an adult.</p> <p>s 23(1) - A person who has reached 18 years must not cause or permit, or attempt to cause or permit, a minor who has reached 2 years and is in the person's care, custody and control, to attend the exhibition in a public place of a film classified as an R18+ film or an objectionable film, unless the person believes on reasonable grounds that the minor has reached 18 years or has not reached 2 years.</p> <p>s 25(3) - If an inspector or exhibitor has reasonable grounds to suspect that a person seeking admission or who has been admitted to a theatre is accompanying, or has in his care and control, a minor who has reached:</p> <ul style="list-style-type: none"> - 2 years but not 15 years (in the case of a M15+ film); or - 2 years (in the case of an R 18+ film), <p>the inspector or exhibitor may require the person to give the inspector or exhibitor the person's correct name and address and (to the person's best knowledge) the minor's correct name, address and age.</p> <p>s 33 - A person must not sell or deliver, or attempt to sell or deliver, an MA15+ film to a minor who has not reached 15</p>

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				<p>years unless the minor is accompanied by an adult.</p> <p>s 38(1) - A person must not exhibit, or attempt to exhibit, a film classified as an R 18+ film in a place that is not a public place in the presence of a minor without the consent of a parent or guardian of the minor.</p>
	Classification of Publications Act 1991	Qld	s 11B	<p>This section permits the publications classification officer to, by gazette notice, make an order prohibiting the display of a specified unrestricted publication for sale at any public place to which children have access, unless certain protective measures are taken. Such an order may only be made if the officer is satisfied the order is necessary to protect children or families. The officer must assume that, generally, it is not in the best interests of children and families to display a publication's cover to children without proper adult supervision if the cover contains:</p> <ul style="list-style-type: none"> - a gratuitous depiction of inappropriate matter (defined as a matter of sex (including sexuality of the body), drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena); or - inappropriate matter on which there is an undue emphasis or focus.
	Criminal Code Act 1899	Qld	ss 280, 316A and 323A(2)	s 280 - It is lawful for a parent or a person in the place of a parent, or for a schoolteacher or master, to use, by way of correction, discipline, management or control, towards a child or pupil, under the person's care such force as is reasonable under the circumstances.

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				<p>s 316A(5) - Section 316A (which prohibits drink spiking with the intent to cause the other person to be stupefied or overpowered) does not apply to an act lawfully done in the performance of the responsibilities of a parent or carer.</p> <p>s 323A(2) - It is not a defence to prosecution for the offence of female genital mutilation that the victim or, if the victim is a child, a parent or guardian of the victim, consented to the mutilation.</p>
	Domestic and Family Violence Protection Act 2012	Qld	ss 126(4) and 188(2) and (3)	<p>s 126(4) - If a person taken into custody under s 116 (for suspected domestic violence) is a child, a police officer must notify a parent of the child (or someone who is apparently a parent of the child), unless a parent cannot be found after making all reasonable inquiries.</p> <p>s 188(2) & (3) - If the Act authorises or requires a document to be given to or served on a child, a copy must also be given to the parent of the child, unless a court has dispensed with this requirement. A court may do so if satisfied that a parent cannot be located after making all reasonable enquiries or there are other special circumstances for making the dispensation (e.g. the child is estranged from his parents or there would be an unacceptable risk of harm to the child if the parent was given a copy of the document).</p>
	Guardianship and Administration Act 2000	Qld	Chapter 5A	<p>Most of this Act focuses on adults with impaired capacity and is therefore irrelevant (s 11A).</p> <p>However, Chapter 5A relates to children. Specifically, it provides for applications to the Queensland Civil and Administrative Tribunal for consent to the sterilisation of a</p>

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				<p>child with an impairment. The tribunal may only give such consent if satisfied the sterilisation is in the best interest of the child. Provisions relevant to Article 5 are:</p> <p>(a) s 80D(3) - In deciding whether sterilisation is in the child's best interests, the tribunal must (among other things):</p> <p>(i) seek the child's views and wishes and take them into account, in a way that has regard to the child's age and impairment; and</p> <p>(ii) to the greatest extent practicable, seek the views of any parent or guardian of the child (or the child's primary carer if a parent or guardian is not the primary carer) and take them into account;</p> <p>(b) s 80H - a parent or guardian of the child with an impairment may make an application to the tribunal for consent to the sterilisation of the child;</p> <p>(c) s 80J - at least 7 days before the hearing of a Chapter 5A application, the tribunal must give notice of the hear, as far as practicable, to any parent or guardian of the child (or the primary carer if a parent or guardian is not the primary carer);</p> <p>(d) 80M(4) - the tribunal may order a parent to give the 'child representative' (being a lawyer appointed by the tribunal to represent the child) information about the child, to ensure the child representative has all the information necessary to act in the child's best interests.</p>

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	Information Privacy Act 2009	Qld	s 45	<p>Section 45 allows a parent (as defined in s 45(2)) to make an application for and on behalf of a child under 18 for:</p> <p>(a) access pursuant to s 43 to a document of a government agency or minister to the extent that it contains the child's personal information; or</p> <p>(b) amendment pursuant to s 44 of any part of the child's personal information contained in such a document that is claimed to be inaccurate, incomplete, out of date or misleading.</p> <p>The agency or minister must ensure, by the adoption of appropriate procedures, that any information intended for the child is received only by the parent: s 86.</p>
	Information Privacy Act 2009	Qld	s 196	<p>Section 196 provides that, in relation to an access or amendment application or other matter under the Act, a child's parent (as defined in s 45(2)) is able to do anything that the child could do if the child were an adult. 'Child' is defined in s 45(2) as a person under 18 years.</p>
	Information Privacy Act 2009	Qld	Sch 4 (National Privacy Principles), NPP 2(3)	<p>NPP 2(3) sets out circumstances in which a health agency that provides a health service to an individual will be permitted to disclose health information about that individual to a person responsible for the individual (which includes a parent or guardian), despite the general restrictions on disclosure of personal information (including health information) in NPP 2(1). For example, NPP 2(3) permits such disclosure where the individual is physically or legally incapable of giving consent to the disclosure, a health professional providing the health service is satisfied the</p>

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				<p>disclosure is necessary to provide appropriate care or treatment for the individual, the disclosure is limited to the extent reasonable and necessary for that purpose and the disclosure is not contrary to any wish expressed by the individual or of which the health professional is aware (or could reasonably be expected to be aware).</p> <p>'Person responsible' is defined in NPP 2(4). 'Parent' and 'child' are relevantly defined in NPP 2(6) to include step-, adoptive - and foster- parents and children.</p>
	Information Privacy Act 2009	Qld	Sch 4 (National Privacy Principles), NPP 9	<p>NPP 9(1)(e) permits a health agency to collect sensitive information (which is defined in the Act and includes health information) about an individual from a parent or guardian of the individual, where:</p> <p>(a) the information is a family medical history, social medical history or other relevant information about any individual; and</p> <p>(b) the information is collected by the health agency for the purpose of providing any person with a health service.</p>
	Mental Health Act 2000	Qld	Various	<p>The Act contains various provisions for parents or guardians to be involved in or informed about the mental health treatment of their children, including:</p> <p>s 45(c) - parent or guardian of a minor (NB. 'minor' does not appear to be defined in the Act) to be told about an assessment of the minor under Pt 4, Div 2 of the Act (involuntary assessment);</p>

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				<p>s 70(1)(b)(iii) - parent or guardian of a minor to be told about the minor's detention as a classified patient;</p> <p>s 189(1)(e) - parent or guardian of a minor to be given written notice of the hearing for a review by the tribunal of an involuntary treatment order;</p> <p>s 196(1)(e) and 198(1)(e) - parent or guardian of a minor to be given written notice of the hearing for a review by the tribunal of the detention of a young patient in a high security unit, and a copy of the tribunal's decision;</p> <p>s 232(2)(c) - parent or guardian of a minor to be given written notice of the hearing of a treatment application for approval to administer electroconvulsive therapy;</p> <p>s 318G - parent or guardian of a minor to be given written notice of the director's decision on an application for a classified patient information order in respect of the minor under s 318C (essentially an order that the applicant for the order be given certain classified information about a patient);</p> <p>s 318K - parent or guardian of a minor to be given written notice of the revocation of a classified patient information order about the minor and the grounds for revocation;</p> <p>s 318U(5)(d) - parent or guardian of a minor or person with a legal incapacity to be given written notice of the tribunal's decision on an application for a forensic information order in respect of the minor under s 318O (essentially an order that the applicant for the order be given certain forensic about a</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>patient);</p> <p>s 318W(5)(d) - If the tribunal changes the conditions of a forensic information order about a forensic patient who is a minor or has a legal incapacity, the tribunal must give written notice of the decision to a parent or guardian of the patient.</p> <p>s 318ZA(1)(d) - If the tribunal revokes a forensic information order about a forensic patient who is a minor, the tribunal must give written notice of the revocation and the grounds for revocation to a parent or guardian of the minor.</p> <p>s 318D - Where a minor makes an application for a classified patient information order under s 318C (essentially an order that the applicant for the order be given certain classified information about a patient), the director must generally consult with a parent or guardian of the minor in deciding whether it is in the minor's best interests for the order to be made. However, that requirement does not apply if:</p> <p>(a) the director is satisfied it would be inappropriate in all the circumstances to consult with a parent or guardian; or</p> <p>(b) the applicant has made the application on behalf of a child of the applicant.</p> <p>s 318P - Where a minor makes an application for a forensic information order under s 318O (essentially an order that the applicant for the order be given certain forensic information about a patient), the tribunal must generally consult with a parent or guardian of the minor in deciding whether it is in the minor's best interests for the order to be made. However,</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>that requirement does not apply if:</p> <p>(a) the tribunal is satisfied it would be inappropriate in all the circumstances to consult with a parent or guardian; or</p> <p>(b) the applicant has made the application on behalf of a child of the applicant.</p> <p>s 341(1)(a) - An involuntary patient who is a minor may choose a parent or guardian of the minor to be the minor's 'allied person' for the purposes of the Act. 'Allied persons' are referred to in various places throughout the Act and s 340 states that their function is to "help the patient to represent the patient's views, wishes and interests relating to the patient's assessment, detention, treatment and care under this Act".</p>
	<p>Vocational Education, Training and Employment Act 2000</p>	<p>Qld</p>	<p>Various</p>	<p>In this Act, 'minor' is not defined and 'parent' is defined to include a guardian and each person who is liable to maintain, or has the care and control of, a minor.</p> <p>s 52(3) - A training contract for employment as an apprentice or trainee must be signed by the employer, the apprentice/trainee and (if the apprentice/trainee is a minor) the parent of the apprentice/trainee, unless he or she is not in the parent's care and control.</p> <p>s 116(1)(d) - a vocational placement agreement must be signed by the registered training organisation, the student, the person providing the vocational placement and (if the student is a minor) the student's parent unless the student is not in the parent's care and control.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>s 141A - A parent of a young person in the 'compulsory participation phase' (being the phase for compulsory participation in education or training, defined in s 231 of the Education (General Provisions) Act 2006) may apply to the ombudsman to review an adverse decision about an employment exemption for the young person.</p> <p>s 183A - A parent of a young person in the compulsory participation phase may apply to Skills Queensland for an employment exemption for the young person. A parent may also apply to Skills Queensland for the amendment or cancellation of such an exemption: s 183C.</p>
	Youth Offenders (Interstate Transfer) Act 1987	Qld	s 7	<p>The permanent head shall not make an arrangement for the transfer of a young offender from Queensland to another State unless (inter alia):</p> <p>(a) the young offender or the young offender's parent or guardian applies for the transfer to be made; and</p> <p>(b) the permanent head is of the opinion that the transfer is appropriate in all the circumstances including the place or intended place or residence of the parents or other relatives or guardian (s 7(1)).</p> <p>For the purpose of deciding whether or not to arrange for the transfer, the permanent head may ask the young offender or the parents or other relatives or the guardian of the young offender (s 7(2)).</p>
	Youth Justice Act	Qld	Various	The Act contains various provisions relating to the involvement of parents in measures taken where their

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	1992			<p>children are alleged to have committed offences. These include:</p> <p>s 16(2) - If practicable, where a caution for an offence is to be administered to a child, the police officer must arrange for an adult chosen by the child, a parent of the child, or a person chosen by a parent of the child, to be present when the caution is administered.</p> <p>s 34(d) - the persons entitled to participate in a youth justice conference (being a conference designed to allow a child who has committed an offence, the victim of the offence and other concerned persons to consider or deal with the offence in a way benefitting all concerned: s 30) include the child's parent.</p> <p>s 69 - If a parent of a child is not present when the child appears before a court charged with an offence, the court, after making inquiries of those present as to:</p> <p>(a) the whereabouts of the child's parents; and</p> <p>(b) whether a parent of the child has been informed of the proceedings as required under s 43 or the <i>Police Powers and Responsibilities Act 2000</i> at s 392, may adjourn the proceeding to enable a parent to be present. The court may also recommend that the chief executive provide financial assistance to ensure that a parent is present.</p> <p>s 70 and 71 - A court before which a child appears charged with an offence may order a parent of the child to attend the proceeding. The court may adjourn the proceeding to allow</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>the parent to attend (subs (7)) and recommend the chief executive pay financial assistance to ensure the parent's attendance (subs (5)) . If a child was dealt with when no parent was present and the parent was not aware of the proceeding in sufficient time or unable to attend for sufficient reason, the court may set aside the finding or order against the child if it is in the interests of justice to do so: s 71.</p> <p>s 72 - In a proceeding before a court in which a child is charged with an offence, the court must take steps to ensure, as far as practicable, that the child and any parent of the child present has full opportunity to be heard and participate in the proceeding. Without limiting this obligation, it must ensure they understand:</p> <ul style="list-style-type: none"> (a) the nature of the alleged offence, including the matters which must be established before the child can be found guilty; and (b) the court's procedures; and (c) the consequences of any order that may be made. <p>s 197(a) - The chief executive, in giving directions to a child in relation to the child's performance of community service, is to avoid, if practicable, conflicts with the religious and cultural beliefs and practices of the child or the child's parent.</p> <p>s 277(1) - A child or parent of a child detained in a detention centre may complain about a matter that affects the child.</p> <p>s 305 - A parent of a child who is being held in custody on</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				being arrested for an offence, or on an order under the Act, may request the chief executive for inform the parent of the whereabouts of the child. The chief executive on request must give the information to the parent if the child is in the chief executive's custody, or the chief executive knows where the child is.

5. South Australia

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 5: States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise of the child of the rights recognised in the present Convention.</p>	<p>Children's Protection Act 1993 No. 93 (SA)</p>	<p>SA</p>	<p>s4(4)</p>	<p>(1) States that, in determining a child's best interests, consideration must be given to:</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 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> <p>(e) the undesirability of interrupting the child's education or employment unnecessarily.</p>
			<p>s 4(6)</p>	<p>Provides for children who are placed or about to be placed in alternative care, including that the child:</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(a) must be allowed to maintain relationships with the child's family (including the child's grandparents) and community, to the extent that such relationships can be maintained without serious risk of harm; and</p> <p>(b) must be consulted about, and (if the child is reasonably able to do so) take part in making, decisions affecting the child's life, particularly decisions about the child's ongoing care, where the child is to live, contact with the child's family and the child's health and schooling; and</p> <p>(c) if the child is in alternative care and under the guardianship, or in the custody, of the Minister—is entitled to regular review of the child's circumstances and the arrangements for the child's care.</p>
			s 5(2)	<p>Deals with circumstances relating to Aboriginal or Torres Strait Islander children and encompasses s 4 (above), and also provides that regard must be taken to:</p> <p>(a) to the submissions made by or on behalf of a recognised Aboriginal or Torres Strait Islander organisation consulted in relation to the child; and</p> <p>(b) if there has been no such consultation—to Aboriginal traditions and cultural values (including kinship rules) as generally expressed by the Aboriginal community, or to Torres Strait Islander traditions and cultural values (including kinship rules) as generally expressed by the Torres Strait Islander community, as the case may require; and</p> <p>(c) to the general principle that an Aboriginal child should be</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				kept within the Aboriginal community and a Torres Strait Islander child should be kept within the Torres Strait Islander community.
			s 8	<p>Provides for the general functions of the Minister as including:</p> <p>(a) to provide, or assist in the provision of, preventative and support services directed towards strengthening and supporting families, reducing the incidence of child abuse and neglect and maximising the well-being of children generally; and</p> <p>(b) to provide, or assist in the provision of, information or education services for parents, prospective parents and other members of the community in relation to the developmental, social and safety requirements of children;</p>
			s 27	<p>Provides for the Minister to convene a family care meeting where the Minister is of the opinion that a child is at risk.</p> <p>In particular, it provides that:</p> <p>(a) the Minister cannot make an application for an order granting custody of a child, or placing a child under guardianship, before a family care meeting has been held, unless:</p> <p>(i) it has not been possible to hold a meeting despite reasonable endeavours to do so; or</p>

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				<p>(ii) an order should be made without delay; or</p> <p>(iii) the guardians of the child consent to the making of the application; or</p> <p>(iv) there is other good reason to do so.</p>
			s 32	<p>Sets out the procedure for care meetings. In particular, it provides:</p> <p>(a) The Care and Protection Co-ordinator must take reasonable steps to ascertain the views as to the care and protection of the child from any guardian or family members not invited to attend the meeting, if the Co-ordinator thinks it appropriate to do so.</p> <p>(b) The Co-ordinator must allow the child's guardians and other family members present at the meeting, and the child if the Co-ordinator thinks it appropriate to do so, an opportunity to hold discussions in private for the purpose of formulating the family's recommendations as to the arrangements for securing the care and protection of the child.</p> <p>(c) A family care meeting should if possible make decisions by the consensus of the child and the child's guardians and other family members.</p> <p>(d) A decision made by a family care meeting will not however be regarded as validly made unless it is concurred in by the Care and Protection Co-ordinator as properly securing the care and protection of the child.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(e) The decisions made by a family care meeting as to the arrangements for securing the care and protection of the child must be recorded in writing by the Co-ordinator and acknowledged in writing by the Co-ordinator and such of the following persons who attend the meeting and concur in the decisions:</p> <p>(i) the child (unless excused by the Co-ordinator from the obligation); and</p> <p>(ii) the child's guardians and other family members.</p> <p>(f) A copy of that written record must be made available by the Co-ordinator to:</p> <p>(i) the child; and</p> <p>(ii) each guardian of the child; and</p> <p>(iii) any other person involved in implementing the arrangements; and</p> <p>(iv) such other persons as the Co-ordinator thinks fit.</p>
	Evidence Act 1929 (SA)	SA	s 12	<p>A young child who has been called to give evidence has a witness is allowed to have present in the court, and within reasonable proximity, a person or his or her choice to provide emotional support.</p> <p>The support person cannot interfere in the proceedings.</p> <p>The support person cannot be a witness or a prospective</p>

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				witness, unless the court otherwise permits.
	Mental Health Act 2009 (SA)	SA	s 4	<p>Governs the application of this Act to children. It provides that the Act will provide to children in the same way it would to person of full age, subject to the following:</p> <p>(a) where the child is under 16 years of age, any right conferred on the child under the Act may be exercised by the child's parent or guardian on behalf of the child.;</p> <p>(b) where the child is under 16 years, any document that is required to be provided to the child is instead to be provided to the child's parent or guardian.</p>
			s 7	<p>Sets out the guiding principles to be observed by the Minister, the Guardianship Board, health professionals and other persons involved in the administration of the Act. The following principles are relevant:</p> <p>(a) services should be provided on a voluntary basis as far as possible, and in the last restrictive way, and as near as possible to where the patient's family or carers reside;</p> <p>(b) the services should take into account:</p> <p>(i) the different developmental stages of children and young persons; and</p> <p>(ii) the different cultural backgrounds of patients</p> <p>(c) the case of patients of Aboriginal or Torres Strait Islander descent, take into account the patients' traditional beliefs and</p>

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				<p>practices and, when practicable and appropriate, involve collaboration with health workers and traditional healers from their communities;</p> <p>(d) 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;</p> <p>(e) 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>(f) 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.</p> <p>'mental health services' means all services involved in the treatment, care and rehabilitation of persons with serious 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.</p>
	<p>Minors Contracts (Miscellaneous Provisions) Act 1979 (SA)</p>	SA	s 6	<p>Permits a Court to approve the terms of a contract before the minor enters into that contract. An application for approval may be made by:</p>

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				(a) the minor or the parent or guardian of the minor; or (b) any other party to the proposed contract 'Court' means either: (a) the Supreme Court of South Australia; or (b) a local court of full jurisdiction
			s 8	Permits a Court to appoint a person to transact in specified business or sign documents on a minor's behalf, either on an application by the minor or an application by the minor's parent or guardian. 'Court' means either: (a) the Supreme Court of South Australia; or (b) a local court of full jurisdiction
	Ombudsman Act 1972 (SA)	SA	s 15	This provision relates to who can make a complaint to the Ombudsman. It provides that where a person is unable to make a complaint personally, the complaint may be made by a person who, in the Ombudsman's opinion, is a suitable representative of that person.
	Problem Gambling Family Protection Orders Act 2004	SA	s 4	Permits the Independent Gambling Authority to make a problem gambling family protection order against a

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	(SA)			<p>respondent if:</p> <p>(a) there is 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 an order is appropriate in the circumstances.</p> <p>The section goes on to set what factors the Authority may considering when determining whether the respondent may cause serious harm to family members.</p>
			s 8	Permits a parent or guardian, among others, to make an application or complaint on a child's behalf.
	Young Offenders Act 1993 (SA)	SA	s 3	<p>Sets out the objects and statutory policies of the Act. It relevant states as follows:</p> <p>(a) The object of this Act is to secure for youths who offend against the criminal law the care, correction and guidance necessary for their development into responsible and useful members of the community and the proper realisation of their potential; and</p> <p>(b) youth should be made aware of his or her obligations under the law and of the consequences of breach of the law; and</p> <p>(c) effect should be given to the following statutory policies so far as the circumstances of the individual case allow:</p>

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				<p>(i) family relationships between the youth and his or her parents, or the youth and other members of the youth's family should be preserved and strengthened; and</p> <p>(ii) youth should not be withdraw unnecessarily from his or her family environment; and</p> <p>(iii) there should be no unnecessary interruption of the youth's education; and</p> <p>(iv) a youth's sense of racial, ethnic or cultural identity should not be impaired.</p>
			s 10	Provides for the convening of family conferences where a young person has committed an offence. This section requires the Youth Justice Co-ordinator to invite, among others, the guardians and relatives of the young person to participate in a conference with the young person and the victim and the victim's family.
			s 34	<p>This provision allows a Court to make an order requiring the parent of guardian of a young person to attend court proceedings involving the young person.</p> <p>The proceedings may be adjourned to enable the order to be served on the guardian.</p> <p>Any who fails to attend the proceedings after being served with such an order is guilty of an offence.</p>
	Youth Court Act	SA	s 24	This provision provides for certain people to be present at

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	1993 (SA)			<p>sittings of the Court. They relevant include:</p> <p>(a) a guardian of the child or youth to whom the proceedings relate; or</p> <p>(b) in criminal proceedings, if the guardian of the youth who committed, or is alleged to have committed, the offence is unavailable, an adult person who is nominated by the youth or has been counselling, advising or aiding the youth.</p>

6. Western Australia

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 5: States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise of the child of the rights recognised in the present Convention.</p>	<p>Children and Community Services Act 2004</p>	<p>WA</p>	<p>6</p>	<p>States that the objects of the Act are:</p> <p>(a) to acknowledge the primary role of parents, families and communities in safeguarding and promoting the wellbeing of children; and</p> <p>(b) to encourage and support parents, families and communities in carrying out that role; and</p> <p>(c) to provide for the protection and care of children in circumstances where their parents have not given, or are unlikely or unable to give, that protection and care.</p>
			<p>8</p>	<p>In determining what is in a child's best interests for the purposes of the Act, the following matters must be taken into account:</p> <p>(a) the capacity of the child's parents to protect the child from harm; and</p> <p>(b) the need for the child to maintain contact with the child's parents, siblings and other relatives and with any other people who are significant in the child's life.</p>
			<p>9</p>	<p>In the administration of the Act the following principles must be observed:</p> <p>(a) the principle that the parents, family and community of a</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>child have the primary role in safeguarding and promoting the child's wellbeing; or</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; or</p> <p>(c) 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, siblings and other relatives and with any other people who are significant in the child's life; or</p> <p>(d) the principle that decisions about a child should be consistent with cultural, ethnic and religious values and traditions relevant to the child; or</p> <p>(e) 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 the Act that are likely to have a significant impact on the child's life.</p>
			13	States that in the administration of the Act a principle to be observed is that Aboriginal people and Torres Strait Islanders should be allowed to participate in the protection and care of their children with as much self-determination as possible.
	Commissioner for Children and Young	WA	4	In the administration of the Act the following principles must

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	People Act 2006			<p>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 exploitation;</p> <p>(b) 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>
			5	'Wellbeing' of children and young people includes the care development, education, health and safety of children and young people.
	Family Court Act 1997	WA	66(1)	<p>States that objectives 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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				development of their children.
			66(2)	<p>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>
			66(3)	For the purposes of children having a right to enjoy their culture, 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:

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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>
	Parental Support and Responsibility Act 2008	WA	5(1)	<p>The object of the Act is to:</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 parents to exercise appropriate control over the behaviour of their children.</p>
			7	<p>States that 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 :</p> <p>(a) safeguarding and promoting the wellbeing of their children; and</p> <p>(b) exercising appropriate control over the behaviour of their children; and</p> <p>(c) complying with any responsible parenting agreement</p>

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				they may enter into or any responsible parenting order directed towards them.
			8	In performing a function or exercising a power under the Act in relation to a family, a person or a court must endeavour to do so in a way that is culturally and religiously appropriate for the family.
			9	In performing a function or exercising a power under the 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.
	School Education Act 1999	WA	3(1)(d)	An object of the Act is to acknowledge the importance of the involvement and participation of a child's parents in the child's education.
			30	States that a student is excused from attendance at a government school at which he or she is enrolled or participation in an educational programme of the school, on a day, or during a period, that has religious or cultural significance for the student or the student's parents. A parent of the student must notify the principal before the day or period that the student will not attend or participate on that day or during that period.
			71	States that a parent of a child at a government school may notify the principal in writing that the child is not to receive any special religious education.

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			72	States that a parent of a child at a government school may in writing request the principal to grant an exemption for the child from attendance at classes at which a particular part of a course of study is taught.

7. Northern Territory

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

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<p>ARTICLE 5: States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise of the child of the rights recognised in the present Convention.</p>	<p>Care and Protection of Children Act 2007 No.37</p>	<p>NT</p>	<p>4</p>	<p>States that an object of the Act is to assist families and to ensure anyone having responsibilities for children, promote the wellbeing of children by protecting them from harm and maximising their opportunities.</p>
			<p>7</p>	<p>The Northern Territory Government has responsibility for promoting and safeguarding the wellbeing of children and supporting families in fulfilling their role in relation to children.</p>
			<p>8(1)</p>	<p>States that the family of a child has the primary responsibility for the care, upbringing and development of the child.</p>
			<p>8(2)</p>	<p>States that the family should be able to bring up the child in any language or tradition and foster in the child any cultural, ethnic or religious values.</p>
			<p>8(3)</p>	<p>States that a child may be removed from the child's family only if there is no other reasonable way to safeguard the wellbeing of the child.</p>
			<p>8(4)</p>	<p>States that if a child is removed from the child's family (and as far as practicable):</p> <p>(a) contact between the child and the child's family should be encouraged and supported; and</p>

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				(b) the child should eventually be returned to the family.
			9(2)	States that decisions involving a child should be made: (a) promptly having regard to the child's circumstances; and (b) in a way that is consistent with the cultural, ethnic and religious values and traditions of the child; and (c) with the informed participation of the child, the child's family and other people who are significant in the child's life.
			10(2)	When determining the best interests of a child, consideration should be given to: (a) the capacity and willingness of the child's parents or other family members to care for the child; or (b) the maturity and understanding of the child .
			12(1)	Conveys that kinship groups, representative organisations and communities of Aboriginal people have a major role, through self-determination, in promoting the wellbeing of Aboriginal children.
			12(2)	A kinship group, representative organisation or community of Aboriginal people nominated by an Aboriginal child's family should be able to participate in the making of a decision involving the child.
	Education Act 1979		6(1)	The Minister may take all measures, which in the Minister's opinion, are necessary or desirable to assist parents of

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	No.77			children in the Territory in fulfilling their responsibility to educate their children according to the individual needs and abilities of those children.
			20G(1)	States that a parent of a child enrolled in a Government school may request the principal of the school to withdraw the child from the whole or a specified part of a specified course of instruction provided for the child at the school.
	Evidence Act 1939 No.18		56	States that confidential communication means a communication made in confidence by a victim to a counsellor or to a victim by a counsellor in the course of the relationship and includes a communication made in the presence of a parent or carer of the victim.
	Mental Health and Related Services Act 1998 No.63		25	A parent or guardian of a person who is under 18 may apply to have the person admitted to an approved treatment facility as a voluntary patient.
			26	As soon as practicable after a person under 18 is admitted to an approved treatment facility as a voluntary patient, a practitioner must notify a parent or guardian of the person that the person has been so admitted.
	Youth Justice Act 2005 No.32	NT	133(5)	States that the court must not make an order in respect of a parent or the parents of a youth unless: (a) the parent is, or parents are, given an opportunity to be heard and it has taken into account any matters put to it by the parent or parents; and (b) it is satisfied that the parent has, or parents have, failed to

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				<p>exercise reasonable supervision and control of the youth; and</p> <p>(c) it is satisfied, after taking into account all the circumstances, that it is reasonable to make the order.</p>
			140B	<p>Agencies with responsibilities related to the welfare of a youth must work together cooperatively and effectively to help parents:</p> <p>(a) safeguard and promote the wellbeing of the youth; and</p> <p>(b) exercise appropriate control over the behaviour of the youth; and</p> <p>(c) comply with any relevant family responsibility agreement or order.</p>
			140E(1)	<p>A family responsibility agreement may provide as follows:</p> <p>(a) it may require a parent to undertake counselling or therapy directed at helping the parent to overcome addictive, destructive or damaging behaviour;</p> <p>(b) it may require a parent to:</p> <p>(i) undertake counselling to provide guidance in the effective discharge of the parent's parental responsibilities; or</p> <p>(ii) join and participate in the activities of an appropriate support group; or</p> <p>(iii) undertake any other relevant course or program of</p>

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				<p>personal development (including, if appropriate, a residential course or program); or</p> <p>(c) it may require a parent to exercise proper care and supervision of the youth and, in particular, to take all reasonable steps to ensure that:</p> <p>(i) the youth attends school; and</p> <p>(ii) the youth keeps away from, and avoids contact with, persons named or described in the agreement; and</p> <p>(iii) the youth keeps away from places described in the agreement; and</p> <p>(d) it may contain any other provisions, relevant to the effective care and supervision of the youth, that are agreed between the parties.</p>

8. Tasmania

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			<p>8(1)</p>	<p>Principles in which the administration the Act are founded include that:</p> <p>(a) the primary responsibility of a child's care and protection lies with the child's family; or</p> <p>(b) a high priority is to be given to supporting and assisting the family to carry out that primary responsibility.</p>
			<p>8(2)</p>	<p>States that in the exercise of any powers under the Act in relation to a child:</p> <p>(a) the best interests of the child must be the paramount consideration; or</p> <p>(b) serious consideration must be given to the desirability of:</p> <p>(i) keeping the child within his or her family; and</p> <p>(ii) preserving and strengthening family relationships between the child and the child's guardians and other family members, whether or not the child is to reside within his or</p>

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				<p>her family; and</p> <p>(iii) not withdrawing the child unnecessarily from the child's familiar environment, culture or neighbourhood; and</p> <p>(iv) not interrupting unnecessarily the child's education or employment; and</p> <p>(v) 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; and</p> <p>(vi) preserving the child's name; and</p> <p>(vii) not subjecting the child to unnecessary, intrusive or repeated assessments.</p>
			8(4)	<p>In any proceeding under the Act that may lead to any separation of a child from his or her family, other than a proceeding under Part 4 (Assessments), 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>Classification (Publications, Films and Computer Games) Enforcement Act 1995 No. 105</p>	Tas	14(1)(a)	<p>States that a publication that is classified category 1 restricted must not be sold or delivered to a minor, other than by a parent of that minor.</p>

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			15(1)(a)	States that a publication that is classified category 2 restricted must not be sold, delivered or exhibited to a minor, other than by a parent of that minor.
	Education Act 1994	Tas	12(1)	A parent of a school-aged child attending a State school may object as a matter of conscience to that child participating in a particular activity.
	Mental Health Act 1996	Tas	17(b)	A person may be admitted as a patient to an approved hospital if the person is under the age of 14 years, with the consent of his or her parent.
	Youth Justice Act 1997 No.81	Tas	5	<p>States that proper regard must be had to the following principles:</p> <p>(a) guardians are to be encouraged to fulfil their responsibility for the care and supervision of the youth and should be supported in their efforts to fulfil this responsibility; and</p> <p>(b) guardians should be involved in determining the appropriate sanction as allowed by this Act; and</p> <p>(c) family relationships between a youth, the youth's parents and other members of the youth's family should be preserved and strengthened; and</p> <p>(d) a youth should not be withdrawn unnecessarily from his or her family environment; and</p>

9. Australian Capital Territory

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			<p>s 74</p>	<p>Sets out the objects of holding family group conferences about a child or young person. These are to:</p> <ul style="list-style-type: none"> (a) encourage the child or young person, and his or her family, to take part in decisions affecting the child or young person; and (b) increase the support for the child or young person by his or her family members and significant people; and (c) make arrangements for the care of the child or young person to reduce the likelihood of the child or young person being in need of care and protection in the future.
			<p>ss 80-90</p>	<p>Sets out the procedures for the arrangement and conduct of family group conferences.</p> <ul style="list-style-type: none"> (a) Section 83 provides that the following people must be invited to the conference:

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				<p>(i) the child; and</p> <p>(ii) each parent of the child; and</p> <p>(iii) any other person who has parental responsibility for the child; and</p> <p>(iv) any person with an interest in or knowledge of the child's care, wellbeing or development.</p> <p>Section 85 provides that before the parties come to any agreement, the facilitator must:</p> <p>(a) given the participants the opportunity to obtain legal advice about the meaning and effect of the proposed agreement; and</p> <p>(b) if the facilitator is satisfied that the child is capable of understanding the agreement:</p> <p>(i) find out and consider the child's views about the proposed agreement; and</p> <p>(ii) where the child is 15 years or older, give the child the opportunity to seek legal advice about the meaning and effect of the proposed agreement.</p>
			ss 173-175	Section 173 provides that the director-general must ensure, as far as practicable, that adequate opportunities are provided for young detainees to maintain contact with their family members, friends, associates and others by mail, telephone

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				<p>and visits.</p> <p>Section 174 specifically provides that young detainees be permitted to make and receive telephone calls from family, friends, associates and others.</p> <p>Section 175 specifically provides that young detainees be permitted to send and receive mail from family, friends, associates and others.</p>
			s 177	<p>The director-general must ensure that each detention place has facilities for young people to receive visits from family and significant people.</p> <p>One family member or significant person may visit a young detainee for at least 1 hour each week.</p> <p>However, the director-general has the power to withdraw or limit visiting rights in certain circumstances.</p>
			s 254	<p>Gives the director-general the authority to direct that a strip search be conducted on a young detainee if the director-general believes that the strip search is necessary for initial assessment.</p> <p>The strip search must be conducted in the presence of a person who has daily care responsibility or long-term care responsibility for the young detainee if:</p> <p>(a) the detainee is under 18 years old; and</p> <p>(b) the director-general believes on reasonable grounds that</p>

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				<p>is necessary, and in the best interests of the young detainee; and</p> <p>(c) the young detainee agrees to the person being present.</p>
			s 350	<p>Sets out the principles applicable to sections of the Act dealing with care and protection of children. In particular, it states:</p> <p>(a) the primary responsibility for providing care and protection to children and young people lies with the child's parents or family members; and</p> <p>(b) priority must be given to supporting the child's or young person's parents and other family members to provide for the wellbeing, care and protection of the child or young person; and</p> <p>(c) the child or young person does not live with his or her family because of the operation of this Act—contact with his or her family, and significant people, must be encouraged, if practicable and appropriate.</p>
			s 486	<p>This section applies if someone applies for contact provisions to be included in a care and protection order for a child.</p> <p>There is a rebuttable presumption that it is in the best interests of the child to have contact with a person with parental responsibility for the child or his or her siblings.</p>