

1. Commonwealth

CONVENTION ON THE RIGHTS OF THE CHILD (CRC) ARTICLE 12: 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 12:</p> <p>1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.</p> <p>2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.</p>	<p>Child Support (Registration and Collection) Act 1988</p>	<p>Cth</p>	<p>101 and 103H</p>	<p>If a person objects to decision of the Child Support Registrar under Part VII of the Act (which generally primarily relate to 'registrable maintenance liability' i.e. child support), the Registrar is required to reconsider the decision. If a person is dissatisfied with the reconsideration, he or she can apply to the SSAT for review of the decision.</p> <p>Any person whose interests are affected by the decision of the Registrar may apply in writing to the SSAT Principal Member to be made a party to the review. However, if the person is a child of certain parties, they cannot apply. In addition, children of those parties cannot give evidence for the purposes of the review of a decision.</p>
	<p>Crimes Act 1914</p>	<p>Cth</p>	<p>Part 1AD</p>	<p>Child complainants and child witnesses in relation to sexual offences may give evidence subject to certain protections provided under the Act.</p> <p>In particular, section 15YQ(a) of the Act provides that if there is a jury in a proceeding in which a child witness has given or will give evidence, the judge is not to warn the jury, or suggest to the jury in any way that the <i>"law regards children as an unreliable class of witness"</i>.</p>
	<p>Evidence Act</p>	<p>Cth</p>	<p>Part 2.1, Division 1</p>	<p>Under section 12 of the Act, except as otherwise provided by the Act:</p>

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				<p>(a) every person is competent to give evidence; and</p> <p>(b) a person who is competent to give evidence about a fact is compellable to give that evidence.</p> <p>Under section 13(1) of the Act, a person is not competent to give evidence about a fact if, for any reason (including a mental, intellectual or physical disability):</p> <p>(a) the person does not have the capacity to understand a question about the fact; or</p> <p>(b) the person does not have the capacity to give an answer that can be understood to a question about the fact;</p> <p>and that incapacity cannot be overcome.</p>
			165A	<p>In proceedings where a child is giving evidence before a jury, the judge must not:</p> <p>(a) warn the jury, or suggest to the jury, that children as a class are unreliable witnesses; and</p> <p>(b) warn the jury, or suggest to the jury, that the evidence of children as a class is inherently less credible or reliable, or requires more careful scrutiny, than the evidence of adults; and</p> <p>(c) give a warning, or suggestion to the jury, about the unreliability of the particular child's evidence solely on account of the age of the child; and</p>

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				<p>(d) in the case of a criminal proceeding--give a general warning to the jury of the danger of convicting on the uncorroborated evidence of a witness who is a child.</p> <p>However, at the request of a party, a judge may:</p> <p>(a) inform the jury that the evidence of the particular child may be unreliable and the reasons why it may be unreliable; and</p> <p>(b) warn or inform the jury of the need for caution in determining whether to accept the evidence of the particular child and the weight to be given to it;</p> <p>if the party has satisfied the court that there are circumstances (other than solely the age of the child) particular to the child that affect the reliability of the child's evidence and that warrant the giving of a warning or the information.</p>
	Family Law Act 1975	Cth	Part III	<p>The Court may order parties to attend, or arrange for a child to attend, appointments with a family consultant.</p> <p>The function of a family consultant is to provide services in relation to proceedings under the Act, including:</p> <p>(a) assisting and advising people involved in the proceedings; and</p> <p>(b) assisting and advising courts, and giving evidence, in relation to the proceedings; and</p> <p>(c) helping people involved in the proceedings to resolve</p>

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				<p>disputes that are the subject of the proceedings, etc.</p> <p>Evidence of anything said, or any admission made, by or in the company of:</p> <p>(a) a family consultant performing the functions of a family consultant; or</p> <p>(b) a person (the professional) to whom a family consultant refers a person for medical or other professional consultation, while the professional is carrying out professional services for the person;</p> <p>is admissible in proceedings under the Act.</p>
			62G	<p>The court may direct a family consultant to give the court a report on such matters relevant to the proceedings as the court thinks desirable.</p> <p>A family consultant who is directed to give the court a report must:</p> <p>(a) ascertain the views of the child in relation to that matter; and</p> <p>(b) include the views of the child on that matter in the report.</p>
			60B(3)(b)(ii)	<p>The object of Part VII of the Act deals with children and Division 1 Subdivision B is to set out the objects and principles underlying Part VII.</p> <p>The principles underlying the objects of Part VII is said to</p>

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				include (except when it is or would be contrary to a child's best interests), that children have a right to enjoy their culture (including the right to enjoy that culture with other people who share that culture) (s.60B2)(e)). For those purposes, an Aboriginal child's or Torres Strait Islander child's right to enjoy his or her respective culture includes the right "to explore the full extent of that culture, consistent with the child's age and developmental level and the child's views".
			Part VII	<p>In deciding whether to make a particular parenting order, location order or recovery order in relation to a child, a court must regard the best interests of the child as the paramount consideration.</p> <p>In considering what is in the best interests of the child, the court is to consider numerous factors (as set out in section 60CC), including:</p> <p>(a) any views expressed by the child and any factors (such as the child's maturity or level of understanding) that the court thinks are relevant to the weight it should give to the child's views (section 60CC(3)(a)); and</p> <p>(b) an Aboriginal child's or Torres Strait Islander child's right to enjoy his or her respective culture which includes the right "to explore the full extent of that culture, consistent with the child's age and developmental level and the child's views" (section 60CC(3)(h) and (6)).</p> <p>A child is not required to express his or her views in relation to any matter under the Act (section 60CE).</p>

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			Part VII, Division 10	<p>If it appears to the court that the child's interests in the proceedings ought to be independently represented by a lawyer, the court:</p> <p>(a) may order that the child's interests in the proceedings are to be independently represented by a lawyer; and</p> <p>(b) may make such other orders as it considers necessary to secure that independent representation of the child's interests.</p> <p>The court may make such an order for the purpose of allowing the lawyer who is to represent the child's interests to find out what the child's views are on the matters to which the proceedings relate. However this would not apply if it would be inappropriate to do so because of:</p> <p>(a) the child's age or maturity; or</p> <p>(b) some other special circumstance.</p> <p>The role of the independent children's lawyer is set out in section 68LA of the Act. Importantly, one of the specific duties of the independent children's lawyer is to ensure that any views expressed by the child in relation to the matters to which the proceedings relate are fully put before the court (section 68LA(5)(b)).</p>
			Part VII, Division 12A, Subdivision D	<p>The hearsay rule in the Evidence Act 1995 does not apply to child related proceedings, unless the court decides otherwise.</p> <p>If the court does decide to apply the rule against hearsay in the child related proceedings, evidence of</p>

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				<p>a representation made by a child about a matter that is relevant to the welfare of the child or another child, which would not otherwise be admissible as evidence because of the law against hearsay, is not inadmissible in the proceedings solely because of the law against hearsay. The court may give such weight (if any) as it thinks fit to evidence admitted.</p>
			68R and 68S	<p>The court has power to make a family violence order to revive, vary, discharge or suspend an existing order, injunction or arrangement under this Act. If the court exercises such power, it also has the discretion whether to apply paragraph 60CC(3)(a) (which is in relation to taking into account a child's views).</p>
			Section 70NEF	<p>Evidence of anything said, or of any admission made, by a person attending a post-separation parenting program is not admissible:</p> <p>(a) in any court (whether exercising federal jurisdiction or not); or</p> <p>(b) in any proceedings before a person authorised by a law of the Commonwealth, of a State or of a Territory, or by the consent of the parties, to hear evidence.</p> <p>However, the above does not apply to a disclosure by a child under 18 that indicates that the child has been abused or is at risk of abuse (unless, in the opinion of the court, there is sufficient evidence of the admission or disclosure available to the court from other sources).</p>

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			100B	<p>A child, other than a child who is or is seeking to become a party to proceedings, must not swear an affidavit for the purposes of proceedings, unless the court makes an order allowing the child to do so.</p> <p>A child must not be called as a witness in, or be present during, proceedings in the Family Court, or in another court when exercising jurisdiction under this Act, unless the court makes an order allowing the child to be called as a witness or to be present (as the case may be).</p>
	Human Rights (Parliamentary Scrutiny) Act 2011	Cth	Part 2	<p>This Act establishes the Parliamentary Joint Committee on Human Rights.</p> <p>The functions of the committee are:</p> <p>(a) to examine Bills for Acts, and legislative instruments, that come before either House of the Parliament for compatibility with human rights, and to report to both Houses of the Parliament on that issue;</p> <p>(b) to examine Acts for compatibility with human rights, and to report to both Houses of the Parliament on that issue;</p> <p>(c) to inquire into any matter relating to human rights which is referred to it by the Attorney-General, and to report to both Houses of the Parliament on that matter.</p> <p>'human rights' is defined in the Act to mean, amongst other things, the rights and freedoms recognised or declared by the Convention on the Rights of the Child done at New York on</p>

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2. New South Wales

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<p>ARTICLE 12:</p> <p>1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.</p> <p>2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.</p>	<p>Adoption Act 2000 No 75</p>	<p>NSW</p>	<p>8</p>	<p>In making a decision about the adoption of a child, a decision is required under section 8 of the Act to have regard (as far as is practicable or appropriate) to certain principles, which include:</p> <p>(a) the best interests of the child, both in childhood and in later life, must be the paramount consideration (section 8(1)(a)). Under section 8(2)), in determining the best interests of the child, the decision maker is to have regard to certain matters, which includes any wishes expressed by the child (section 8(2)(a)).</p> <p>(b) if the child is able to form his or her own views on a matter concerning his or her adoption, he or she must be given an opportunity to express those views freely and those views are to be given due weight in accordance with the developmental capacity of the child and the circumstances (section 8(1)(d)).</p>
			<p>9</p>	<p>Under section 9(1), to ensure that a child is able to participate in any decision made under this Act that has a significant impact on his or her life, the decision maker is responsible for providing the child with the following:</p> <p>(a) adequate information, in a manner and language that the child can understand, concerning the decision,</p>

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				<p>(b) the opportunity to express his or her views freely, according to his or her abilities,</p> <p>(c) information about the outcome of the decision and an explanation of the reasons for the decision,</p> <p>(d) any assistance that is necessary for the child to understand the information and to express his or her views,</p> <p>(e) appropriate counselling when the child's consent is required to his or her adoption.</p> <p>Under section 9(2), due regard must be had to the age and developmental capacity of the child.</p> <p>Under section 9(3), decisions about the adoption of a child that have a significant impact on the life of the child include, but are not limited to, decisions relating to the following:</p> <p>(a) the placement for adoption of the child,</p> <p>(b) the development of any adoption plan concerning the child and the views of the child's parents about the plan,</p> <p>(c) an application for an order for the adoption of the child,</p> <p>(d) contact with birth parents or others connected with the child.</p>
			55	The Court must not make an adoption order in relation to a child who is 12 or more but less than 18 years of age and who

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				<p>is capable of giving consent unless:</p> <p>(a) the child has been counselled (as required by section 63 - 65 of the Act, and</p> <p>(b) the counsellor has certified that the child understands the effect of signing the instrument of consent (as required by section 61 of the Act), and</p> <p>(c) the child consents to his or her adoption by the prospective adoptive parent or parents or the Court dispenses with the requirement for consent.</p> <p>The Court may make an adoption order in relation to such a child who is incapable of giving consent if the Court is satisfied that the circumstances are exceptional and that it would be in the best interests of the child to make the order.</p>
			69	<p>The Court may make a consent dispense order dispensing with the requirement for consent to his or her adoption under the Act to be given by a child who is 12 or more but less than 18 years of age if the Court is satisfied that the child is in such a physical or mental condition as not to be capable of properly considering the question of whether he or she should give consent.</p> <p>The Court must not make a consent dispense order dispensing with the requirement for consent of a child who is 18 or more years of age in any circumstances.</p>
			73	<p>A child who has consented to his or her adoption may revoke his or her consent by notice in writing given to the nominated</p>

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			122	<p>officer at any time before the adoption order is made.</p> <p>The Court:</p> <p>(a) must appoint an Australian legal practitioner to represent a child if a guardian ad litem is appointed for the child, and</p> <p>(b) may (whether or not a guardian ad litem is appointed) appoint an Australian legal practitioner to represent a child if it appears to the Court that the child needs to be represented in any proceedings before it under the Act.</p> <p>The role of the Australian legal practitioner representing a child in proceedings is set out in section 122(3) and specifically includes:</p> <p>(a) ensuring that the views of the child are placed before the Court, and</p> <p>(b) acting on the instructions of the child or, if the child is incapable of giving instructions: (i) acting as a separate representative for the child, or (ii) acting on the instructions of the guardian ad litem.</p> <p>There is a rebuttable presumption that a child who is not less than 10 years of age is capable of giving proper instructions to an Australian legal practitioner representing the child. This presumption is not rebutted only because a child has a disability (section 122(4)).</p> <p>The Court may, on the application of an Australian legal</p>

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				<p>practitioner representing a child, make a declaration:</p> <p>(a) that a child who is less than 10 years of age is capable of giving instructions, or</p> <p>(b) that a child who is not less than 10 years of age is not capable of giving instructions and that the legal representative is to act as a separate representative of the child.</p> <p>If: (a) a child is less than 10 years of age, or (b) a child who is not less than 10 years of age is incapable of giving proper instructions to the Australian legal practitioner representing the child, the Australian legal practitioner representing the child is to act as a separate representative (section 122(6)).</p> <p>The role of a separate representative is set out in section 122(7) and includes to present evidence of the child's wishes (and in doing so the separate representative is not bound by the child's wishes) (section 122(7)(d))</p> <p>The Court may withdraw its leave at any time if the child informs the Court that he or she does not wish to be represented by the Australian legal practitioner (section 122(9)).</p>
			125	<p>A participant in proceedings may, with the leave of the Court, be accompanied by a support person.</p> <p>If the Court, having regard to the wishes of the child with respect to whom the proceedings are brought, is of the opinion that leave should not be granted, then leave cannot be</p>

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				granted for the person to be accompanied by the support person.
			127	In proceedings before it, the Court is to take into account any wishes and feelings of the child (considered in the light of the child's age and understanding) that are expressed by the child.
			129	Nothing in the Act requires a child to express their wishes in relation to any matter.
	Births, Deaths and Marriages Registration Act 1995	NSW	29	<p>A change of a child's name must not be registered under the Act unless:</p> <p>(a) the child consents to the change of name; or</p> <p>(b) the child is unable to understand the meaning and implications of the change of name.</p>
			30(1)(c)	Before registering a change of name under this Part, the Registrar may require the applicant to provide evidence to establish to the Registrar's satisfaction certain things, one of which is that if the person whose name is to be changed is a child—that the child consents to the change of name or is unable to understand the meaning and implications of the change of name.
	Children (Community Service Orders) Act 1987	NSW	18	<p>If a child is subject to a children's community service order, the officer and supervisor assigned to that person, when giving directions, shall so far as is reasonably practicable:</p> <p>(a) take into consideration the person's capacities and</p>

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				<p>interests, having regard to the person's physical, psychological, behavioural, intellectual and cultural characteristics, and</p> <p>(b) avoid any conflict with the person's religious beliefs, if any, or the times, if any, at which the person usually works or attends a school or other educational establishment from time to time.</p>
	<p>Children and Young Persons (Care and Protection) Act 1998</p>	<p>NSW</p>	<p>9</p>	<p>Section 9(1) sets out the overarching principle for administration of the Act, being that any action or decision concerning a particular child or young person, the safety, welfare and well-being of the child or young person are paramount.</p> <p>Subject to that overarching principles are other principles to be applied in the administration of the Act, including:</p> <p>(a) Wherever a child or young person is able to form his or her own views on a matter concerning his or her safety, welfare and well-being, he or she must be given an opportunity to express those views freely and those views are to be given due weight in accordance with the developmental capacity of the child or young person and the circumstances (section 9(2)(a)); and</p> <p>(b) If a child or young person is placed in out-of-home care, the child or young person is entitled to a safe, nurturing, stable and secure environment. Unless it is contrary to his or her best interests, and taking into account the wishes of the child or young person, this will include the retention by the child or young person of relationships with people significant</p>

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				to the child or young person, including birth or adoptive parents, siblings, extended family, peers, family friends and community (section 9(2)(f)).
			10	<p>To ensure that a child or young person is able to participate in decisions made under or pursuant to this Act that have a significant impact on his or her life, the Director-General is responsible for providing the child or young person with the following:</p> <ul style="list-style-type: none"> (a) adequate information, in a manner and language that he or she can understand, concerning the decisions to be made, the reasons for the Department's intervention, the ways in which the child or young person can participate in decision-making and any relevant complaint mechanisms; and (b) the opportunity to express his or her views freely, according to his or her abilities; and (c) any assistance that is necessary for the child or young person to express those views; and (d) information as to how his or her views will be recorded and taken into account; and (e) information about the outcome of any decision concerning the child or young person and a full explanation of the reasons for the decision; and (f) an opportunity to respond to a decision made under this Act concerning the child or young person.

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				<p>Under section 10(2), due regard must be had to the age and developmental capacity of the child or young person.</p> <p>Under section 10(3), decisions that are likely to have a significant impact on the life of a child or young person include, but are not limited to, the following:</p> <ul style="list-style-type: none"> (a) plans for emergency or ongoing care, including placement; and (b) the development of care plans concerning the child or young person; and (c) Children’s Court applications concerning the child or young person; and (d) reviews of care plans concerning the child or young person; and (e) provision of counselling or treatment services; and (f) contact with family or others connected with the child or young person.
			31	<p>Under section 30, on receipt of a report that a child or young person is suspected of being at risk of significant harm, the Director-General is to make such investigations and assessment as the Director-General considers necessary to determine whether the child or young person is at risk of significant harm.</p> <p>Under section 31, in determining how to make investigations</p>

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				and assessment in the case of a young person, the Director-General must have regard to any known wish expressed by the young person that he or she did not want a report to be made, taking into account the age of the young person and the extent to which the young person, and other children and young persons, appear to be at risk of significant harm.
			53	<p>The Children’s Court may make an order for: (a) the physical, psychological, psychiatric or other medical examination of a child or young person, or (b) the assessment of a child or young person, or both.</p> <p>However, under section 53(4), if a child or young person is of sufficient understanding to make an informed decision, the child or young person may refuse to submit to a physical, psychological, psychiatric or other medical examination or an assessment.</p>
			95(3)	The Children’s Court must ensure that the child or young person has the fullest opportunity practicable to be heard, and to participate, in the proceedings.
			96	<p>Under section 96(1), the Children's court may require the child to attend the proceedings.</p> <p>If a child or young person does not wish to be present before the Children’s Court during the hearing of any proceedings, the child’s or young person’s wishes are to be taken into account by the Children’s Court.</p> <p>The fact that a child or young person is presumed by section 99C (1) to have the capacity to instruct his or her legal</p>

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				representative does not of itself mean that the child or young person is required to attend the Children’s Court to give those instructions. Such a child or young person is required to attend only if required under this section.
			98	<p>In any proceedings with respect to a child or young person, that child or young person may appear in person or be legally represented or, by leave of the Children’s Court, be represented by an agent, and may examine and cross-examine witnesses on matters relevant to the proceedings.</p> <p>However, if the Children’s Court is of the opinion that a party to the proceedings who seeks to appear in person is not capable of adequately representing himself or herself, it may require the party to be legally represented.</p> <p>If the Children’s Court is of the opinion that a party to the proceedings is incapable of giving proper instructions to a legal representative, the Children’s Court is to appoint a guardian ad litem.</p>
			99	A legal representative for a child or young person who has not been appointed by the Children’s Court may appear only with its leave. The Children’s Court may withdraw its leave at any time and for any reason (including the child or young person informing the Children’s Court that he or she does not wish to be represented by the legal representative).
			99B	There is a rebuttable presumption that a child who is less than 12 years of age is not capable of giving proper instructions to his or her legal representative.

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				However, the Children’s Court may, on the application of a legal representative for a child who is less than 12 years of age, make a declaration that the child is capable of giving proper instructions.
			99C	<p>(1) There is a rebuttable presumption that a child who is not less than 12 years of age, or a young person, is capable of giving proper instructions to his or her legal representative. This presumption is not rebutted merely because the child or young person has a disability.</p> <p>(2) However, the Children’s Court may, on the application of a legal representative for a child who is not less than 12 years of age, or a young person, make a declaration that the child or young person is not capable of giving proper instructions.</p>
			99D	<p>The role of a direct legal representative includes the following:</p> <ul style="list-style-type: none"> (i) ensuring that the views of the child or young person are placed before the Children’s Court; and (ii) acting on the instructions of the child or young person; and <p>The role of an independent legal representative includes the following:</p> <ul style="list-style-type: none"> (i) presenting evidence of the child’s or young person’s wishes (and in doing so the independent legal representative is not bound by the child’s or young person’s instructions).

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			102	A participant in proceedings before the Children’s Court may, with the leave of the Children’s Court, be accompanied by a support person. The Children's Court must refuse leave if the Children’s Court, having regard to the wishes of the child or young person with respect to whom the proceedings are brought, is of the opinion that leave should not be granted.
			103	The Children’s Court, at its discretion, may obtain and consider the views of any siblings of a child or young person with respect to whom proceedings are brought and must take account of the interests of any siblings in determining what orders (if any) to make in the proceedings.
			231E	Director-General may transfer a home order to a participating State. If so, certain matters must be taken into account, including the principles in section 9 (which includes that wherever a child or young person is able to form his or her own views on a matter concerning his or her safety, welfare and well-being, he or she must be given an opportunity to express those views freely and those views are to be given due weight in accordance with the developmental capacity of the child or young person and the circumstances.)
			231F	If the Director-General transfers a home order to a participating State, it must notify the child or young person. That notice must inform the child or young person that: (a) the child or young person may seek legal advice in relation to the decision; and

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				(b) the child or young person may oppose the decision by writing to the Director-General, within 28 days after the date of service of the notice, and stating that the child or young person opposes the decision.
			231G	The Children's Court may make an order transferring a child protection order to a participating State. If so, certain matters must be taken into account including the principles in section 9 (which includes that wherever a child or young person is able to form his or her own views on a matter concerning his or her safety, welfare and well-being, he or she must be given an opportunity to express those views freely and those views are to be given due weight in accordance with the developmental capacity of the child or young person and the circumstances.)
			231M	The Children's Court may make an order transferring proceedings. if so, certain matters must be taken into account including the principles in section 9 (which includes that wherever a child or young person is able to form his or her own views on a matter concerning his or her safety, welfare and well-being, he or she must be given an opportunity to express those views freely and those views are to be given due weight in accordance with the developmental capacity of the child or young person and the circumstances.)
			260	Where an authorised officer a court is satisfied by the evidence of a medical practitioner that if a child or young person attended court to give evidence would be would be injurious or dangerous to the child's or young person's health, section 260 provides that the statement of the child or

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				young person may be taken and be read in evidence and admitted in accordance with section 406 of the Crimes Act.
	Children (Criminal Proceedings) Act 1987	Cth	6	<p>A person or body that has functions under this Act is to exercise those functions having regard to various following principles, which include:</p> <p>(a) that children have rights and freedoms before the law equal to those enjoyed by adults and, in particular, a right to be heard, and a right to participate, in the processes that lead to decisions that affect them; and</p> <p>(b) that children who commit offences bear responsibility for their actions but, because of their state of dependency and immaturity, require guidance and assistance.</p>
			12	A court shall give the child the fullest opportunity practicable to be heard, and to participate, in the proceedings.
			13	<p>Any statement, confession, admission or information made or given to a member of the police force by a child 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; or</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>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>child; or</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 from the place where, or throughout the period of time during which, the statement, confession, admission or information was made or given; 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>
			15D	<p>Generally, the name of a child who has committed an offence is not to be published unless an exemption in the Act applies.</p> <p>The child's name can be published where:</p> <p>(a) in the case of a person who is under the age of 16 years at the time of publication or broadcasting—with the consent of the court concerned; or</p> <p>(b) in the case of a person who is of or above the age of 16 years at the time of publication or broadcasting—with the</p>

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				<p>consent of the person.</p> <p>A court is not to give consent except with the concurrence of the child or (if the child is incapable of giving concurrence) unless the court is of the opinion that it is in the public interest that consent be given.</p> <p>A child who is of or above the age of 16 years cannot give consent for the purposes of this section unless the consent is given in the presence of an Australian legal practitioner of the child's own choosing.</p>
			48G	<p>The Children's Court may make an order (a 'suitability assessment order') adjourning criminal proceedings against a child for a relevant offence for the purpose of enabling a suitability assessment to be carried out in relation to the child if certain criteria is met. Some of that criteria includes:</p> <p>(a) the child has:</p> <p>(i) pleaded guilty to, or been found guilty of, the relevant offence; or</p> <p>(ii) in any other case—consented to the making of the order in circumstances where the child is capable in law of giving such consent; and</p> <p>(b) the Court is satisfied that the child has been afforded an opportunity to seek advice on the proposed order from an Australian legal practitioner; and</p> <p>(c) in the case where the child has not pleaded guilty to, or</p>

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				has not yet been found guilty of, the relevant offence—the Court is satisfied that the child had sufficient information by the time of the hearing to enable the child to make an informed choice about whether to consent to the making of the order.
			48L	<p>The consent of a child who is capable in law of giving consent to the making of a youth conduct order is required before such an order is made with respect to the child in relation to a relevant offence unless the child has pleaded guilty to, or been found guilty of, the offence.</p> <p>Before making a youth conduct order, the Children’s Court is to take into account any submissions and evidence put forward by or on behalf of the child as to the appropriateness of the order.</p>
	Children (Interstate Transfer of Offenders) Act 1988	NSW	6	<p>An arrangement for the transfer of a young offender from New South Wales to another State must not be made unless certain criteria is met including:</p> <p>(a) the young offender has been given independent legal advice of the effect of the arrangement; and</p> <p>(b) the young offender consents to the arrangement, or the Director-General determines that the particular circumstances of the case indicate the arrangement should be made without the young offender’s consent.</p>
	Children (Protection and Parental Responsibility) Act	NSW	23	A police officer may remove a child from a public place in certain circumstances and escort that child to another place

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	1997			<p>(but not a police station) (section 22).</p> <p>Under section 23, Before escorting a person to a place, the police officer is to take into account any wishes or feelings of the person (considered in the light of the person's apparent age and understanding) that are volunteered by the person. However, nothing in this subsection permits a police officer to require a person to express his or her wishes or feelings in relation to this matter.</p>
			25	<p>A police officer who places a person in the care of a person other than a parent or carer of the person, or who leaves a person at a residence in the absence of a parent or carer, is required to notify a parent of the person or, if the person has a carer, the person's carer, if the parent or carer is known and notification is practicable.</p> <p>A police officer is not required to notify a person's parent of the person's whereabouts if:</p> <p>(a) the person volunteers to the police officer that he or she does not wish his or her parent to be so notified; and</p> <p>(b) the police officer is satisfied that it would not be in the person's best interests to so notify the parent.</p>
	Commission for Children and Young People Act 1998	NSW	10	<p>The following principles are to govern the work of the Commission for Children and Young People:</p> <p>(a) the safety, welfare and well-being of children are the paramount considerations; and</p>

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				<p>(b) the views of children are to be given serious consideration and taken into account; and</p> <p>(c) a co-operative relationship between children and their families, and between children and their community, is important for the safety, welfare and well-being of children.</p>
			11	<p>Section 11 sets out the principle functions of the Commission for Children and Young People, which includes:</p> <p>(a) to promote the participation of children in the making of decisions that affect their lives and to encourage government and non-government agencies to seek the participation of children appropriate to their age and maturity; and</p> <p>(b) to promote and monitor the overall safety, welfare and well-being of children in the community and to monitor the trends in complaints made by or on behalf of children; and</p> <p>(c) to promote the provision of information and advice to assist children.</p>
			13	<p>The Commission is to develop means of consulting with children that are appropriate to their age and maturity.</p>
			20	<p>Hearings for special enquiries are to be held but a hearing is to be held in private if:</p> <p>(a) the Commission is satisfied that it is desirable to do so because of the confidential nature of any evidence or matter or for any other reason;or</p>

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				(b) the hearing concerns the evidence of a child and the child requests a private hearing (section 20(7)).
	Crimes Act 1900	NSW	77	The consent of the child or other person to whom the charge relates shall be no defence to a charge under certain sections of the Act (which relate to sexual assault / misconduct in relation to children).
	Crimes (Domestic and Personal Violence) Act 2007	NSW	9	One of the objects of the Act in relation to domestic violence is to enact provisions that are consistent with the United Nations Convention on the Rights of the Child.
			41	<p>A child should not be required to give evidence in any manner about a matter unless the court is of the opinion that it is in the interests of justice for the child to do so (section 41(4)).</p> <p>If children are required to give evidence in relation to AVO proceedings, the evidence should be required to be given only in accordance with Divisions 3 and 4 of Part 6 of Chapter 6 of the <i>Criminal Procedure Act 1986</i> (section 41(5)).</p>
	Criminal Procedure Act 1986	NSW	Part 6 of Chapter 6	Part 6 of Chapter 6 generally provides for the ways in which a vulnerable person, which includes a child (as defined under the Evidence Act).
			306T	A person must not call a vulnerable person (which includes a child) to give evidence of a previous representation made by the vulnerable person by means other than a recording made by an investigating official of the interview in the course of which the previous representation was made unless the person has taken into account any wishes of the vulnerable

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				<p>person, considered in the light of:</p> <p>(a) in the case of a child—the child’s age and understanding; or</p> <p>(b) in the case of a cognitively impaired person—the person’s cognitive impairment.</p> <p>A person is not permitted to require a vulnerable person to express the vulnerable person’s wishes in relation to the matter.</p>
			306ZH	<p>Vulnerable persons have a right to alternative arrangements for giving evidence when closed-circuit television facilities not available. A vulnerable person may choose not to use any such alternative arrangements.</p>
	Education Act 1990	NSW	26E	<p>The Director-General or school may assess the enrolment of a particular student is likely to constitute a risk (because of the behaviour of the student) to the health or safety of any person (including the student), and to develop and maintain strategies to eliminate or minimise any such risk (section 26B).</p> <p>In making an assessment, and (if necessary) developing a strategy, the Director-General or school (as the case may be) must, unless the guidelines otherwise provide:</p> <p>(a) consult the student concerned and the parents or a parent of the student; and</p> <p>(b) disclose to the student, parent or parents any relevant</p>

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				information obtained under the Act.
			26I	<p>The Director-General may give a direction in relation to the enrolment of a student at a government school. Before a direction is given, (amongst other things), an opportunity to make representations (whether oral or written, or both oral and written, as the student, parent or other person chooses) in relation to the information and the proposed direction.</p> <p>The Director-General must take into consideration any representations so made.</p>
	Minors (Property and Contract) Act 1970	NSW	Part 3	Part 3 of the Act makes certain acts presumptively binding on a minor. However, under section 18, Part 3 does not make presumptively binding on a minor a civil act in which the minor participates, or appears to participate, while lacking, by reason of youth, the understanding necessary for his or her participation in the civil act.
			28 and 29	<p>Where a minor makes a disposition of property (or where there is a disposition of property to the minor) for consideration and a certificate in respect of the disposition is given in accordance with this section, the disposition is presumptively binding on the minor.</p> <p>That certificate, must amongst other things, state that person giving the certificate is satisfied that:</p> <p>(i) the minor understands the true purport and effect in law of the disposition; and</p>

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				(ii) the minor makes the disposition freely and voluntarily.
			31	Where a minor has participated in a civil act, then, the minor participant may repudiate the civil act at any time during his or her minority or afterwards but before the minor attains the age of nineteen years. A repudiation of a civil act by a minor participant in the civil act does not have effect if it appears that, at the time of the repudiation, the civil act is for the benefit of the minor participant.
	Surrogacy Act 2010	NSW	26	When making a parentage order, the child must be under 18 years of age at the time of the application for a parentage order, and the Court must have regard to the wishes of the child, if the child is of sufficient maturity to express his or her wishes and the Court considers it appropriate to take those wishes into account.
	Young Offenders Act 1997	NSW	16	Under the Act, warnings can be given to persons under 21 in relation to certain offences they have committed. An investigating official who gives a warning to a child must take steps to ensure that the child understands the purpose, nature and effect of the warning.
			29	Under the Act, cautions can be given to persons under 21 in relation to certain offences they have committed. (1) A person who gives a caution to a child must take steps to ensure that the child understands the purpose, nature and effect of the caution. (2) If a child who is to be cautioned has a communication or

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				<p>cognitive disability, it is the duty of the person giving the caution, so far as practicable, to give the caution in the presence of an interpreter or other appropriately skilled person and, if necessary, to obtain the assistance of such a person in giving the caution.</p> <p>(2A) A person proposing to give a caution to a child may defer giving the caution:</p> <p>(a) if a person responsible for the child or the adult chosen by the child is not present—until a person responsible for the child or an adult chosen by the child is present; or</p> <p>(b) if it appears to the person that the child is so affected by alcohol or another drug (or a combination of drugs) that the child’s capacity to understand the purpose, nature or effect of the caution is impaired—until the person considers that the child has regained that capacity.</p>
			49	<p>Under the Act, a youth justice conference may be held for certain offences, which aims to enable a community based negotiated response to offences involving all the affected parties.</p> <p>If the conference convenor is of the opinion that the presence of a person (other than the child or any victim) may frustrate the purpose or conduct of a conference, or is otherwise not in the best interests of the child, the convenor may, having regard to the views of the child, exclude that person from attending the conference at all or may, during the course of the conference, exclude the person from continuing to attend</p>

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				the conference.
			50	<p>(1) A child who is the subject of a conference is entitled to be advised (but not represented) by an Australian legal practitioner at the conference.</p> <p>(2) The conference convenor may permit a child who is the subject of a conference to be represented by an Australian legal practitioner at the conference, either generally or subject to such conditions or limitations as may be imposed by the convenor.</p> <p>(3) A conference may be adjourned at any time for the purpose of allowing a child to obtain legal advice or representation by an Australian legal practitioner.</p>
	Youth Advisory Council Act 1989	NSW	11	<p>This Act establishes the Youth Advisory Council.</p> <p>The Council has the following functions:</p> <p>(a) to advise the Minister on the planning, development, integration and implementation of Government policies and programs concerning young persons; and</p> <p>(b) to consult with young persons, community groups and Government authorities on issues and policies concerning young persons; and</p> <p>(c) to monitor and evaluate legislation and Government policies and programs concerning young persons and to recommend changes if required; and</p>

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				<p>(d) to conduct forums, approved by the Minister, on issues of interest to young persons; and</p> <p>(e) to collect, analyse and provide the Minister with information on issues and policies concerning young persons.</p>

3. Victoria

CONVENTION ON THE RIGHTS OF THE CHILD (CRC) ARTICLE 12: 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 12:</p> <p>1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.</p> <p>2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.</p>	<p>Adoption Act 1984</p>	<p>VIC</p>	<p>Section 14</p>	<p>An order for the adoption of a child cannot be made unless the Court is satisfied that, as far as practicable, the wishes of the child have been ascertained and due consideration is given to them, having regard to the age and understanding of the child.</p>
	<p>Births, Deaths and Marriages Registration Act 1996</p>	<p>VIC</p>	<p>Section 27</p>	<p>A change of a name of a child aged 12 years or more must not be registered unless:</p> <p>(a) the child consents to the change of name; or</p> <p>(b) the child is unable to understand the meaning and implications of the change of name.</p>
	<p>Child Wellbeing and Safety Act 2005</p>	<p>VIC</p>	<p>Section 5(3)</p>	<p>The providers of services to children and families should protect the rights of children and families and, to the greatest extent possible, encourage their participation in any decision-making that affects their lives.</p>
			<p>Section 29</p>	<p>Functions in relation to children in out of home care</p> <p>The Child Safety Commissioner has the following functions in relation to out of home care services for children and children in out of home care to promote the provision of out of home care services that encourage the active participation of those children in the making of decisions that affect them.</p>

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	Children, Youth and Families Act 2005	VIC	Section 10(3)(d)	<p>Best interests principles</p> <p>In determining what decision to make or action to take in the best interests of the child, consideration must be given to the following, where they are relevant to the decision or action, the child's views and wishes, if they can be reasonably ascertained, and they should be given such weight as is appropriate in the circumstances.</p>
			Section 11(f)	<p>Decision-making principles</p> <p>In making a decision or taking an action in relation to a child, the Secretary or a community service must also give consideration to the following principles:</p> <p>(f) the child and all relevant family members (except if their participation would be detrimental to the safety or wellbeing of the child) should be encouraged and given adequate opportunity to participate fully in the decision-making process.</p>
			Section 271(1)(a)	<p>If the Court makes an interim accommodation order in respect of a child or dismisses an application for an interim accommodation order in respect of a child, then the child may appeal to the Supreme Court against the order or the dismissal.</p>
			Section 279(1)(a)	<p>An application for a variation of an undertaking or of any conditions of an undertaking or for the revocation of an undertaking may be made to the Court by the child.</p>

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			Section 300(a)	An application for a variation of the conditions of a protection order to which this Division applies may be made to the Court by the child in respect of whom the order was made.
			Section 304(1)(a)	An application for the revocation of a protection order to which this Division applies may be made to the Court by the child in respect of whom the order was made.
			Section 326(1)(a)	An application for a variation of a permanent care order or for the revocation (in whole or in part) of a permanent care order may be made to the Court by the child in respect of whom the order is made.
			Section 344A	<p>A proceeding against a child for a summary offence must be commenced within 6 months after the date on which the offence is alleged to have been committed except where certain conditions are met, including that the child, after receiving legal advice, gives written consent to the proceeding being commenced after the expiry of that period.</p> <p>If the child did not obtain legal advice before giving such consent, the court must adjourn the hearing and enable the child to obtain that advice. The child may subsequently withdraw its consent and, if so, the court must strike out the charge.</p>
			Section 344C	In an application for extension of time to hear an application that is made under section 344B, the child is entitled to appear at the hearing of the application and address the Court but if the child does not appear, the Court may proceed to

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				hear and determine the application in his or her absence.
			Section 344D	If an application under section 344B is heard and determined in the absence of the child, the child may apply to the Court for an order that the determination be set aside and that the application be reheard.
			Section 356	If a child is charged before the Court with an indictable offence, other than certain offenses such as murder, the Court must, before the hearing of any evidence, inform the child that the child may object to the charge being heard and determined summarily.
			Sections 380	If the Court finds a child guilty of one or more offences, whether indictable or summary, the Court may, with or without conviction, place the child on probation for a specified term if, amongst other things, the child has consented to the order being made.
			Section 387	If the Court finds a child guilty of one or more offences, whether indictable or summary, the Court may, with or without conviction, release the child on a youth supervision order only if, amongst other things, the child has consented to the order being made.
			Section 398	The Court does not have power to make a youth attendance order under section 397(1) unless, amongst other things, the child has consented to the order being made.
			Section 410 / 412	If the Court finds a child guilty of an offence, whether indictable or summary; and contain other conditions are fulfilled, the Court may convict the child and order that the

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				child be detained in a youth residential centre or youth justice centre. In each case, the Court may not make such an order if the child is not present before the Court.
	Crimes Act 1958	VIC	Section 464M / 464U	<p>If a child referred to in section 464L(2) or his or her parent or guardian refuses to consent to the taking of the child's fingerprints or the parent or guardian cannot be located, a member of the police force may apply to the Children's Court for an order under subsection (5).</p> <p>A child who is the subject of such an application may not address the court, other than in respect of the Court's requirement to satisfy itself that:</p> <p>(a) there are reasonable grounds to believe that the child has committed an indictable offence or a summary offence referred to in Schedule 7; and</p> <p>(b) that in all the circumstances the making of the order is justified, taking into account the seriousness of the circumstances surrounding the offence, the alleged degree of participation by the child in the commission of the offence; and the age of the child.</p> <p>A similar regime is in place under Section 464U in relation to other forensic procures on a child, and under Sections 464ZF and 464ZFAAA in relation to forensic procedure following the commission of a forensic sample offence.</p>
	Criminal Procedure Act 2009	VIC	Division 6	In a criminal proceeding relating to a charge for a sexual offence where the complainant was under the age of 18 years at the time of the proceeding commencing, the whole of the

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				<p>evidence (including cross-examination and re-examination) of the child must be given at a special hearing and recorded as an audio-visual recording and presented to the court in that form.</p> <p>On the application of the prosecution, the court may direct the above not to apply and that the complainant is to give direct testimony in the proceeding if the court is satisfied that the complainant is aware of the right for their evidence to be given at a special hearing and be recorded, and is able and wishes to give direct testimony in the proceedings instead.</p>
	Equal Opportunity Act 2010	VIC	Section 113	A child may bring a dispute to the Victorian Equal Opportunity and Human Rights Commission for dispute resolution or it may be brought by a parent of the child on the child's behalf or, if the Commission is satisfied that the child or a parent of the child consents, by any other person on the child's behalf.
	Family Violence Protection Act 2008	VIC	Section 62	If the affected family member in a family violence proceeding is a child and is not the applicant, the child may have legal representation in the proceeding only if the court considers it appropriate in all the circumstances of the case, having regard to the desirability of protecting children from unnecessary exposure to the court system, and the harm that could occur to the child and to family relationships if the child is directly represented in the proceeding.
			Section 67	A child, other than a child who is an applicant for a family violence intervention order or a respondent, must not give evidence for the purposes of a proceeding under the Act

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				<p>unless the court grants leave for the child to do so, having regard to the desirability of protecting children from unnecessary exposure to the court system, and the harm that could occur to the child and to family relationships if the child gives evidence.</p> <p>This section applies despite anything to the contrary in the Evidence Act 2008.</p>
			Section 108	<p>An application to vary, revoke or extend a family violence intervention order may be made to the court by the child (who is the protected person under the order) if the child is 14 years of age or more and receives leave of the court.</p>
			Section 150	<p>Restriction on presence of children</p> <p>(1) A child must not be present during a proceeding under this Act if the child is:</p> <p>(a) the affected family member or protected person for the proceeding; or</p> <p>(b) a family member of the respondent or the affected family member or protected person in the proceeding; or</p> <p>(c) in relation to a proceeding for an offence against this Act, the victim in relation to the alleged offence or the child of the alleged victim.</p> <p>(2) Subsection (1) does not apply if:</p> <p>(a) the child is the respondent or accused for the proceeding;</p>

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				<p>or</p> <p>(b) the court makes an order allowing the child to be present.</p> <p>(3) Before making an order under subsection (2)(b), the court must consider:</p> <p>(a) the desirability of protecting children from unnecessary exposure to the court system; and</p> <p>(b) the harm that could occur to the child and family relationships if the child is present while the court is conducting the proceeding.</p>
	Information Privacy Act	VIC	Section 27	<p>A complaint under the Act may be made by a child or by certain persons on behalf of a child.</p> <p>A child who is capable of understanding the general nature and effect of choosing an individual to make a complaint on his or her behalf may do so even if he or she is otherwise incapable of exercising powers.</p>
			Section 64(2)	<p>If an IPP or an applicable code of practice empowers an individual to request access to, or the correction of, personal information or confers on an individual a right of access to personal information, the power to make that request, or the right of access, may be exercised by the individual personally, except if the individual is a child who is incapable of making the request - ie. if the child is incapable of:</p> <p>(a) understanding the general nature and effect of giving the consent, making the request or exercising the right of access</p>

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				<p>(as the case requires); or</p> <p>(b) communicating the consent or refusal of consent, making the request or personally exercising the right of access (as the case requires);</p> <p>despite the provision of reasonable assistance by another individual.</p> <p>In that case, the request may be made by an authorised representative of the child.</p>
			Section 85C	An application for a compensation order may be made on the victim's behalf by any person other than the offender if the victim is a child.

4. Queensland

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

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<p>ARTICLE 12:</p> <p>1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.</p> <p>2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.</p>	<p>Adoption Act 2009</p>	<p>QLD</p>	<p>6</p>	<p>The guiding principles in administering the Act include:</p> <p>(a) a child should be kept informed of matters affecting him or her in a way and to an extent that is appropriate, having regard to the child's age and ability to understand;</p> <p>(b) the process for a child's adoption should include considering the views of— (i) the child's parents; and (ii) 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>39</p>	<p>Consent of the parent's to an adoption of their child is required under the Act but the Court may dispense with the requirement of consent. In dispensing with that requirement, under section 39(5), if the child has any views about the relevant parent and is able to express the views, having regard to the child's age and ability to understand, the court must consider the views.</p>
			<p>44 and 45</p>	<p>The chief executive must ensure the child is given the prescribed information before an application for an adoption order for the child is made.</p> <p>The information must be given in a way and to an extent that is reasonable, having regard to the child's age and ability to</p>

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				understand. Child must also be given counselling before adoption.
			50	The child may also be a party to a care agreement if the chief executive (child safety) considers it appropriate, having regard to the child's age and ability to understand.
			166	The parties to an adoption plan may also include—(a) the child, if the chief executive considers it would be appropriate having regard to all the circumstances including the child's age and maturity; or (b) a representative for the child.
			179	If a child is able to form and express views about his or her adoption, the court must consider the child's views before deciding whether to make an adoption order for the child.
			225	The Court may discharge an adoption order. If the adopted person is a child and has any views about the proposed discharge and is able to express the views, having regard to the child's age or ability to understand, the court must consider the views.
			235	If the Children's Court considers it is in the child's best interests for the child to be separately represented by a lawyer, the court may: (a) order that the child be separately represented by a lawyer; and (b) make the other orders it considers necessary to secure the

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				<p>child's separate legal representation.</p> <p>The lawyer must:</p> <p>(a) act in the child's best interests regardless of any instructions from the child; and (b) as far as possible, present the child's views and wishes to the court.</p>
			238	<p>In a proceeding, a child may only be called to give evidence with the leave of the Children's Court.</p> <p>The court may grant leave only if the child:</p> <p>(a) is at least 12 years; and</p> <p>(b) is represented by a lawyer; and</p> <p>(c) agrees to give evidence.</p> <p>If the child gives evidence, he or she may be cross-examined only with the leave of the court.</p>
			257	<p>A birth parent of the adopted child may ask the chief executive for information about the adopted child.</p> <p>The chief executive may give information in compliance with the request only if:</p> <p>(a) written consent is given by an adoptive parent of the child; and</p> <p>(b) the chief executive has considered the adopted child's</p>

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				views, if the child is able to form and express views; and (c) the chief executive is satisfied that giving the information is not likely to be contrary to the child's wellbeing and best interests.
			307H	In relation to reviewable proceedings under the Act at the QCAT, the tribunal must take all reasonable steps to ensure each child taking part in an adoption proceeding understands the tribunal's procedures.
			307I	<p>In relation to a proceeding about the suitability of a person to be an adoptive parent of a particular child, the tribunal must consider whether it would be in the child's best interests for the child to be separately represented before the tribunal by a lawyer (a 'separate representative').</p> <p>If the tribunal considers it would be in the child's best interests for the child to be separately represented before the tribunal by a lawyer, the tribunal must order that the child be represented by a separate representative.</p> <p>A separate representative must (a) act in the child's best interests having regard to any expressed views or wishes of the child; and (b) as far as possible, present the child's views and wishes to the tribunal.</p>
			307J	<p>A child must not be compelled to give evidence in an adoption proceeding.</p> <p>Before a child gives evidence in an adoption proceeding, the tribunal must satisfy itself that the child is willing to give the</p>

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				evidence.
			307K	In proceeding about the suitability of a person to be an adoptive parent of a particular child, whether or not the child appears as a witness before the tribunal, the child has the right to express his or her views to the tribunal about matters relevant to the review.
			307L	<p>Only certain persons can be present while the child gives evidence or expresses the child's views.</p> <p>The child may elect to give evidence or express the child's views in the presence of the parties and their representatives if the child:</p> <p>(a) is 12 years or more; and (b) is represented by a lawyer or a separate representative.</p>
			307M	<p>A child giving evidence or expressing the child's views in an adoption proceeding must not be cross-examined.</p> <p>Also, only the following persons may ask questions of a child giving evidence or expressing the child's views in an adoption proceeding— (a) the members constituting the tribunal for the proceeding; (b) the lawyer, if any, representing the child; (c) the separate representative, if any, for the child.</p>
	Births, Deaths and Marriages Registration Act	QLD	18	The registrar must not approve an application to register the change of the name of a child who is 12 years or more unless the registrar is satisfied that the child:

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	2003			<p>(a) consents to the change of name; or</p> <p>(b) is unable to understand the meaning and implications of the change of name.</p> <p>The child's consent is not required if the change of name has been approved by a Magistrates Court.</p>
	Child Protection Act	QLD	74 and Schedule 1	<p>If the chief executive— (a) has custody or guardianship of a child under a child protection order; or (b) has custody of a child under a care agreement, as far as reasonably practicable, the chief executive must ensure the charter of rights for a child in care in schedule 1 is complied with in relation to the child.</p> <p>Charter of Rights states that a child has a right, amongst other things:</p> <p>(a) to be consulted about, and to take part in making, decisions affecting the child's life (having regard to the child's age or ability to understand), particularly decisions about where the child is living, contact with the child's family and the child's health and schooling; and</p> <p>(b) to be given information about decisions and plans concerning the child's future and personal history, having regard to the child's age or ability to understand.</p>
			5D	<p>The principles about exercising powers under the Act and making decisions set out in section 5D includes, to the extent that it is appropriate, the views of relevant persons should be sought and taken into account before a decision is made</p>

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				<p>under this Act.</p> <p>Also if a relevant person for a decision under this Act needs help to participate in or understand the decision-making process, or to understand a statutory right relevant to the decision, the relevant person should be given help.</p> <p>The above would apply to views of a child.</p>
			5E	<p>When giving a child an opportunity to express their views under this Act:</p> <p>(a) language appropriate to the age, maturity and capacity of the child should be used; and</p> <p>(b) communication with the child should be in a way that is appropriate to the child's circumstances; and</p> <p>(c) if the child requires help to express their views, the child should be given help; and</p> <p>(d) the child should be given an appropriate explanation of any decision affecting the child, including a decision about the development of a case plan or the effect of the decision or the case plan; and</p> <p>(e) the child should be given an opportunity, and any help if needed, to respond to any decision affecting the child.</p> <p>Nothing in this section requires a child to express a view about a matter.</p>

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				This section does not apply to a court.
			51N	At family group meetings, the convenor must take reasonable steps to ascertain before the meeting, and make known at the meeting, the views of various persons including the child, if the child's views may reasonably be ascertained and the convenor does not expect the child to be attending.
			51S	If a case plan is not developed at the case planning meeting, the chief executive must, amongst other things, take reasonable steps to obtain the views of the child, if the child's views may reasonably be ascertained.
			51ZB	The chief executive must give proper consideration to intervening with the parents' agreement if the child's views and wishes, if able to be ascertained, have been considered.
			51ZE	The chief executive may enter into a care agreement in relation to a child. The chief executive must obtain and have regard to the child's views before entering the care agreement, unless the child is unable to form and express views, taking into account the child's age and ability to understand.
			59	Before a Children's Court may make a child protection order, it must satisfy itself that the child's wishes or views, if able to be ascertained, have been made known to the court.
			65B	When deciding whether to make a transition order, the court must have regard to (amongst other things) the child's wishes and views, if able to be ascertained.

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			83A(4)	<p>A child may be placed with more than 1 approved carer at the time. Certain information must be given to the carer in relation to the child.</p> <p>In deciding the information about the child to give to someone under this section, the chief executive must have regard to:</p> <ul style="list-style-type: none"> (a) the views and wishes of the child, having regard to the child's age and ability to understand; and (b) the proposed length of time of the placement; and (c) the child's right to privacy under the charter of rights.
			99N	<p>The parties may be directed by the tribunal or principal registrar to attend a compulsory conference.</p> <p>The person presiding over the conference may meet with a party separately:</p> <ul style="list-style-type: none"> (a) if the person considers doing so may avoid the escalation of conflict between the parties; or (b) if the party is a child and the person considers doing so is in the child's best interests having regard to the child's views and wishes.
			99P	<p>A person may file a review application on behalf of a child only with the president's permission.</p> <p>The application may be withdrawn but the president or</p>

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				tribunal may give permission to withdraw only if the president or tribunal considers that, having regard to the child's views or wishes, if any, it is in the child's best interests that the application be withdrawn.
			99Q	<p>Where there is a reviewable decision in relation to a child by the QCAT, the tribunal must consider whether it would be in the child's best interests for the child to be separately represented before the tribunal by a lawyer (a 'separate representative').</p> <p>If the tribunal considers it would be in the child's best interests for the child to be separately represented under this section before the tribunal by a lawyer, the tribunal must order that the child be represented by a separate representative.</p> <p>A separate representative must:</p> <p>(a) act in the child's best interests having regard to any expressed views or wishes of the child; and</p> <p>(b) as far as possible, present the child's views and wishes to the tribunal.</p>
			99U	Whether or not the child is a party to the review or appears as a witness before the tribunal, the child has the right to express his or her views to the tribunal about matters relevant to the review.
			99V	Only the following persons may be present while the child

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				<p>gives evidence or expresses the child's views:</p> <ul style="list-style-type: none"> (a) the constituting members; and (b) the lawyer, if any, representing the child; and (c) the separate representative, if any, for the child; and (d) the child's support person if the child has a support person and agrees to that person's presence. <p>The child may elect to give evidence or express the child's views in the presence of the parties and their representatives if the child:</p> <ul style="list-style-type: none"> (a) is 12 years or more; and (b) is represented by a lawyer or a separate representative.
			99W	<p>A child giving evidence or expressing the child's views in a proceeding before the tribunal must not be cross-examined.</p> <p>Also, only the following persons may ask questions of a child giving evidence or expressing the child's views in a proceeding:</p> <ul style="list-style-type: none"> (a) the constituting members; and (b) the lawyer, if any, representing the child; and (c) the separate representative, if any, for the child.
			99Y	President or tribunal may authorise medical examination of

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				<p>child. The president or tribunal must not make the order unless the president or tribunal is satisfied:</p> <p>(a) the medical information, if any, available to the tribunal about the child is insufficient to allow the tribunal to decide the review; and</p> <p>(b) the child's interests will be best served by making the order. In deciding whether the child's interests will be best served by making the order, the president or tribunal must consider the child's views and wishes, if any, and the effect the medical examination may have on the child having regard to the number and frequency of any previous medical examinations the child has undergone.</p>
			110	<p>If, in a proceeding on an application for an order for a child, the Children's Court considers it is necessary in the child's best interests for the child to be separately represented by a lawyer, the court may:</p> <p>(a) order that the child be separately represented by a lawyer; and</p> <p>(b) make the other orders it considers necessary to secure the child's separate legal representation.</p> <p>The court must consider making orders about the child's separate legal representation if:</p> <p>(a) the application for the order is contested by the child's parents; or</p>

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				<p>(b) the child opposes the application.</p> <p>The lawyer must:</p> <p>(a) act in the child’s best interests regardless of any instructions from the child; and</p> <p>(b) as far as possible, present the child’s views and wishes to the court.</p>
			188B	<p>The chief executive or an authorised officer may disclose information about a child to a member of the child’s family group if satisfied the disclosure would be in the child’s best interests.</p> <p>Before disclosing information under this section, the chief executive or officer must— (amongst other things) obtain and have regard to the child’s views, if the child is able to form and express views, taking into account the child’s age and ability to understand.</p>
			214	<p>The Children's Court may order the transfer of the child protection order to the participating State if— (amongst other things) the child’s wishes or views, if able to be ascertained have been made known to the court.</p>
	Commission for Children and Young People and Child Guardian Act 2000	QLD	5	<p>The principles for administering the Act include:</p> <p>(a) in decisions involving a child, the child’s views and wishes should be taken into account in a way that has regard to the child’s age and ability to understand; and</p>

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				(b) every child is entitled: (i) to express the child's concerns and grievances and to have them dealt with in a way that is fair and timely and promotes the child's participation; and (ii) to receive information and help to enable the child to exercise the child's entitlements.
			23	In performing the function of Commissioner for Children and Young People and Child Guardian the Commissioner must listen to, and seriously consider, the concerns, views wishes of children.
			103	<p>To the greatest extent practicable, a community visitor must seek, and take into account, the views and wishes of a child residing at a visitable site before:</p> <p>(a) asking a staff member of the site a question about the child; or</p> <p>(b) inspecting, taking extracts from, or making copies of, a document held at the site that relates to the child; or</p> <p>(c) including information about the child in a report to the commissioner under section 92(1).</p> <p>To the greatest extent practicable, a community visitor must seek, and take into account, the views and wishes of a child residing at a visitable home before:</p> <p>(a) asking a carer or someone else at the home a question about the child; or</p> <p>(b) including information about the child in a report to the</p>

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				<p>commissioner under section 92(1).</p> <p>The child's views and wishes may be expressed orally, in writing or in another way, including, for example, by conduct.</p> <p>The child's views and wishes should be taken into account in a way that has regard to the child's age and maturity.</p>
			363	<p>An application for a child-related employment review may be made on behalf of a child only with the permission of the QCAT president. The application can be withdrawn only with leave of the QCAT president or QCAT. Leave can be given only if the president or QCAT considers that, having regard to the child's views or wishes, if any, it is in the child's best interests that the application be withdrawn.</p>
			364	<p>A child must not be compelled to give evidence in a proceeding for a QCAT child-related employment review.</p>
			365	<p>Only the following persons may be present while the child gives evidence:</p> <p>(a) the constituting members; and</p> <p>(b) the child's support person if the child has a support person and agrees to that person's presence.</p>
			367	<p>Before the child gives evidence, QCAT must tell the child that:</p> <p>(a) he or she may be cross-examined by QCAT or a party to</p>

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				<p>the proceeding; and</p> <p>(b) he or she may, at any time while the cross-examination is continuing, refuse to be further cross-examined; and</p> <p>(c) if he or she acts under paragraph (b), the application is taken to have been withdrawn and the review stops.</p> <p>If the child acts under (b) above, the application is taken to have been withdrawn and the review stops.</p>
	Corrective Services Act 2006	QLD	30	<p>The chief executive may grant an application to have a child accommodated with a prisoner in a corrective services facility. Amongst other things, the chief executive must satisfied it is in the child's best interests.</p> <p>In deciding what is the child's best interests, the chief executive may consider, if the chief executive is satisfied the child is able to express a view, the child's wishes.</p>
	Domestic and Family Violence Protection Act 2012	QLD	148	<p>A child, other than a child who is an aggrieved or respondent in a proceeding under the Act, may only be called to give evidence with the leave of the court.</p> <p>The court may grant leave only if the child:</p> <p>(a) is at least 12 years; and</p> <p>(b) is represented by a lawyer; and</p> <p>(c) agrees to give evidence.</p>

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				<p>In deciding whether to grant leave, the court must have regard to:</p> <ul style="list-style-type: none"> (a) the desirability of protecting children from unnecessary exposure to the court system; and (b) the harm that could occur to the child and to family relationships if the child gives evidence. <p>A person may only do the following with the leave of the court:</p> <ul style="list-style-type: none"> (a) call the child as a witness in the proceeding; and (b) ask the child to remain in court during the proceeding; and (c) ask the child to swear an affidavit for the proceeding; and (d) ask the child to produce a stated document or other thing in the proceeding. <p>A child may be cross-examined only with the leave of the court.</p>
			149	<p>Where there is a child who is named in an application for a protection order as the aggrieved, as the respondent or is otherwise involved in certain proceedings under the Act and is not represented by a lawyer, the court may adjourn the hearing of the application if the court considers that the child has not had a reasonable opportunity to obtain representation</p>

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				by a lawyer.
	Evidence Act 1987	QLD	9	Subject to the Act, every person, including a child, is presumed to be: (a) competent to give evidence in a proceeding; and (b) competent to give evidence in a proceeding on oath.
			9C	If the evidence of a child under 12 is admitted, expert evidence is admissible in the proceeding about the person's or child's level of intelligence, including the person's or child's powers of perception, memory and expression, or another matter relevant to the person's or child's competence to give evidence, competence to give evidence on oath, or ability to give reliable evidence.
			9E	Because a child tends to be vulnerable in dealings with a person in authority, it is the Parliament's intention that a child who is a witness in a proceeding should be given the benefit of special measures when giving the child's evidence. The following general principles apply when dealing with a child witness in a proceeding: (a) the child is to be treated with dignity, respect and compassion; and (b) measures should be taken to limit, to the greatest practical extent, the distress or trauma suffered by the child when giving evidence; and

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				<p>(c) the child should not be intimidated in cross-examination; and</p> <p>(d) the proceeding should be resolved as quickly as possible.</p>
			21AA to 21AX	<p>There are particular provisions for affected children giving evidence. An affected child means a child who is a witness in a relevant proceeding and who is not a defendant in the proceeding.</p> <p>The principles of these provisions are:</p> <p>(a) to preserve, to the greatest extent practicable, the integrity of an affected child's evidence; and</p> <p>(b) to require, wherever practicable, that an affected child's evidence be taken in an environment that limits, to the greatest extent practicable, the distress and trauma that might otherwise be experienced by the child when giving evidence.</p>
	Education (General Provisions) Act 2006	QLD	277	<p>In developing the behavioural plan for the school, the principal must consult with the following persons:</p> <p>(a) the parents of children enrolled at the school;</p> <p>(b) the school's staff and students.</p>
			279	<p>The behavioural plan must be reviewed every 3 years. In reviewing the plan, the principal must consult with the following persons:</p>

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				(a) the parents of children enrolled at the school; and (b) the school's staff and students.
			360	In developing the dress code for the school's students that is to apply when the students are attending, or representing, the school, the principal must consult with the following persons: (a) the parents of children enrolled at the school; and (b) the school's staff and students.
			109	In preparing the draft constitution for the school council, the principal must consult with: (i) the parents of children attending the school; and (ii) the school's staff and students
	Family Services Act 1987	QLD	6(7)	Under section 6, the chief executive may delegate to an individual who has the care of a child of whom the chief executive is guardian all or any of the chief executive's powers, authorities, functions and duties. However under section 6(7), any delegation shall not be made, if the child has attained the age of 15 years, unless the child consents thereto.
	Family Responsibilities Commission Act	QLD	5	The principles for administering the act are set out in section 5, which includes that in a conference about an agency notice involving a child, the child's views and wishes should be taken into account in a way that has regard to the child's age

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	2008			and ability to understand.
	Guardianship and Administration Act	QLD	80D	<p>Under section 80C, the tribunal may, by order, consent to the sterilisation of a child with an impairment. The tribunal may consent to the sterilisation only if the tribunal is satisfied the sterilisation is in the best interests of the child.</p> <p>In deciding whether the sterilisation is in the child's best interests, the tribunal must, amongst other things, in a way that has regard to the child's age and impairment, seek the child's views and wishes and take them into account.</p> <p>The child's views and wishes may be expressed in the following ways:</p> <ul style="list-style-type: none"> (a) orally; and (b) in writing; and (c) in another way including, for example, by conduct.
			80I	<p>Under section 80H, an application may be made to the tribunal for consent to the sterilisation of a child with an impairment.</p> <p>The application must include certain information, including</p> <ul style="list-style-type: none"> (a) whether the child has been informed of the application; and (b) whether the child has indicated the child does not wish to

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				<p>have the proposed sterilisation; and</p> <p>(c) information about the help, if any, the child might need at the hearing of the application.</p>
			80L	<p>As soon as possible after application for sterilisation of a child is made, the tribunal must appoint a person to separately represent the child before the tribunal (a 'child representative').</p> <p>The child representative must:</p> <p>(a) act in the child's best interests; and</p> <p>(b) have regard to any expressed views or wishes of the child; and</p> <p>(c) to the greatest extent practicable, present the child's views and wishes to the tribunal.</p>
	Hospital and Health Boards Act 2011	QLD	144	<p>A designated person may disclose confidential information if the person to whom the confidential information relates is a child and:</p> <p>(i) the disclosure of the confidential information is by a health professional who reasonably believes the child is of sufficient age and mental and emotional maturity to understand the nature of consenting to the disclosure; and the child consents to the disclosure; or</p> <p>(ii) the disclosure of the confidential information is by a health professional who reasonably believes the child is of</p>

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				<p>insufficient age or mental or emotional maturity to understand the nature of consenting to the disclosure; and the child's parent or guardian consents to the disclosure; or</p> <p>(iii) the disclosure of the confidential information is by a health professional who reasonably believes the disclosure of the information is in the child's best interests.</p>
	Public Health Act 2005	QLD	185	<p>Part 3 of the Act is in relation to child abuse and neglect. The principles which part 3 of the Act is to be administered are set out in section 185, which includes:</p> <p>(i) the views of a child and the child's family are considered; and</p> <p>(ii) a child and the child's parents have the opportunity to take part in making decisions affecting the wellbeing of the child; and</p> <p>(iii) a child should be kept informed of matters affecting him or her in a way and to an extent that is appropriate having regard to the child's age and ability to understand.</p>
			213B	<p>A person must not perform, or offer to perform, a cosmetic procedure on a child. A person does not commit this offence if the person believes, on grounds that are reasonable in the circumstances, that performance of the procedure is in the best interests of the child.</p> <p>Proof that the person did not have sufficient regard to certain matters is sufficient proof that the person did not have this belief, which includes, if the child is able to form and express</p>

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				views—the views of the child, including the reasons why the child wants the procedure to be performed, taking into account the child’s maturity and understanding of the procedure, including the risks, limitations and possible consequences of the procedure;
	Status of Children Act 1978	QLD	11	<p>A parentage testing procedure must not be carried out on a person under a parentage testing order unless:</p> <p>(a) if the person does not have impaired capacity and is an adult or is a child who is 16 or 17 years—the person consents to the carrying out of the procedure; or</p> <p>(b) if the person is a child who is under 16 years or is a child who is 16 or 17 years with impaired capacity—the child’s parent or guardian or a person exercising parental responsibility in relation to the child consents to the carrying out of the procedure.</p>
	Surrogacy Act 2010	QLD	47	<p>The court may make a discharge order discharging a parentage order in relation to a child.</p> <p>If the court makes a discharge order, the court must, in the same order, declare the first name and surname by which the child is to be known after the making of the discharge order.</p> <p>Also, if the child has been served with a copy of the application, in declaring a name the court must consider the child’s views about his or her name.</p>
	Youth Justice Act	QLD	3, Schedule 1 - Charter of Youth	The principles in the Charter of Youth Justice Principles

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
	1992		Justice Principles	<p>underlie the Act.</p> <p>One of the principles is that a child who is detained in a detention centre under this Act:</p> <p>(a) should be provided with a safe and stable living environment; and</p> <p>(b) should be helped to maintain relationships with the child's family and community; and</p> <p>(c) should be consulted about, and allowed to take part in making, decisions affecting the child's life (having regard to the child's age or ability to understand), particularly decisions about:</p> <p>(i) the child's participation in programs at the detention centre; and</p> <p>(ii) contact with the child's family; and</p> <p>(iii) the child's health; and</p> <p>(iv) the child's schooling.</p>
			19	<p>The procedure of administering a caution to a child for an offence may involve the child apologising to a victim of the offence if:</p> <p>(a) the police officer administering, or requesting the administration of, the caution considers that an apology is an appropriate course of action in the particular circumstances of</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>the case; and</p> <p>(b) the child is willing to apologise; and</p> <p>(c) the victim is willing to participate in the procedure.</p>
			194	A court may make a probation order against a child only if the child indicates willingness to comply with the order.
			195	A court may make a community service order against a child only if—(amongst other things) the child indicates willingness to comply with the order.
			203	A court may make an intensive supervision order for a child only if—(amongst other things) the child expresses willingness to comply with the order.
			222	A court may make a conditional release order in relation to a child only if the child expresses willingness to comply with the order.
			245	The court may vary the community based order only if the child expresses a willingness to comply with the order as varied.

5. South Australia

CONVENTION ON THE RIGHTS OF THE CHILD (CRC) ARTICLE 12 : TABLE OF RELEVANT SOUTH AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>ARTICLE 12:</p> <p>1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.</p> <p>2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.</p>	<p>Adoption Act 1988</p>	<p>SA</p>	<p>8A</p>	<p>(1) Before making an order for the adoption of a child of or over 5 years of age, the Court must interview the child to determine what the child's opinion is in relation to the proposed order (unless satisfied that the child is intellectually incapable of expressing an opinion).</p> <p>(2) An interview under this section must not be conducted in the presence of any party to the adoption.</p> <p>(3) In determining whether to make an order for adoption of a child the Court must take into account any opinion expressed by the child in an interview under this section.</p> <p>(4) The Court may determine the weight to be given to an opinion expressed by a child in an interview under this section, taking into account the age of the child and any other factors the Court considers relevant.</p>
			<p>16</p>	<p>An adoption order will not be made in relation to a child over the age of 12 years unless:</p> <p>(a) the child has consented to the adoption; and</p> <p>(b) 25 days have elapsed since the giving of consent; and</p> <p>(c) the Court is satisfied, after interviewing the child in private, that the child's consent is genuine and the child does</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>not wish to revoke it.</p> <p>The consent of a child:</p> <p>(a) must be in writing; and</p> <p>(b) must be witnessed in accordance with the regulations; and</p> <p>(c) must be endorsed by an officer authorised by the Chief Executive to make such an endorsement with a statement to the effect that the child has been counselled by that person.</p>
			18	<p>Under section 18(2), the Court may dispense with the consent of a child to an adoption where it appears to the Court that the child is intellectually incapable of giving consent.</p>
			23	<p>Before making an order changing the name of a child, the Court should take into account any wishes expressed by the child on the subject (section 23(2)).</p> <p>Under section 23(3), the Court will not change the name of a child who is over the age of 12 years unless:</p> <p>(a) the child consents to the change; or</p> <p>(b) the child is intellectually incapable of consenting.</p>
			27A	<p>Information about the adoption can be disclosed once the person turns 18 however earlier disclosure can be given to a birth parent if consent has been given by (i) the adoptive parents; and (ii) if the adopted person has attained the age of</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				12 years—the adopted person.
	Births, Deaths and marriages Registration Act 1996	SA	26	A change of a child's name must not be registered unless: (a) the child consents to the change of name; or (b) the child is unable to understand the meaning and implications of the change of name.
			27	Before registering a change of name, the Registrar may require the applicant to provide evidence to establish to the Registrar's satisfaction—if the person whose name is to be changed is a child—that the child consents to the change of name or is unable to understand the meaning and implications of the change of name.
	Children's Protection Act 1993	SA	4(4)	The fundamental principles of the Act are set out in section 4. One of those fundamental principles is that in the exercise of powers under the Act, the child's best interests is to be a paramount consideration (section 4(3)). Under section 4(4), in determining a child's best interests, consideration must be given to various matters, which include, if the child is able to form and express his or her own views as to his or her best interests—those views (section 4(4)(d)).
			4(6)	A child who is placed or about to be placed in alternative care, amongst other things: (a) must be consulted about, and (if the child is reasonably able to do so) take part in making, decisions affecting the

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>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>(b) must be given information that is appropriate, having regard to the child's age and ability to understand, about plans and decisions concerning the child's future.</p>
			9	<p>Negotiations for a voluntary custody agreement may be initiated by a guardian of a child or by a child of or above the age of 16 years, but no such agreement can be entered into (or extended) in relation to a child of or above the age of 16 years unless the child consents to the agreement or extension (section 9(3)).</p> <p>If a child under the age of 16 years appears to have a sufficient understanding of the consequences of a custody agreement, the child must be consulted before such an agreement can be entered into (or extended) by his or her guardians (section 9(4)).</p> <p>If a custody agreement relates to a child of or above the age of 16 years, the Minister must terminate the agreement on the request of the child, but not until he or she is satisfied that proper arrangements exist for the care of the child (section 9(6)).</p>
			29	<p>If the Minister is of the opinion that a child is at risk and that arrangements should be made to secure the child's care and protection, the Minister should cause a family care</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>meeting to be convened in respect of the child.</p> <p>Under section 29(2), the Co-ordinator (of the meeting) must arrange for a suitable person to act as advocate for the child at the meeting, unless satisfied that the child has made an independent decision to waive his or her right to be so represented.</p> <p>Under section 29(3), the Co-ordinator (of the meeting) must, as far as is reasonably practicable, consult with the child and the child's guardians as to who should be invited to attend the meeting and the time and place to be fixed for the meeting.</p>
			32	<p>The person responsible for convening family care meetings is the Care and Protection Co-ordinator.</p> <p>Section 32 sets out the procedure of the family care meetings. Under this section, the Care and Protection Co-ordinator must take reasonable steps to ascertain the views as to the care and protection of the child:</p> <p>(a) from those persons invited to a family care meeting who are unable to attend; and</p> <p>(b) from the child (so far as his or her views are ascertainable) if he or she has not been invited, or refuses, to attend; and</p> <p>(c) from any guardian or other family member who has not been invited to attend the meeting, if the Co-ordinator thinks it appropriate to do so,</p>

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				<p>and must relay all those views to the meeting.</p> <p>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>
			48	<p>(1) The Court must not proceed to hear an application under this Act unless:</p> <p>(a) the child is represented in the proceedings by a legal practitioner; or</p> <p>(b) the Court is satisfied that the child has made an informed and independent decision not to be so represented.</p> <p>(2) If the child is to be represented by a legal practitioner, but is not capable of properly instructing the legal practitioner, the legal practitioner must act, and make representations to the Court, according to his or her own view of the best interests of the child.</p> <p>(3) A child (whether represented by a legal practitioner or not) must be given a reasonable opportunity to give the child's own views personally to the Court about his or her ongoing care and protection unless the Court is satisfied that:</p> <p>(a) the child is not capable of doing so; or</p> <p>(b) to do so would give rise to an unacceptable risk to the child's wellbeing.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			52C	<p>The Act establishes Guardian for Children and Young Persons.</p> <p>Under section 52C(2), in carrying out its functions, the Guardian must encourage children who are affected by issues that the Guardian has under consideration to express their own views and give proper weight to those views.</p>
	<p>Consent to Medical Treatment and Palliative Care Act 1995</p>	SA	6	<p>A person of or over 16 years of age may make decisions about his or her own medical treatment as validly and effectively as an adult.</p>
			12	<p>A medical practitioner may administer medical treatment to a child if:</p> <p>(a) the parent or guardian consents; or</p> <p>(b) the child consents and</p> <p>(i) the medical practitioner who is to administer the treatment is of the opinion that the child is capable of understanding the nature, consequences and risks of the treatment and that the treatment is in the best interest of the child's health and well-being; and</p> <p>(ii) that opinion is supported by the written opinion of at least one other medical practitioner who personally examines the child before the treatment is commenced.</p>
	<p>Equal Opportunity</p>	SA	95(7)	<p>A complaint to the Commissioner may be resolved by</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
	Act 1984			<p>conciliation.</p> <p>If a child is a party to proceedings, the child is entitled to be supported in conciliation proceedings by an adult who, in the opinion of the Commissioner, would be of assistance in that role.</p>
	Evidence Act	SA	12	<p>A young child who is called as a witness is, while giving evidence, entitled to have present in the court, and within reasonable proximity, a person of his or her choice to provide emotional support (but the person must not interfere in the proceedings).</p> <p>Unless the court otherwise allows, a witness or prospective witness in the proceedings cannot be chosen to provide emotional support for a young child.</p>
			12A	<p>In a criminal trial, a judge must not warn the jury that it is unsafe to convict on a child's uncorroborated evidence unless:</p> <p>(a) the warning is warranted because there are, in the circumstances of the particular case, cogent reasons, apart from the fact that the witness is a child, to doubt the reliability of the child's evidence; and</p> <p>(b) a party asks that the warning be given.</p> <p>In giving any such warning, the judge is not to make any suggestion that the evidence of children is inherently less credible or reliable, or requires more careful scrutiny, than the evidence of adults.</p>

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			59(1A)	<p>Where the alleged victim of a sexual offence is a child and is to give evidence in proceedings related to the offence, an order must be made requiring all persons except:</p> <p>(a) those whose presence is required for the purposes of the proceedings; and</p> <p>(b) a person who is present at the request or with the consent of the child to provide emotional support for the child; and</p> <p>(c) any other person who, in the opinion of the court, should be allowed to be present;</p> <p>to absent themselves from the place in which the court is being held while the child is giving evidence.</p>
	Intervention Orders (Prevention of Abuse) Act 2009	SA	20	Various persons can apply to a court for an intervention order, including a child if it is alleged they may hear or witness, or otherwise be exposed to the effects of, an act of abuse committed by the defendant against a person.

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	Mental Health Act 2009	SA	4	<p>This Act applies to children in the same way as to persons of full age, subject to the following:</p> <p>(a) a right conferred on a person under this Act may, if the person is a child under 16 years of age, be exercised by a parent or guardian of the child on behalf of the child; and</p> <p>(b) an obligation under this Act to give a document to a person is, if the person is a child under 16 years of age, to be treated as an obligation to give the document to a parent or guardian of the child, and operates to the exclusion of any further obligation under this Act to send or give the document to a guardian, medical agent, relative, carer or friend.</p>

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 12:</p> <p>1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.</p> <p>2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.</p>	<p>Births, Deaths and Marriages Registration Act 1998</p>	<p>WA</p>	<p>32</p>	<p>32. Child's consent to change of name</p> <p>A change of a name of a child who is 12 years of age or more and in respect of whom an application under section 31 has been made must not be registered unless:</p> <p>(a) the child consents to the change of name; or</p> <p>(b) the child is unable to understand the meaning and implications of the change of name.</p>
		<p>WA</p>	<p>34</p>	<p>34. Registration of change of name</p> <p>(1) Before registering a change of name under this Division, the Registrar may require the applicant to provide evidence to establish to the Registrar's satisfaction:</p> <p>(a) the identity and age of the person whose name is to be changed; and</p> <p>(b) that the change of name is not sought for a fraudulent or other improper purpose; and</p> <p>(c) if the person whose name is to be changed is a child who is 12 years of age or more, that:</p> <p>(i) the child consents to the change of name; or</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(ii) the child is unable to understand the meaning and implications of the change of name.</p> <p>(2) If the Registrar is satisfied that the name of a person whose birth is registered in the State has been changed under the law, or by order of a court, of another State or of the Commonwealth, the change of name may be registered under this Act if the Registrar considers that it is appropriate to do so.</p> <p>(3) The Registrar may refuse to register a change of name if, as a result of the change, the name would become a prohibited name.</p> <p>(4) This section does not apply to an application under section 33.</p>
	<p>Children and Community Services Act 2004</p>	<p>WA</p>	<p>8</p>	<p>8. Determining the best interests of a child</p> <p>(1) In determining for the purposes of this Act what is in a child's best interests the following matters must be taken into account:</p> <p>(i) Any wishes or views expressed by the child, having regard to the child's age and level of understanding in determining the weight to be given to those wishes or views; and</p> <p>(ii) the child's age, maturity, sex, sexuality, background and language; and</p> <p>(iii) the child's physical, emotional, intellectual, spiritual,</p>

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				developmental and educational needs; and (iv) any other relevant characteristics of the child;
		WA	10	<p>10. Principle of child participation</p> <p>(1) If a decision under this Act is likely to have a significant impact on a child's life then, for the purpose of ensuring that the child is able to participate in the decision-making process, the child should be given:</p> <p>(a) adequate information, in a manner and language that the child can understand, about:</p> <p>(i) the decision to be made; and</p> <p>(ii) the reasons for the Department's involvement; and</p> <p>(iii) the ways in which the child can participate in the decision-making process; and</p> <p>(iv) any relevant complaint or review procedures; and</p> <p>(b) the opportunity to express the child's wishes and views freely, according to the child's abilities; and</p> <p>(c) any assistance that is necessary for the child to express those wishes and views; and</p> <p>(d) adequate information as to how the child's wishes and views will be recorded and taken into account; and</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(e) adequate information about the decision made and a full explanation of the reasons for the decision; and</p> <p>(f) an opportunity to respond to the decision made.</p> <p>(2) In the application of the principle set out in subsection (1), due regard must be had to the age and level of understanding of the child concerned.</p> <p>(3) Decisions under this Act that are likely to have a significant impact on a child's life include but are not limited to:</p> <p>(a) decisions about placement arrangements or secure care arrangements in respect of the child; and</p> <p>(b) decisions in the course of preparing, modifying or reviewing care plans or provisional care plans for the child; and</p> <p>(c) decisions about the provision of social services to the child; and</p> <p>(d) decisions about contact with the child's parents, siblings and other relatives and with any other people who are significant in the child's life.</p>
		WA	75	<p>75. Negotiated placement agreement</p> <p>In deciding whether to enter into, extend or terminate a negotiated placement agreement, the CEO must take into</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				account any views expressed by the child.
		WA	90	<p>90. Review of care plan</p> <p>(1) The CEO must carry out a review of the operation and effectiveness of every care plan at regular intervals not exceeding 12 months.</p> <p>(2) In the course of the review the CEO must have regard to any views expressed by:</p> <ul style="list-style-type: none"> (a) the child; and (b) a parent of the child; and (c) any carer of the child; and (d) any other person considered by the CEO to have a direct and significant interest in the wellbeing of the child. <p>(3) The CEO must prepare a written report on the outcome of the review and must ensure that, where practicable, a copy of the report is given to each of the people mentioned in subsection (2).</p>
		WA	147	<p>147. Parties to protection proceedings</p> <p>In protection proceedings each of the following people is a party to the proceedings:</p> <ul style="list-style-type: none"> (a) the child; and

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				<p>(b) each parent of the child; and</p> <p>(c) the CEO; and</p> <p>(d) if the proceedings relate to a protection order (special guardianship):</p> <p>(i) the person or persons to whom parental responsibility for the child is proposed to be given under the order; or</p> <p>(ii) the person or persons given parental responsibility for the child under the order, as the case may be; and</p> <p>(e) any other person considered by the Court to have a direct and significant interest in the wellbeing of the child.</p>
		WA	148	<p>148. Legal representation of child</p> <p>If, in protection proceedings, it appears to the Court that the child ought to have separate legal representation, the Court may order that the child be separately represented by a legal practitioner.</p> <p>The Court may make an order on its own initiative; or</p> <p>(b) on the application of:</p> <p>(i) the child; or</p> <p>(ii) an organisation concerned with the wellbeing of children; or</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(iii) any other person.</p> <p>A legal practitioner who represents a child in protection proceedings must act on the instructions of the child if the child:</p> <p>(a) has sufficient maturity and understanding to give instructions; and</p> <p>(b) wishes to give instructions, and in any other case must act in the best interests of the child.</p> <p>Any question as to whether a child has sufficient maturity and understanding to give instructions is to be determined by the Court.</p>
		WA	149	<p>149. Presence of child in court</p> <p>(1) In protection proceedings the child may be present in court if the child so wishes.</p> <p>(2) The CEO must ensure that the child:</p> <p>(a) is made aware of the child's right to be present in court under subsection (1); and</p> <p>(b) is provided with any support services that the CEO considers appropriate to enable the child to participate in the proceedings.</p>
		WA	150	<p>150. Evidence of child</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(1) In this section: child includes a child who is not the subject of the protection proceedings.</p> <p>(2) In protection proceedings a child may only be compelled to give evidence or be cross-examined with the leave of the Court.</p> <p>(3) The Court must not grant leave for the purposes of subsection (2) unless the Court is satisfied that the child is unlikely:</p> <p>(a) to suffer emotional trauma as a result of giving evidence or being cross-examined; or</p> <p>(b) to be so intimidated or distressed as to be unable:</p> <p>(i) to give evidence or be cross-examined; or</p> <p>(ii) to give evidence or be cross-examined satisfactorily.</p>
	Children's Court of Western Australia Act 1988	WA	34	34. Court must explain proceedings (1) In any proceedings before the Court, the Court must satisfy itself that the child who is the subject of the proceedings understands the nature of those proceedings.
		WA	40	40. Review by President of certain sentences (2) Subject to this section, an application for reconsideration of an order may be made, in accordance with the rules of

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>court:</p> <p>(a) by the person, within one month after the date of the order; and</p> <p>(b) if the person is a child, by the CEO (young offenders), on behalf of the child, at any time after the date of the order; and</p> <p>(c) by the prosecutor, within one month after the date of the order.</p>
	<p>Commissioner for Children and Young People Act 2006</p>	<p>WA</p>	<p>4</p>	<p>4. Principles to be observed when administering Act</p> <p>In the administration of this Act the following principles must be observed:</p> <p>(a) children and young people are entitled to live in a caring and nurturing environment and to be protected from harm and exploitation; and</p> <p>(b) the contributions made by children and young people to the community should be recognised for their value and merit; and</p> <p>(c) the views of children and young people on all matters affecting them should be given serious consideration and taken into account; and</p> <p>(d) parents, families and communities have the primary role in safeguarding and promoting the wellbeing of their children and young people and should be supported in carrying out</p>

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				their role.
		WA	20	<p>20. Matters relevant to performance of functions</p> <p>(1) In performing the Commissioner’s functions, the Commissioner must:</p> <p>(a) give priority to, and have special regard to, the interests and needs of:</p> <p>(i) Aboriginal children and young people and Torres Strait Islander children and young people; and</p> <p>(ii) children and young people who are vulnerable or disadvantaged for any reason; and</p> <p>(b) have regard to the United Nations Convention on the Rights of the Child; and</p> <p>(c) develop means of consulting with children and young people that are appropriate to their age and maturity; and</p> <p>(d) develop guidelines for government agencies and nongovernment agencies regarding the participation by children and young people in decisions which affect them; and</p> <p>(e) adopt work practices that:</p> <p>(i) ensure the Commissioner is accessible to children and young people; and</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(ii) encourage the participation of children and young people in decision-making by the Commissioner; and</p> <p>(f) work in cooperation with, and consult with, other government agencies and non-government agencies; and</p> <p>(g) take reasonable steps to avoid the duplication of functions performed by other government agencies.</p>
	Evidence Act 1906	WA	106B	<p>106B. Children under 12 may give sworn evidence</p> <p>(1) A child who is under the age of 12 years may in any proceeding, if the child is competent under subsection (3), give evidence on oath or after making an affirmation.</p> <p>(2) Irrespective of the person's age, a person with a mental impairment may in any proceeding, if the person is competent under subsection (3), give evidence on oath or after making an affirmation.</p> <p>(3) A person referred to in subsection (1) or (2) is competent to take an oath or make an affirmation if in the opinion of the court or person acting judicially the person understands that:</p> <p>(a) the giving of evidence is a serious matter; and</p> <p>(b) he or she in giving evidence has an obligation to tell the truth.</p>
		WA	106C	<p>106C. Child under 12 and mentally impaired witness may give unsworn evidence</p>

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				A person referred to in section 106B(1) or (2) who is not competent to give evidence under section 106B(3) may give evidence without taking an oath or making an affirmation if the court or person acting judicially forms the opinion, before the evidence is given, that the person is able to give an intelligible account of events which he or she has observed or experienced.
		WA	106D	<p>106D. Corroboration warning on evidence of child not to be given</p> <p>In any proceeding on indictment for an offence in which evidence is given by a child, the judge is not to warn the jury, or suggest to the jury in any way, that it is unsafe to convict on the uncorroborated evidence of that child because children are classified by the law as unreliable witnesses</p>
		WA	106E	<p>106E. Child witness entitled to support</p> <p>(1) A child is entitled, while he or she is giving evidence in any proceeding in a court, to have near to him or her a person who may provide the child with support.</p> <p>(2) The person referred to in subsection (1) is to be approved by the court and is not to be a person who is a witness in or a party to the proceeding.</p>
		WA	106F	<p>106F. Child witness may be given assistance</p> <p>(1) Where a child is to give evidence in any proceeding in a court, the court may appoint a person that it considers suitable and competent to act as a communicator for the</p>

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				<p>child.</p> <p>(2) The function of a person appointed under this section is, if requested by the judge, to communicate and explain:</p> <p>(a) to the child questions put to the child; and</p> <p>(b) to the court, the evidence given by the child.</p> <p>(3) A person appointed under this section is to take an oath or make a declaration, in such form as the court thinks fit, that he or she will faithfully perform his or her function under subsection (2).</p> <p>(4) A person appointed under this section who, while performing or purportedly performing his or her function under subsection (2), wilfully makes any false or misleading statement to the child or to the court commits a crime and is liable on conviction to imprisonment for 5 years.</p>
		WA	106G	<p>106G. Cross-examination of protected witness by unrepresented</p> <p>(1) Where in any proceeding for an offence an accused who is not represented by counsel wishes to cross-examine a protected witness, the accused:</p> <p>(a) is not entitled to do so directly; but</p> <p>(b) may put any question to the protected witness by stating the question to the judge or a person approved by the court, and that person is to repeat the question accurately to the</p>

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				<p>protected witness.</p> <p>(2) Nothing in subsection (1) prevents a protected witness who is not a child from consenting to being cross-examined by the accused directly.</p> <p>(3) In this section:</p> <p>protected witness means:</p> <p>(a) a child; or</p> <p>(b) if the proceeding is for a serious sexual offence, the person upon or in respect of whom it is alleged that the offence was committed, attempted or proposed irrespective of the person's age.</p>
		WA	106H	<p>106H. Child's statement to another admissible in Sch. 7 proceedings</p> <p>(1) In any Schedule 7 proceeding, a relevant statement may, at the discretion of the judge, be admitted in evidence if:</p> <p>(a) there has been given to the accused:</p> <p>(i) a copy of the statement; or</p> <p>(ii) if the statement is not recorded in writing or electronically, details of the statement; and</p> <p>(b) the accused is given the opportunity to cross-examine the</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>affected child.</p> <p>(2) If a relevant statement is to be admitted, evidence of the making and content of the affected child's statement shall be given by the person to whom the affected child made the statement.</p>
		WA	106HA	<p>106HA. Visual recording of interviews with children and persons with mental impairment</p> <p>(1) Section 106HB applies to a visual recording of an interview with a child conducted before or after the coming into operation of section 20 of the Criminal Law Amendment (Sexual Assault and Other Matters) Act 2004 if:</p> <p>(a) the interview was conducted by a person of a prescribed class who had reason to believe that the child, or another child, had, or may have, suffered physical or sexual abuse; and</p> <p>(b) the manner in which the interview was conducted and recorded meets the prescribed requirements to the prescribed extent.</p> <p>(1a) Section 106HB applies to a visual recording of an interview with a person with a mental impairment conducted before or after the coming into operation of section 48 of the Criminal Law and Evidence Amendment Act 2008 if:</p> <p>(a) the interview was conducted by a person of a prescribed class who had reason to believe that the person had, or may</p>

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				<p>have, suffered physical or sexual abuse; and</p> <p>(b) the manner in which the interview was conducted and recorded meets the prescribed requirements to the prescribed extent.</p> <p>(2) Section 106HB applies to a visual recording of an interview with a person with a mental impairment, or a child, whether or not the interview was conducted with the consent of a parent or guardian of the person or child.</p> <p>(3) A visual recording of an interview with a child, or a person with a mental impairment, to which section 106HB applies is referred to as a visually recorded interview.</p>
		WA	106HB	<p>106HB. Admissibility in criminal proceedings of a visual recording of an interview with a child or person with mental impairment</p> <p>(1) In any proceeding for an offence (the proceeding) one or more visually recorded interviews may be admitted as the whole or a part of the evidence in chief of a witness:</p> <p>(a) irrespective of the age or maturity of the witness at the time of the proceeding; and</p> <p>(b) even if the witness is capable of giving evidence at the proceeding.</p> <p>(1a) A visually recorded interview with a person with a mental impairment is not to be admitted in the proceeding</p>

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				<p>under subsection (1) unless the person is a special witness.</p> <p>(2) A visually recorded interview is not to be admitted in the proceeding under subsection (1) unless:</p> <p>(a) a transcript of it has been given to the accused; and</p> <p>(b) the accused and his or her counsel have, in accordance with the regulations, been given a reasonable opportunity to view the visually recorded interview.</p>
		WA	106K	<p>106K. Child’s evidence in full, special hearing to take and record</p> <p>(1) A judge who hears an application under section 106I(1)(b) may make such order as the judge thinks fit which is to include:</p> <p>(a) directions, with or without conditions, as to the conduct of the special hearing, including directions as to:</p> <p>(i) whether the affected child is to be in the courtroom, or in a separate room, when the child’s evidence is being taken; and</p> <p>(ii) the persons who may be present in the same room as the affected child when the child’s evidence is being taken; and</p> <p>(b) subject to section 106HB(3), directions, with or without conditions, as to the persons, or classes of persons, who are authorised to have possession of the visual recording of the evidence, and, without limiting section 106M but subject to section 106HB(3), may include directions and conditions as</p>

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				<p>to the giving up of possession and as to the playing, copying or erasure of the recording.</p> <p>(2) An order under subsection (1) may be varied or revoked by the judge who made the order or a judge who has jurisdiction co-extensive with that judge.</p> <p>(3) At a special hearing ordered under subsection (1):</p> <p>(a) the accused:</p> <p>(i) is not to be in the same room as the affected child when the child's evidence is being taken; but</p> <p>(ii) is to be capable of observing the proceedings by means of a closed circuit television system and is at all times to have the means of communicating with his or her counsel</p>
		WA	106N	<p>106N. Video links or screening arrangements may be used</p> <p>(1) This section:</p> <p>(a) applies only to a Schedule 7 proceeding, but subject to any order under section 106O; and</p> <p>(b) is to operate only to the extent that the giving of evidence by the affected child is not provided for by an order under section 106K; and</p> <p>(c) has effect notwithstanding section 88 of the Criminal Procedure Act 2004.</p>

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				<p>(2) Where the necessary facilities and equipment are available one of the following arrangements is to be made by the judge for the giving of evidence by the affected child:</p> <p>(a) he or she is to give evidence outside the courtroom but within the court precincts, and the evidence is to be transmitted to the courtroom by means of video link as defined in section 120; or</p> <p>(b) while he or she is giving evidence the accused is to be held in a room apart from the courtroom and the evidence is to be transmitted to that room by means of video link as defined in section 120.</p> <p>(3) Where subsection (2)(b) applies the accused is at all times to have the means of communicating with his or her counsel.</p> <p>(3a) Where arrangements are made under subsection (2)(a) or (b) the affected child's evidence is to be recorded on a visual recording.</p> <p>(4) Where the necessary facilities and equipment referred to in subsection (2) are not available, a screen, one-way glass or other device is to be so placed in relation to the affected child while he or she is giving evidence that:</p> <p>(a) the affected child cannot see the accused; but</p> <p>(b) the judge, the jury (in the case of proceedings on indictment), the accused and his or her counsel can see the affected child.</p>

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				(5) Where arrangements are made under subsection (4) and where the necessary facilities are available to do so, the affected child's evidence is to be recorded on a visual recording.
		WA	106O	<p>106O. Court may order that s. 106N does not apply</p> <p>(1) Where any Schedule 7 proceeding has been commenced in a court the prosecutor may apply to a judge of that court for an order that section 106N does not apply to those proceedings.</p> <p>(2) A judge who hears an application under subsection (1) may grant the application if it is shown to the judge's satisfaction that the affected child is able and wishes to give evidence in the presence of the accused in the courtroom or other room in which the proceedings are being held.</p> <p>(3) An order under subsection (2) may be varied or revoked.</p>
		WA	106P	<p>106P. Instructions to be given to jury</p> <p>Where in any proceeding on indictment evidence of an affected child is given in a manner described in section 106N(2) or (4), the judge is to instruct the jury that the procedure is a routine practice of the court and that they should not draw any inference as to the accused's guilt from the use of the procedure.</p>
		WA	106Q	<p>106Q. Identification of accused by child or special witness</p> <p>Where evidence of an affected child or a special witness is</p>

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				<p>given in a manner described in section 106N(2) or (4), and the identification of the accused is an issue, the affected child or special witness is not to be required to be in the presence of the accused for that purpose:</p> <p>(a) for any longer than is necessary for that purpose; and</p> <p>(b) before the evidence of the affected child or special witness (including cross-examination and re-examination) is completed.</p>
		WA	106T	<p>106T. Use of recordings made under s. 106K or 106N</p> <p>(1) Evidence of an affected child recorded on a visual recording under section 106K or 106N in relation to a Schedule 7 proceeding is admissible in any hearing in relation to that proceeding to the same extent as if it were given orally in the hearing in accordance with the usual rules and practice of the court concerned.</p> <p>(2) Evidence of a special witness recorded on a visual recording under section 106K or 106N in relation to a proceeding is admissible in any hearing in relation to that proceeding to the same extent as if it were given orally in the hearing in accordance with the usual rules and practice of the court concerned.</p> <p>(2a) If evidence of a witness is visually recorded under an order made under section 106RA(1) on the ground in section 106RA(4)(a), the evidence is admissible in any hearing in relation to the proceeding for the offence concerned to the same extent as if it were given orally in the hearing in accordance with the usual rules and practice of the court</p>

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	<p data-bbox="763 443 992 504">Family Court Act 1997</p>	<p data-bbox="1059 443 1111 469">WA</p>	<p data-bbox="1164 443 1216 469">66C</p>	<p data-bbox="1400 379 1525 405">concerned.</p> <p data-bbox="1400 443 2063 504">66C. How a court determines what is in a child's best interests:</p> <p data-bbox="1400 539 2107 635">(1) Subject to subsection (6), in determining what is in the child's best interests, the court must consider the matters set out in subsections (2) and (3).</p> <p data-bbox="1400 670 1816 695">(2) The primary considerations are:</p> <p data-bbox="1400 730 1989 798">(a) the benefit to the child of having a meaningful relationship with both of the child's parents; and</p> <p data-bbox="1400 833 2096 928">(b) the need to protect the child from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or family violence.</p> <p data-bbox="1400 963 1794 989">(3) Additional considerations are:</p> <p data-bbox="1400 1024 2123 1155">(a) any views expressed by the child and any factors (such as the child's maturity or level of understanding) that the court thinks are relevant to the weight it should give to the child's views; and</p> <p data-bbox="1400 1190 2047 1251">(b) if the child is an Aboriginal child or a Torres Strait Islander child:</p> <p data-bbox="1400 1286 2092 1382">(i) the child's right to enjoy his or her Aboriginal or Torres Strait Islander culture (including the right to enjoy that culture with other people who share that culture); and</p>

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				<p>(4) An Aboriginal child's or a Torres Strait Islander child's right to enjoy his or her Aboriginal or Torres Strait Islander culture includes the right:</p> <p>(a) to maintain a connection with that culture; and</p> <p>(b) to have the support, opportunity and encouragement necessary:</p> <p>(i) to explore the full extent of that culture, consistent with the child's age and developmental level and the child's views; and</p> <p>(ii) to develop a positive appreciation of that culture.</p>
		WA	66D	<p>66D. How the views of a child are expressed</p> <p>(1) A court required under section 66C(3)(a) to consider any views expressed by a child in deciding whether to make a particular parenting order in relation to the child is to inform itself of the views expressed by a child in accordance with this section.</p> <p>(2) The court may inform itself of views expressed by a child:</p> <p>(a) by having regard to anything contained in a report given to the court under section 73(2); or</p> <p>(b) by making an order under section 164 for the child's interests in the proceedings to be independently represented by a lawyer; or</p>

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				(c) subject to the rules, by such other means as the court thinks appropriate.
		WA	66E	<p>66E. Children not required to express views</p> <p>Nothing in this Part permits the court or any person to require the child to express his or her views in relation to any matter.</p>
		WA	73	<p>73. Reports by family consultants</p> <p>(1) This section applies if, in proceedings under this Act, the care, welfare and development of a child who is under 18 years of age is relevant.</p> <p>(2) A court may direct a family consultant to give the court a report on such matters relevant to proceedings under this Act as the court thinks desirable.</p> <p>(3) If a court gives a direction under subsection (2), it may, if it thinks it necessary, adjourn the proceedings until the report has been given to the court.</p> <p>(3a) A family consultant who is directed to give the court a report on a matter under subsection (2) must:</p> <p>(a) ascertain the views of the child in relation to that matter; and</p> <p>(b) include the views of the child on that matter in the report.</p> <p>(3b) Subsection (3a) does not apply if complying with that</p>

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				<p>subsection would be inappropriate because of:</p> <ul style="list-style-type: none"> (a) the child’s age or maturity; or (b) some other special circumstance
		WA	164	<p>164. Court order for independent representation of child’s interests</p> <p>(1) This section applies to proceedings under this Act in which a child’s best interests are, or a child’s welfare is, the paramount, or a relevant, consideration.</p> <p>(2) If it appears to a court that the child’s interests in the proceedings ought to be independently represented by a lawyer, the court:</p> <ul style="list-style-type: none"> (a) may order that the child’s interests in the proceedings are to be independently represented by a lawyer; and (b) may make such other orders as it considers necessary to secure that independent representation of the child’s interests. <p>(3) A court may make an order for the independent representation of the child’s interests in the proceedings by a lawyer:</p> <ul style="list-style-type: none"> (a) on its own initiative; or (b) on the application of:

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				<p>(i) the child; or</p> <p>(ii) an organisation concerned with the welfare of children; or</p> <p>(iii) any other person.</p> <p>(4) Without limiting subsection (2)(b), the court may make an order under that paragraph for the purpose of allowing the lawyer who is to represent the child's interests to find out what the child's views are on the matters to which the proceedings relate.</p> <p>(5) Subsection (4) does not apply if complying with that subsection would be inappropriate because of:</p> <p>(a) the child's age or maturity; or</p> <p>(b) some other special circumstance.</p>
		WA	165	<p>165. Role of independent children's lawyer</p> <p>(1) This section applies if an independent children's lawyer is appointed for a child in relation to proceedings under this Act.</p> <p>(2) The independent children's lawyer must:</p> <p>(a) form an independent view, based on the evidence available to the independent children's lawyer, of what is in the best interests of the child; and</p> <p>(b) act in relation to the proceedings in what the independent</p>

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

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				<p>attention; and</p> <p>(d) endeavour to minimise the trauma to the child associated with the proceedings; and</p> <p>(e) facilitate an agreed resolution of matters at issue in the proceedings to the extent to which doing so is in the best interests of the child.</p> <p>(6) Subject to subsection (7), the independent children's lawyer:</p> <p>(a) is not under an obligation to disclose to the court; and</p> <p>(b) cannot be required to disclose to the court, any information that the child communicates to the independent children's lawyer.</p> <p>(7) The independent children's lawyer may disclose to the court any information that the child communicates to the independent children's lawyer if the independent children's lawyer considers the disclosure to be in the best interests of the child. (8) Subsection (7) applies even if the disclosure is made against the wishes of the child.</p>
		WA	166	<p>166. Order that child be made available for examination</p> <p>(1) This section applies if an independent children's lawyer is appointed to independently represent a child's interests in relation to proceedings under this Act.</p> <p>(2) A court may, on application by the independent children's</p>

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				<p>lawyer, order a person mentioned in subsection (3) to make the child available, as specified in the order, for an examination to be made for the purpose of preparing a report about the child for use by the independent children’s lawyer in connection with the proceedings.</p> <p>(3) The order may be directed to:</p> <p>(a) a parent of the child; or</p> <p>(b) a person with whom the child is to live under a parenting order; or</p> <p>(c) a person with whom the child is to spend time under a parenting order; or</p> <p>(d) a person with whom the child is to communicate under a parenting order; or</p> <p>(e) a person who has parental responsibility for the child.</p>
	<p>Legal Representation of Infants Act 1977</p>	<p>WA</p>	<p>5</p>	<p>5. Guardians ad litem, appointment of by court</p> <p>(1) Where in any legal proceedings it appears to the court:(a) that the interests of a person who is an infant are or may be affected by those proceedings and that the infant is not a party to those proceedings; and</p> <p>(b) that the infant ought to be separately represented, the court may, at any stage of the proceedings, appoint a fit and proper person who consents to act as guardian ad litem of the infant to be the guardian ad litem of the infant for the</p>

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				<p>purposes of the proceedings or any part of those proceedings, or direct that an application be made for the appointment of such a guardian</p> <p>(2) An appointment under this section may be made by the court upon application by another party to the proceedings or a person who consents to act as the guardian ad litem or without any application being made, and the court may adjourn a hearing in order that such an appointment may be made.</p> <p>(3) An application under this section may be made ex parte.</p> <p>(4) An application for the appointment of a guardian ad litem, whether or not made pursuant to direction of the court, must be supported by evidence proving that the person proposed as guardian ad litem consents and is a proper person to act as such and has no interest in the proceedings adverse to that of the infant.</p> <p>(5) Before making an appointment under this section, the court shall inquire into the guardianship of the infant for purposes other than those of this Act, and, where it appears to the court that the infant is pursuant to, or for the purposes of, any other law of this State or any law of the Commonwealth under the guardianship of the CEO as defined in section 3 of the Children and Community Services Act 2004, the court shall not make an appointment under this section unless and until the court has caused notice to be served on the CEO and given the CEO an opportunity to be heard on the question of such an appointment.</p>

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				<p>(6) The court may order that notice of an application under this section need not be served on the infant, and may give directions concerning:</p> <p>(a) the persons to whom notice shall be given, and the manner of the giving of that notice; and</p> <p>(b) the continuation of the proceedings, including directions concerning the giving of notice to the guardian ad litem of the infant of the date on which and the place at which the hearing or adjourned hearing shall be conducted.</p> <p>(7) Where an infant for whom a guardian ad litem has been appointed under this section does not intervene in any proceedings the infant is nevertheless entitled to be represented at any hearing relating to those proceedings by a solicitor or counsel who may cross-examine witnesses and address the court, but is not entitled to adduce evidence.</p> <p>(8) A guardian ad litem appointed under this section must act by a solicitor.</p> <p>(9) Where an infant for whom a guardian ad litem has been appointed under this section is not a party to the proceedings, any judgment in those proceedings which would not otherwise have been binding on the infant shall not be deemed to be binding on that infant by virtue only of the fact that the guardian ad litem was so appointed.</p>
	Parental Support and Responsibility	WA	28	28. General conduct of proceedings for or in respect of an order

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	Act 2008			<p>(1) Proceedings for or in respect of an order are to be conducted with as little formality and legal technicality as the circumstances of the case permit.</p> <p>(2) Without limiting subsection (1), if the child is present in Court, the proceedings are to be conducted in a way that is sensitive to the child's level of understanding.</p> <p>(3) The proceedings are to be concluded as expeditiously as possible in order to minimise the effect of the proceedings on the child and the child's family.</p>
		WA	29	<p>29. Persons other than parties who may be heard</p> <p>(1) The Court may, on application or on its own initiative, receive as evidence a report setting out the child's responses to questions put to the child on behalf of the Court by a person appointed by the Court for that purpose.</p> <p>(2) The Court may, on application or on its own initiative, hear the child in person if satisfied as to the matters set out in section 33(2).</p> <p>(3) The Court may, on application or on its own initiative, hear any other person considered by the Court to have a direct and significant interest in the wellbeing of the child.</p>
		WA	30	<p>30. Legal representation of child</p> <p>(1) If, in proceedings for or in respect of an order, it appears to the Court that it would be in the interests of the child to be separately represented by a lawyer, the Court may, on</p>

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				<p>application or on its own initiative, order that the child be separately represented by a lawyer.</p> <p>(2) The lawyer must act on the instructions of the child if the child:</p> <p>(a) has sufficient maturity and understanding to give instructions; and</p> <p>(b) wishes to give instructions, and in any other case must act in the best interests of the child.</p> <p>(3) Any question as to whether a child has sufficient maturity and understanding to give instructions is to be determined by the Court.</p>
		WA	31	<p>31. Presence of child in Court</p> <p>(1) In proceedings for or in respect of an order the child may be present in Court if the child so wishes.</p> <p>(2) The CEO who applied for the order must ensure that the child:</p> <p>(a) is made aware of the child's right to be present in Court under subsection (1); and</p> <p>(b) is provided with any support services that the CEO considers appropriate to enable the child to be present in Court and participate in the proceedings.</p>

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		WA	33	<p>33. Evidence of children</p> <p>(1) In proceedings for or in respect of an order a child may only be compelled to give evidence or be cross-examined with the leave of the Court, which may be withdrawn at any time.</p> <p>(2) The Court must not grant leave unless the Court is satisfied that the child is unlikely:</p> <p>(a) to suffer emotional trauma as a result of giving evidence or being cross-examined; or</p> <p>(b) to be so intimidated or distressed as to be unable:</p> <p>(i) to give evidence or be cross-examined; or</p> <p>(ii) to give evidence or be cross-examined satisfactorily.</p>

7. Northern Territory

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 12:</p> <p>1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.</p> <p>2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.</p>	<p>Domestic and Family Violence Act</p>	<p>NT</p>	<p>29</p>	<p>29 When application must be made for child</p> <p>(1) A police officer or child protection officer must apply for a CSJ DVO for the protection of a child if the officer reasonably believes:</p> <ul style="list-style-type: none"> (a) domestic violence has been committed or is being committed, or is likely to be committed; and (b) the child's wellbeing has or is likely to be adversely affected by the violence. <p>(2) However, an application need not be made if the officer reasonably believes:</p> <ul style="list-style-type: none"> (a) a DVO is already in force against the defendant for the child's protection; or (b) a police DVO is to be made against the defendant for the child's protection; or (c) an application for a CSJ DVO is to be made for the child's protection; or (d) a DVO is not necessary for the child's protection because an order is in force for the child's protection under another Act.

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		NT	Div 3	<p>Division 3 Evidence of children</p> <p>107 How evidence of child given</p> <p>(1) The evidence of a child must be given by written or recorded statement.</p> <p>(2) When making the statement, the child is entitled to be accompanied by 1 of the following persons to provide emotional support:</p> <ul style="list-style-type: none"> (a) a relative; or (b) an adult friend; or (c) someone else whom: <ul style="list-style-type: none"> (i) the child asks to accompany him or her; and (ii) the Court considers is appropriate to provide the support. <p>108 Admission of child's evidence</p> <p>(1) A child's written statement may be admitted in evidence only if:</p> <ul style="list-style-type: none"> (a) it states the child's age; and (b) it states that, before signing it: <ul style="list-style-type: none"> (i) the child read it; or (ii) someone else read it to the child and the reason why the

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				<p>child did not read it.</p> <p>(2) A child's recorded statement may be admitted in evidence only if a transcript of the statement complying with subsection (3) is produced to the defendant or defendant's lawyer.</p> <p>(3) The transcript must:</p> <p>(a) state how, when and by whom the statement was recorded; and</p> <p>(b) be certified as correct by the party seeking to have the statement admitted in evidence.</p> <p>109 No cross-examination of child</p> <p>A child who gives evidence by written or recorded statement need not appear at the hearing and cannot be cross-examined in relation to his or her evidence.</p>
	Evidence Act	NT	9C	<p>9C Particular form of corroboration warning not to be given On the trial of a person for an offence in which evidence is given by a child, the Judge is not to warn the jury, or suggest to the jury in any way, that it is unsafe to find the person guilty on the uncorroborated evidence of that child because children are classified by the law as unreliable witnesses.</p>
		NT	21D	<p>21D Principles in relation to child witnesses</p> <p>(1) It is the intention of the Legislative Assembly that, as</p>

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				<p>children tend to be vulnerable in dealings with persons in authority (including courts and lawyers), child witnesses be given the benefit of special measures.</p> <p>(2) If a witness is a child, the Court must have regard to the following principles:</p> <p>(a) the Court must take measures to limit, to the greatest extent practicable, the distress or trauma suffered (or likely to be suffered) by the child when giving evidence; and</p> <p>(b) the child must be treated with dignity, respect and compassion; and</p> <p>(c) the child must not be intimidated when giving evidence; and</p> <p>(d) proceedings in which a child is a witness should be resolved as quickly as possible.</p> <p>(3) However, if the Court is satisfied that a child witness is able, and wants, to give evidence in the presence of the defendant, special measures are not to be taken, contrary to the wishes of the child, to protect the child from the apprehended distress or trauma of giving evidence in the presence of the defendant.</p>
	Status of Children Act	NT	14	<p>14 Matters to be taken into account in making determination</p> <p>(1) Before making a determination under section 13 (Medical Procedures to determine parentage) the Court may, if it thinks</p>

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				<p>that to do so would be in the best interest of the child, appoint a fit and proper person to act as the litigation guardian of the child.</p> <p>(2) In deciding whether to give a direction under section 13, the Court shall:</p> <p>(a) consider and determine all objections made by a party to the proceedings on account of medical, religious or other grounds; and</p> <p>(b) if it determines that an objection is valid, take the objection into account in arriving at its decision.</p>
		NT	15	<p>15 Explanations by police officers</p> <p>(1) If a police officer is required to inform a youth of any matter in relation to an investigation of an offence, whether under this Act or any other law in force in the Territory, the explanation must be made in a language and manner the youth is likely to understand, having regard to the youth's age, maturity, cultural background and English language skills.</p> <p>(2) Before a youth is interviewed or searched in connection with the investigation of an offence, a police officer must, unless impracticable, inform the youth of his or her ability to access legal advice and representation.</p> <p>(3) Any action taken is not unlawful, and any evidence obtained is not inadmissible, only because of a failure to</p>

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				comply with this section.
	Youth Justice Act	NT	18	<p>18 Interview of youth</p> <p>(1) This section applies if a police officer believes on reasonable grounds that a youth has committed or is implicated in the commission of an offence that, if committed by an adult, would be punishable by imprisonment for 12 months or longer.</p> <p>(2) The officer must not interview the youth in respect of the offence, or cause the youth to do anything in connection with the investigation of the offence, unless a support person is present while the officer interviews the youth or the youth does the act.</p> <p>(3) This section does not affect the power of a police officer, under the <i>Police Administration Act</i> or any other Act, to require a youth to give the youth's name and address.</p> <p>(4) This section does not affect the operation of Part V or VI of the <i>Traffic Act</i> and, subject to Part 6, a youth may be dealt with under those Parts of that Act as if he or she were an adult.</p>
		NT	32	<p>32 Voluntary non-intimate procedure</p> <p>(1) A senior police officer may carry out a non-intimate procedure on a youth if the youth consents in writing, and a responsible adult in respect of the youth consents in writing, to the procedure being carried out.</p>

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				<p>(2) If the procedure is carried out for the purposes of investigating an offence, any information obtained from the procedure:</p> <p>(a) must not be used for investigating any other offence other than a relevant offence; and</p> <p>(b) is inadmissible as evidence in any proceedings other than proceedings for the offence or a relevant offence.</p> <p>(3) In this section:</p> <p>'relevant offence' means a crime that, if committed by an adult, would be punishable by a term of imprisonment of 14 years or more.</p>
		NT	35	<p>35 Support person</p> <p>(1) For this Part, a support person, in relation to a youth, is one of the following:</p> <p>(a) a responsible adult in respect of the youth; or</p> <p>(b) a person nominated by the youth; or</p> <p>(c) a legal practitioner acting for the youth; or</p> <p>(d) a person called upon under subsection (5).</p> <p>(2) A person cannot be a support person if he or she is, in the opinion of a police officer dealing with a youth, an accomplice of the youth in the alleged offence or likely to</p>

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				<p>lose, destroy or fabricate evidence relating to the offence.</p> <p>(3) A youth cannot be a support person, but nothing prevents a youth who is being dealt with under this Act requesting another particular youth be present as well as a support person.</p> <p>(4) Unless in his or her capacity as a responsible adult in respect of the youth, a police officer, a probation officer or a person employed at a detention centre cannot be a support person.</p> <p>(5) If a police officer has made reasonable attempts to have a person mentioned in subsection (1)(a), (b) or (c) present but it was not practicable for any such person to be present within 2 hours, the officer may call upon a person from the register maintained under section 14 to be the support person.</p> <p>(6) If a youth requests that another particular youth be present as well as a support person, a police officer dealing with the youth must accommodate the request, if practicable, unless:</p> <p>(a) the officer considers that the other youth is an accomplice in the alleged offence or likely to lose, destroy or fabricate evidence relating to the offence; or</p> <p>(b) it would lead to undue delay after the time in which a support person is able to be present.</p>
		NT	55	55 Indictable offence tried summarily if youth consents

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				<p>(1) This section applies if a youth is charged in respect of an indictable offence that is neither of the following:</p> <p>(a) an offence mentioned in section 120 of the <i>Justices Act</i>;</p> <p>(b) an offence mentioned in section 54A(1).</p> <p>(2) The Youth Justice Court must inform the youth and a responsible adult in relation to the youth (if present in court) of the youth's right to consent or not to the charge being heard and determined summarily.</p> <p>(3) If the youth consents, the Court must hear and determine the charge summarily.</p> <p>(4) If the youth does not consent, the Court must deal with the charge by way of preliminary examination.</p> <p>(5) For subsection (2), if no responsible adult in relation to the youth is present in court, the Court:</p> <p>(a) may adjourn the proceeding to enable a responsible adult to be present; and</p> <p>(b) may continue the proceeding after the adjournment even if no responsible adult is present.</p>
		NT	56	<p>56 Court may decline to hear and determine charge summarily</p> <p>(1) If, at any stage of the proceedings (prior to a finding of guilt), the Youth Justice Court considers it is not appropriate</p>

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				<p>to hear and determine summarily a charge in respect of an indictable offence for which the Court has jurisdiction, the Court:</p> <p>(a) may decline to hear and determine the charge summarily; and</p> <p>(b) if it declines – must give its reasons for declining; and</p> <p>(i) if dealing with the charge by way of preliminary examination – must continue by way of preliminary examination; and</p> <p>(ii) otherwise – must continue the proceedings as if the Court had been dealing with the charge by way of preliminary examination.</p> <p>(2) For subsection (1), it is immaterial whether or not the youth:</p> <p>(a) has consented under section 55(3) to the charge being heard and determined summarily; or</p> <p>(b) has elected under section 56A(2) to have the charge heard and determined summarily.</p>
		NT	56A	<p>56A Youth may elect to be tried summarily</p> <p>A youth may, at any time before or during the preliminary examination, elect to have the charge heard and determined summarily.</p>

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		NT	61	<p>61 Court must explain proceedings to youth</p> <p>(1) The Court must satisfy itself that a youth who is the subject of proceedings for an offence understands the nature of the proceedings.</p> <p>(2) If the youth is not represented by a legal practitioner, the Court must explain to him or her in a language and manner the youth is likely to understand, having regard to the youth's age, maturity, cultural background and English language skills:</p> <p>(a) the nature of the allegations against him or her; and</p> <p>(b) the legal implications of those allegations; and</p> <p>(c) the elements of the offence that must be established by the prosecution.</p> <p>(3) An order or finding of the Court cannot be called into question only on the ground of failure to comply with this section if the Court has substantially complied with subsections (1) and (2).</p>
		NT	62	<p>62 Legal representation of youth</p> <p>If a youth is not legally represented in proceedings for an offence and the Court considers the youth needs legal representation, the Court may require that legal representation be provided to the youth and may adjourn or stay the proceedings until satisfactory arrangements are made</p>

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				for the representation of the youth.
		NT	63	<p>63 Responsible adults to attend court</p> <p>(1) A responsible adult in respect of a youth must attend the Court and remain in attendance during proceedings against the youth for an offence.</p> <p>(2) Subsection (1) does not apply if the Court is satisfied that it would be unreasonable to require that attendance.</p> <p>(3) If a responsible adult fails without reasonable excuse to attend the Court, or remain in attendance during the proceedings, the Court may direct that a warrant or summons be issued to bring the responsible adult before the Court at that or a further hearing.</p> <p>(4) The Court may:</p> <p>(a) adjourn the proceedings to allow for the responsible adult to be present; and</p> <p>(b) continue the hearing after the adjournment despite that the responsible adult is not present.</p>
		NT	103	<p>103 Procedural matters</p> <p>(1) If the Court makes an alternative detention order, the youth must sign the order to signify acceptance of the terms before leaving the precincts of the Court.</p> <p>(2) If the Court makes an alternative detention order, it must</p>

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				<p>ensure that a copy of the order is:</p> <p>(a) given to the youth; and</p> <p>(b) given to a responsible adult in respect of the youth, if in attendance at the Court; and</p> <p>(c) sent to the Director.</p>
		NT	115	<p>115 Procedural matters</p> <p>(1) If the Court makes a periodic detention order, the youth must sign the order to signify acceptance of the terms before leaving the precincts of the Court.</p> <p>(2) If the Court makes a periodic detention order, it must ensure that a copy of the order is:</p> <p>(a) given to the youth; and</p> <p>(b) given to a responsible adult in respect of the youth, if in attendance at the Court; and</p> <p>(c) sent to the Director.</p>
		NT	123	<p>123 Explanation of orders</p> <p>(1) If the Court makes an order in relation to a youth, the Court must explain the order to the youth in a language and manner the youth is likely to understand, having regard to the youth's age, maturity, cultural background and English</p>

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				<p>language skills.</p> <p>(2) The Court must explain to the youth:</p> <p>(a) the purpose and effect of the order; and</p> <p>(b) the consequences of non-compliance with the order and the circumstances in which the youth would be taken to breach the order; and</p> <p>(c) that the Court has the power to review the order on the application of the Director, the youth or a person on behalf of the youth.</p> <p>(3) An order is not invalidated by a failure to comply with subsection (2).</p>
		NT	140L	<p>140L Explanation of orders</p> <p>(1) If the Court makes a family responsibility order, or an order varying or revoking a family responsibility order, the Court must explain the order to the parents and the youth in a language and manner they are likely to understand, having regard to their respective ages, maturity, cultural background and English language skills.</p> <p>(2) The Court must explain:</p> <p>(a) the purpose and effect of the order; and</p> <p>(b) the consequences of non-compliance; and</p>

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				<p>(c) if appropriate, that the Court has power to review the order.</p> <p>(3) Failure to explain a family responsibility order as required by this section does not invalidate the order.</p>
		NT	156	<p>156 Detainee's right to be heard</p> <p>(1) The superintendent must ensure that a detainee is given the right to be heard in relation to any disciplinary measures that are to be taken in respect of the detainee.</p> <p>(2) The right to be heard may be limited or postponed for reasons of practicality or in emergency situations.</p>
		NT	163	<p>163 Complaint</p> <p>(1) A youth who is detained in a detention centre, or a responsible adult in respect of the youth, may complain about a matter that affects the youth.</p> <p>(2) The complaint procedure is as set out in the Regulations.</p> <p>(3) This section does not affect or limit the rights of a youth under any other complaint procedure, including a complaint to:</p> <p>(a) an official visitor; or</p> <p>(b) the Ombudsman.</p>

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		NT	Sch C Part 2 - 163	<p>163 Complaint</p> <p>(1) A youth who is detained in a detention centre, or a responsible adult in respect of the youth, may complain about a matter that affects the youth.</p> <p>(2) The complaint procedure is as set out in the Regulations.</p> <p>(3) This section does not affect or limit the rights of a youth under any other complaint procedure, including a complaint to:</p> <ul style="list-style-type: none"> (a) an official visitor; or (b) the Ombudsman. <p>(c) there being imposed as a condition on the grant of bail a requirement that before the release of the child on bail a responsible person undertakes in writing in the approved form to ensure that the child complies with any requirement of his bail undertaking mentioned in section 28(2)(a), (b), (c) and (d).</p> <p>(4) Subclauses (2)(b) and (3)(c) do not apply to a child accused if it appears to the judicial officer or authorised officer that the accused:</p> <ul style="list-style-type: none"> (a) is over the age of 17 years; and (b) has sufficient maturity to live independently without the guidance or control of a parent or guardian.

8. Tasmania

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<p>ARTICLE 12:</p> <p>1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.</p> <p>2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.</p>	<p>Child Protection (International measures) Act 2003</p>	<p>Tas</p>	<p>20</p>	<p>20. Limitation if a competent authority of a Convention country is asked to assume jurisdiction</p> <p>(1) A Tasmanian court may order, or invite the parties to proceedings before the court to ask, the Department or Public Trustee:</p> <p>(a) to request, in a way the Department or Public Trustee considers appropriate, a competent authority described in Article 8, paragraph 2 of the Child Protection Convention:</p> <p>(i) to assume jurisdiction under Article 8 of the Convention for appointing, or deciding the powers of, a guardian of the child's property; and</p> <p>(ii) as the competent authority considers necessary, to take a measure appointing, or deciding the powers of, a guardian of the child's property; and</p> <p>(b) to report to the court about the outcome of the request.</p> <p>(2) In addition, the Tasmanian court may make any other order it considers necessary for an order under subsection (1).</p> <p>(3) The Tasmanian court may only make the order or issue the invitation under subsection (1) if the court considers that</p>

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				the competent authority is better placed to assess the child's best interests.
		Tas	6	<p>6. Cancellation of registered foreign measure and related matters</p> <p>(1) An interested person may apply to a Tasmanian court to cancel the registration under section 25 of a foreign measure relating to a child.</p> <p>(2) The Tasmanian court may cancel the registration of the foreign measure if any of the following applies:</p> <p>(a) the competent authority did not give the child, or a person with parental responsibility for the child, an opportunity to be heard before taking the foreign measure</p>
	Child, Young Persons and Their Families Act 1997	Tas	8	<p>8. Principles to be observed in dealing with children</p> <p>(3) In any exercise of powers under this Act in relation to a child, if a child is able to form and express views as to his or her on going care and protection, those views must be sought and given serious consideration, taking into account the child's age and maturity.</p> <p>(4) In any proceeding under this Act that may lead to any separation of a child from his or her family, other than a proceeding under Part 4, 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>

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		Tas	34	<p>34. Procedure at family group conference</p> <p>(1) The facilitator must take reasonable steps to ascertain and provide to the family group conference the views of the following persons in relation to the steps that should be taken to ensure the care and protection of the child or in relation to the matter referred by the Court:</p> <ul style="list-style-type: none"> (a) the child (so far as his or her views are ascertainable) if he or she has not been invited, or refuses, to attend; and (b) those persons invited to attend the conference but who are unable to attend; and (c) any guardian or other family member who has not been invited to attend the conference but whose views the facilitator considers appropriate to provide to the conference. <p>(2) At a family group conference convened under section 30(1), the facilitator must ensure that sufficient information as to the child's circumstances and the grounds for believing the child to be at risk is presented to the family group conference.</p> <p>(3) The facilitator must allow the child and the child's guardians and other family members present at a family group conference an opportunity to hold discussions in private for the purpose of formulating the family's recommendations in relation to the arrangements for securing the care and protection of the child or in relation to the matter referred by the Court if the facilitator thinks it appropriate to</p>

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				<p>do so.</p> <p>(4) A family group conference should reach a decision by the consensus of the child and the child's guardians and other family members.</p> <p>(5) A family group conference fails to reach a decision unless all of the following persons agree:</p> <p>(a) the child, if present and, in the opinion of the facilitator, capable of making an independent, rational and informed decision as to his or her own care and protection; and</p> <p>(b) the child's advocate, if one is appointed; and</p> <p>(c) the child's representative, if one is appointed under an order made under section 59; and</p> <p>(d) all the child's guardians that are present; and</p> <p>(e) the facilitator.</p> <p>(6) If the facilitator considers it appropriate, the facilitator may adjourn the family group conference from time to time and from place to place.</p> <p>(7) If the child does not have an advocate or a representative and the facilitator considers that it is in the best interests of the child to have the advice and representation of an advocate, the facilitator must adjourn the family group conference to allow for the appointment of such an advocate.</p>

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		Tas	35	<p>35. Power of facilitator to appoint child's advocate</p> <p>(1) At any time the facilitator may appoint a person whom the facilitator considers suitable to represent the child and be the child's advocate at a family group conference if the facilitator considers it in the best interests of the child to do so and a representative has not been appointed under an order made under section 59.</p> <p>(2) If the child is capable of participating in making a decision as to representation in an independent, rational and informed manner, the facilitator may not appoint a person as advocate for the child without the agreement of the child.</p>
		Tas	36	<p>36. Finalising family group conference</p> <p>(1) Before the facilitator declares the family group conference ended, a decision of the conference in relation to the arrangements for securing the care and protection of the child or in relation to the recommendations to be made to the Court must be put in writing and signed by:</p> <p>(a) the facilitator; and</p> <p>(b) each of the following persons who are attending the conference and concur in the decision:</p> <p>(i) the child, if present and not excused by the facilitator from the obligation and, in the opinion of the facilitator, capable of participating in making the decision in an independent, rational and informed manner; and</p>

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				<p>(ii) the child's advocate, if one is appointed; and</p> <p>(iii) the child's guardians, and other family members, if present.</p> <p>(2) The decision of the family group conference must include the following information:</p> <p>(a) the names of the persons who attended the family group conference; and</p> <p>(b) details of the time and place at which the conference was held; and</p> <p>(c) if the conference was convened under section 30(1), recommendations for the review of the arrangements for securing the care and protection of the child; and</p> <p>(d) if the conference was convened under section 30(3), the recommendations to be made to the Court in respect of the matter referred to the conference.</p> <p>(3) As soon as practicable after a family group conference ends, the facilitator must do the following:</p> <p>(a) if the family group conference failed to reach a decision, prepare a written report stating that fact and containing a summary of any proposals for recommendations discussed at the conference and the reasons, in the facilitator's opinion, for that failure; and</p> <p>(b) if the conference was convened under section 30(1),</p>

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				<p>provide a copy of the decision of the family group conference or the report referred to in paragraph (a) to:</p> <ul style="list-style-type: none"> (i) the Secretary; and (ii) the child; and (iii) any advocate or representative who represented the child at the conference; and (iv) each guardian of the child; and (v) any other person involved in implementing the arrangements for securing the care and protection of the child recommended in the decision; and (vi) any other person the facilitator considers appropriate; and <p>(c) if the conference was convened under section 30(3), provide a copy of the decision of the family group conference or the report referred to in paragraph (a) to:</p> <ul style="list-style-type: none"> (i) the Court; and (ii) the child; and (iii) any advocate or representative who represented the child at the conference; and (iv) each party to the proceedings.
		Tas	56	56. Allowing opportunity for child to express wishes

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				Whether or not the child is represented by an Australian legal practitioner in any proceedings under this Act, the Court must allow the child a reasonable opportunity to give his or her own views personally to the Court as to his or her ongoing care and protection unless the Court is satisfied that the child is not capable of doing so.
		Tas	57	<p>57. How wishes of child are expressed</p> <p>The Court may inform itself of wishes expressed by a child:</p> <p>(a) by having regard to anything said by the child personally to the Court on being allowed an opportunity under section 56; and</p> <p>(b) by having regard to anything contained in a report given to the Court; and</p> <p>(c) by any other means the Court considers appropriate.</p>
		Tas	58	<p>58. Children not required to express wishes</p> <p>Nothing in this Act permits the Court or any person to require the child to express his or her wishes in relation to any matter.</p>
		Tas	59	<p>59. Court orders for separate representation of child</p> <p>(1) The Court must not proceed to hear an application under this Act unless:</p> <p>(a) the child is represented in the proceedings by an</p>

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				<p>Australian legal practitioner; or</p> <p>(b) the Court is satisfied that the child has made an informed and independent decision not to be so represented.</p> <p>(2) Subsection (1) does not apply if the Court is of the opinion that it is in the best interests of the child to proceed with the hearing in the absence of the child's representative.</p> <p>(3) In proceedings in respect of an application under this Act, if:</p> <p>(a) the child is not represented by an Australian legal practitioner; and</p> <p>(b) the Court is not satisfied that the child has made an informed and independent decision not to be so represented:</p> <p>the Court may make such orders as it considers necessary or appropriate to secure legal representation for the child and any orders it could make on adjournment of those proceedings were the child represented by an Australian legal practitioner.</p> <p>(4) In any proceedings under this Act, whether or not the child is represented by an Australian legal practitioner, if it appears to the Court that the child ought to be separately represented, the Court may:</p> <p>(a) order that the child is to be separately represented; and</p> <p>(b) make such other orders as it considers necessary or</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>appropriate to secure that separate representation.</p> <p>(5) The Court may make an order under this section:</p> <p>(a) on its own initiative; or</p> <p>(b) on the application of:</p> <p>(i) the child; or</p> <p>(ii) the Secretary; or</p> <p>(iii) a guardian of the child; or</p> <p>(iv) any other person.</p>
	<p>Criminal Law (Detention and Interrogation) act 1995</p>	Tas	4	<p>4. Detention of person in custody</p> <p>In determining what constitutes a reasonable time for the purposes of subsection (2)(a), consideration must be taken of, but is not limited to, the following matters:</p> <p>(a) the time during which questioning is deferred or suspended to allow the person to communicate with a legal practitioner, friend, relative, parent, guardian or independent person or, in the case of a child, a person called by the police officer conducting the investigation to accompany the child; and</p> <p>(b) any time taken by a legal practitioner, friend, relative, parent, guardian, independent person or interpreter or, in the case of a child, a person called by the police officer</p>

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				conducting the investigation to accompany the child to arrive at the place where the questioning or investigation is to take place;
	Evidence Act 2001	Tas	165	<p>165A. Warnings in relation to children's evidence</p> <p>(1) A judge in any proceeding in which evidence is given by a child before a jury must not do any of the following:</p> <p>(a) warn the jury, or suggest to the jury, that children as a class are unreliable witnesses; and</p> <p>(b) warn the jury, or suggest to the jury, that the evidence of children as a class is inherently less credible or reliable, or requires more careful scrutiny, than the evidence of adults; and</p> <p>(c) give a warning, or suggestion to the jury, about the unreliability of the particular child's evidence solely on account of the age of the child; and</p> <p>(d) in the case of a criminal proceeding, give a general warning to the jury of the danger of convicting on the uncorroborated evidence of a witness who is a child.</p> <p>(2) Subsection (1) does not prevent the judge, at the request of a party, from:</p> <p>(a) informing the jury that the evidence of the particular child may be unreliable and the reasons why it may be unreliable; and</p>

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				<p>(b) warning or informing the jury of the need for caution in determining whether to accept the evidence of the particular child and the weight to be given to it:</p> <p>if the party has satisfied the court that there are circumstances (other than solely the age of the child) particular to the child that affect the reliability of the child's evidence and that warrant the giving of a warning or the information.</p> <p>(3) This section does not affect any other power of a judge to give a warning to, or to inform, the jury.</p>
	<p>Evidence (Children and Special Witnesses) Act 2001</p>	Tas	4	<p>4. Support person for child</p> <p>(1) In giving evidence in any proceeding, a child is entitled to have near him or her a person approved by the judge who may provide the child with support.</p> <p>(2) A judge may only approve a person for the purpose if that person is not, or is not likely to be, a witness in or a party to the proceeding.</p>
		Tas	6	<p>6. Evidence of affected child by audio visual link</p> <p>(1) Except where an order under section 7 is in force, the evidence of an affected child in a prescribed proceeding is to be given by audio visual link.</p> <p>(2) While an affected child is giving evidence by audio visual link, only the following persons may be present in the room with the child:</p>

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				<p>(a) a person approved under section 4; and</p> <p>(b) one person employed at the court in which the proceedings are being conducted.</p>
		Tas	7	<p>7. Affected child may give oral evidence in court</p> <p>(1) In a prescribed proceeding, the prosecutor may apply to a judge of the court hearing the proceeding for an order that section 6 does not apply to the proceeding.</p> <p>(2) On receipt of an application, the judge may make an order declaring that section 6 does not apply to the proceeding if satisfied that the affected child is able and wishes to give evidence in the presence of the defendant in the courtroom.</p> <p>(3) A judge of the court hearing a prescribed proceeding may, on the application of the prosecutor or on his or her own motion, vary or revoke an order made under subsection (2).</p>
	Family Violence Act	Tas	31	<p>31. Procedure in relation to hearing and determining applications</p> <p>If the applicant is a child, he or she must be represented by a police officer, an Australian legal practitioner or a nominee of the Secretary of the responsible Department in relation to the <i>Children, Young Persons and Their Families Act 1997</i>.</p>
	Magistrates Court (Children's Division)	Tas	7	<p>7. Duty of Court</p> <p>The Court has a duty, as far as practicable:</p>

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	Act 1998			<p>(a) to ensure that parties to proceedings before the Court understand the nature and purpose of the proceedings; and</p> <p>(b) to respect the cultural identity of a child to whom proceedings before the Court relate; and</p> <p>(c) to consider the opinion of a child to whom proceedings before the Court relate if the Court considers the child able:</p> <p>(i) to understand the proceedings and their consequences; and</p> <p>(ii) to form a rational opinion.</p>
		Tas	11	<p>11. Persons who may be present in Court</p> <p>(1) Only the following persons may be present at a sitting of the Court:</p> <p>(a) the child to whom the proceeding relates; and</p> <p>(b) the parents, other adult members of the child's family and guardians of the child; and</p> <p>(c) parties to the proceedings and their advocates; and</p> <p>(d) a person approved under section 4 or section 8(2)(b)(i) of the <i>Evidence (Children and Special Witnesses) Act 2001</i> while the child or special witness whom the person is supporting remains in the Court; and</p> <p>(e) a witness while giving evidence or permitted by the Court</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>to remain in the Court; and</p> <p>(f) an employee of the Department, within the meaning of the <i>Children, Young Persons and Their Families Act 1997</i>; and</p> <p>(g) if the child is an Aboriginal child, a representative of an Aboriginal organisation; and</p> <p>(h) officers of the Court; and</p> <p>(i) a person engaged in professional study relevant to the operation of the Court or research, if the Court permits him or her to be present; and</p> <p>(j) a person who, in the Court's opinion, will assist the Court; and</p> <p>(k) if the proceedings relate to the making, variation or revocation of a restraint order, parties to those proceedings and any person for whose benefit, or against whom, the restraint order is sought or made; and</p> <p>(l) any other person if the Court considers that the interests of justice require that person's presence; and</p> <p>(m) an infant or young child who is in the care of an adult present at the sitting.</p>
		Tas	15	15. Court orders for separate representation of child

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(1) The Court must not proceed to hear a matter unless:</p> <p>(a) the child is represented in the proceedings by a legal practitioner; or</p> <p>(b) the Court is satisfied that the child has made an informed and independent decision not to be so represented.</p> <p>(2) Subsection (1) does not apply if the Court is of the opinion that it is in the best interests of the child to proceed with the hearing in the absence of the child's representative.</p> <p>(3) In proceedings under this Act, if:</p> <p>(a) the child is not represented by a legal practitioner; and</p> <p>(b) the Court is not satisfied that the child has made an informed and independent decision not to be so represented:</p> <p>the Court may make such orders as it considers necessary or appropriate to secure legal representation for the child and any orders it could make on adjournment of those proceedings were the child represented by a legal practitioner.</p> <p>(4) In any proceedings before the Court, whether or not the child is represented by a legal practitioner, if it appears to the Court that the child ought to be separately represented, the Court may:</p> <p>(a) order that the child is to be separately represented; and</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(b) make such other orders as it considers necessary or appropriate to secure that separate representation.</p> <p>(5) The Court may make an order under this section:</p> <p>(a) on its own initiative; or</p> <p>(b) on the application of:</p> <p>(i) the child; or</p> <p>(ii) the Secretary; or</p> <p>(iii) a guardian of the child; or</p> <p>(iv) any other person.</p>
	<p>Status of Children Act 1974</p>	<p>Tas</p>	<p>10</p>	<p>10. Declaration of parentage</p> <p>(1) Any of the following persons may apply to a judge in chambers for a declaration of parentage:</p> <p>(a) a person who alleges that a specified person is the parent of a particular child;</p> <p>(b) a person who alleges that the relationship of parent and child exists between that person and a particular child;</p> <p>(c) a person with a direct and proper interest in the result who wishes to determine whether the relationship of parent and child exists between 2 specified persons.</p> <p>(2) A judge in chambers may refuse to hear an application for</p>

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				<p>a declaration of parentage if of the opinion that it is not just and proper to do so.</p> <p>(3) If satisfied that the relationship of parent and child exists between 2 persons, a judge in chambers may make a declaration of parentage whether or not the parent or child or both of them are living or dead.</p> <p>(4) A judge in chambers, by order, may revoke a declaration if it appears to the judge that new facts or circumstances have arisen that have not previously been disclosed to the court.</p> <p>(5) If a judge makes a declaration under subsection (3), the judge may, at the same time or subsequently, make a declaration determining whether any of the requirements of section 7(1)(b) have been satisfied.</p> <p>(6) In any proceedings under this section, the parents of the child may, but are not compellable to, give evidence to prove that sexual intercourse did or did not take place between them during any period.</p> <p>(7) Any of the following persons may apply to the Registrar of Births, Deaths and Marriages to re-register the birth of a child specified in a declaration of parentage:</p> <p>(a) a parent of that child; and</p> <p>(b) that child, if the child has attained the age of majority; and</p> <p>(c) a person on behalf of that child, if the child has not</p>

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	<p data-bbox="763 443 992 504">Youth Justice Act 1997</p>	<p data-bbox="1059 443 1104 469">Tas</p>	<p data-bbox="1160 443 1182 469">5</p>	<p data-bbox="1400 379 1727 405">attained the age of majority.</p> <p data-bbox="1400 443 1861 469">5. General principles of youth justice</p> <p data-bbox="1400 507 2078 603">(1) The powers conferred by this Act are to be directed towards the objectives mentioned in section 4 with proper regard to the following principles:</p> <p data-bbox="1400 641 2056 737">(a) that the youth is to be dealt with, either formally or informally, in a way that encourages the youth to accept responsibility for his or her behaviour; and</p> <p data-bbox="1400 775 2101 833">(b) that the youth is not to be treated more severely than an adult would be; and</p> <p data-bbox="1400 871 2029 928">(c) that the community is to be protected from illegal behaviour; and</p> <p data-bbox="1400 967 2096 1062">(d) that the victim of the offence is to be given the opportunity to participate in the process of dealing with the youth as allowed by this Act; and</p> <p data-bbox="1400 1101 2092 1222">(e) 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 data-bbox="1400 1260 2011 1318">(f) guardians should be involved in determining the appropriate sanction as allowed by this Act; and</p> <p data-bbox="1400 1356 2123 1414">(g) detaining a youth in custody should only be used as a last resort and should only be for as short a time as is necessary;</p>

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				<p>and</p> <p>(h) punishment of a youth is to be designed so as to give him or her an opportunity to develop a sense of social responsibility and otherwise to develop in beneficial and socially acceptable ways; and</p> <p>(i) punishment of a youth is to be appropriate to the age, maturity and cultural identity of the youth; and</p> <p>(j) punishment of a youth is to be appropriate to the previous offending history of the youth.</p> <p>(2) Effect is to be given to the following principles so far as the circumstances of the individual case allow:</p> <p>(a) compensation and restitution should be provided, where appropriate, for victims of offences committed by youths; and</p> <p>(b) 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>(c) a youth should not be withdrawn unnecessarily from his or her family environment; and</p> <p>(d) there should be no unnecessary interruption of a youth's education or employment; and</p> <p>(e) a youth's sense of racial, ethnic or cultural identity should not be impaired.</p>

9. Australian Capital Territory

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 12:</p> <p>1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.</p> <p>2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.</p>	<p>Adoption Act 1993</p>	<p>ACT</p>	<p>5</p>	<p>5 Best interests of child or young person paramount consideration</p> <p>(1) A person making a decision under the Act in relation to a child or young person, must regard the best interests of the child or young person as the paramount consideration.</p> <p>(2) In forming a view about the best interests of a child or young person, a person making a decision under this Act must take into account the following:</p> <p>(a) the likely effect of the decision on the life course of the child or young person; and</p> <p>(b) the child's or young person's age, level of understanding, level of maturity, gender, and personal characteristics; and</p> <p>(c) the child's or young person's physical, emotional and educational needs; and</p> <p>(d) the views expressed by the child or young person; and</p> <p>(e) the relationship the child or young person has with the parents, any siblings and any other relatives; and</p> <p>(f) the relationship the child or young person has with the</p>

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				<p>adoptive parents; and</p> <p>(g) the suitability and capacity of the adoptive parents to meet the child's or young person's needs; and</p>
		ACT	35B	<p>35B Consultation with child or young person before deciding placement</p> <p>(1) Before deciding about the placement of a child or young person under section 35A, the director-general must, if reasonably practicable, give the child or young person:</p> <p>(a) information about the proposed placement, in language and in a way that the child or young person can understand; and</p> <p>(b) the opportunity to freely express his or her views about the proposed placement; and</p> <p>(c) assistance in understanding the information provided and in expressing his or her views, if required; and</p> <p>(d) the opportunity for counselling, if required.</p>
		ACT	39E	<p>39E Consultation with child or young person before adoption order made</p> <p>(1) Before making an adoption order for a child or young person, the court must be satisfied that, if reasonably practicable, the director-general has given the child or young person:</p>

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				<p>(a) information about the proposed adoption, in language and in a way that the child or young person can understand; and</p> <p>(b) the opportunity to freely express his or her views about the proposed adoption; and</p> <p>(c) assistance in understanding the information provided and in expressing his or her views, if required; and</p> <p>(d) the opportunity for counselling, if required.</p>
		ACT	39F	<p>39F Deciding application for adoption order for child or young person</p> <p>In deciding whether or not to make an adoption order, the court must have regard to:</p> <p>(a) the views expressed by the child or young person in the consultation required under section 39E (Consultation with child or young person before adoption order made); and</p> <p>(b) any preferences expressed in an adoption plan given to the court as part of a report required under section 39D (Report on proposed adoption).</p>
	Children and Young People Act 2008	ACT	83	<p>83 Family group conferences—who must be invited</p> <p>If a child or young person invited to a family group conference does not take part in the conference, the family group conference facilitator must take all reasonable steps:</p> <p>(a) to find out the views and wishes of the child or young</p>

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				<p>person; and</p> <p>(b) to make the views and wishes of the child or young person known to each other person taking part in the conference; and</p> <p>(c) to ensure that the views and wishes of the child or young person are considered in reaching any agreement at the conference.</p> <p>(3) Subsection (2) does not create any requirement for a child or young person to express a view or wish about any matter.</p>
		ACT	85	<p>85 Family group conferences—parties reach agreement</p> <p>Before the parties enter into a family group conference agreement:</p> <p>(a) the facilitator must:</p> <p>(i) give the relevant conference participants an opportunity to get legal advice about the meaning and effect of the proposed family group conference agreement; and</p> <p>(ii) if the facilitator is satisfied that the child or young person has sufficient maturity and developmental capacity to understand the proposed family group conference agreement:</p> <p>(A) find out and consider the child’s or young person’s views and wishes about the proposed family group conference agreement; and</p>

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				(B) if the proposed family group conference agreement is about a young person who is 15 years old or older—give the young person an opportunity to get legal advice about the meaning and effect of the proposed family group conference agreement.
			86	<p>86 Family group conferences—agreement of young person</p> <p>The parties may enter the proposed family group conference agreement only if the facilitator for the family group conference is satisfied that the young person, who is 15 years or older, either:</p> <p>(a) agrees to the proposed family group conference agreement; or</p> <p>(b) does not have sufficient maturity or developmental capacity to understand and agree to the proposed family group conference agreement.</p>
		ACT	87	<p>87 Family group conferences—before family group conference agreement</p> <p>This section applies if the family group conference facilitator for a family group conference about a child or young person:</p> <p>(a) has, under section 85:</p> <p>(i) proposed that the parties enter into a family group</p>

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				<p>conference agreement; and</p> <p>(ii) given the relevant conference participants an opportunity to get legal advice; and</p> <p>(iii) if required, found out and considered the child’s or young person’s views and wishes; and</p> <p>(b) for a young person who is 15 years old or older—is satisfied under section 86 that the young person either:</p> <p>(i) agrees to the proposed family group conference agreement; or</p> <p>(ii) does not have sufficient maturity or developmental capacity to understand and agree to the proposed family group conference agreement.</p> <p>If the child or young person agrees to the proposed family group conference agreement, the child or young person may also sign the agreement.</p>
		ACT	88	<p>88 Family group conferences—outcome report</p> <p>(1) Within 28 days after a family group conference ends, the family group conference facilitator must give a written report about the outcome of the conference (the <i>family group conference outcome report</i>) to:</p> <p>(a) the director-general; and</p>

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				<p>(b) the child or young person; and</p> <p>(c) each person invited to attend the conference.</p> <p>Despite anything else in this section, the family group conference facilitator must not give a copy of the family group conference outcome report, or a copy of the family group conference agreement, to the child or young person if the facilitator believes on reasonable grounds:</p> <p>(a) that it would not be in the child's or young person's best interests to be given information contained in the report or agreement; or</p> <p>(b) that the child or young person is not able to understand the report or agreement.</p>
		ACT	111	<p>111 Transfers to correctional centres—under 21 years old</p> <p>(1) The director-general may, on the director-general's own initiative or on application, direct that a young detainee to whom this division applies be transferred to a correctional centre.</p> <p>(2) However, the director-general must not give a direction under subsection (1) unless satisfied that the transfer is in the best interests of the young detainee or other young detainees.</p> <p>(3) In deciding whether the transfer is in the best interests of the young detainee or other young detainees, the director-general must consider the following:</p>

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				<p>(a) the young detainee’s views and wishes; and</p> <p>(b) the young detainee’s maturity and any known history; and</p> <p>(c) the young detainee’s developmental capacity; and</p> <p>(d) if the young detainee is serving a sentence—the time remaining to be served by the young detainee;</p>
		ACT	219	<p>219 Application for review of segregation directions</p> <p>(1) A young detainee may apply to an external reviewer for a review of a segregation direction under section 220.</p>
		ACT	220	<p>220 External review of segregation directions</p> <p>(1) On application under section 219, an external reviewer may:</p> <p>(a) review the segregation direction; or</p> <p>(b) refuse to review the direction.</p>
		ACT	302	<p>302 Disciplinary action by administrator</p> <p>(1) This section applies if:</p> <p>(a) a charge notice has been given to an accused detainee; and</p> <p>(b) the accused detainee:</p>

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				<p>(i) makes an election under section 301; or</p> <p>(ii) does not make an election under section 301, or apply for review of the charge, within the period allowed.</p> <p>(2) The administrator may, without further investigation or inquiry, take the disciplinary action stated in the charge notice if the administrator believes on reasonable grounds that the accused detainee understands the proposed action.</p> <p>(3) If the administrator decides to take the disciplinary action, the administrator must give the accused detainee written notice of the decision.</p>
		ACT	304	<p>304 Right to contact support person—internal review</p> <p>(1) This section applies if a charge notice has been given to an accused detainee.</p> <p>(2) The accused detainee has a right to contact 1 or 2 support people to assist the detainee to apply for review of the charge under this division.</p> <p>(3) The director-general must ensure that the accused detainee has access to facilities:</p> <p>(a) to contact a support person as soon as practicable; and</p> <p>(b) to consult with the support person.</p>
		ACT	307	<p>307 Review officer’s powers after internal review</p>

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				<p>(5) The review officer must give the accused detainee prompt written notice of the review officer's decision under subsection (2), including:</p> <p>(a) a statement of the reasons for the decision; and</p> <p>(b) a statement that the accused detainee has a right to apply for review of the decision under division 8.4.3 (External review of internal review decisions); and</p> <p>(c) a statement about the effect of section 310.</p>
		ACT	311	<p>311 Application for external review</p> <p>(1) An accused detainee may apply to an external reviewer for review of a decision made under section 307 (2) (Review officer's powers after internal review) in relation to the accused detainee.</p>
		ACT	324	<p>324 Notice of disciplinary review etc</p> <p>(1) The review officer for a review in relation to an accused detainee must give written notice of the review to the accused detainee and the director-general.</p> <p>(2) The notice must include the following:</p> <p>(a) a statement about where and when the review is to start; and</p> <p>(b) details of the disciplinary charge or disciplinary action to</p>

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				<p>which the review relates; and</p> <p>(c) a statement about the effect of section 323; and</p> <p>(d) a statement about the effect of subsections (3) to (5); and</p> <p>(e) a statement to the effect that the review officer may hold a hearing for the review in accordance with part 9.3 (Disciplinary hearing procedures); and</p> <p>(f) the closing date for submissions by the accused detainee.</p> <p>(3) The accused detainee may make submissions to the review officer for the review in any form acceptable to the review officer.</p> <p>(4) The director-general must:</p> <p>(a) offer to provide reasonable assistance to the accused detainee to put the submissions in a form acceptable to the review officer; and</p> <p>(b) tell the accused detainee about the assistance he or she is entitled to under subsection (5).</p> <p>(5) The accused detainee is entitled to reasonable assistance from 1 or 2 support people for the purpose of preparing submissions.</p> <p>(6) The review officer must consider any submission given to the review officer by the accused detainee before the closing date for submissions stated in the notice of the review given</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				to the accused detainee.
		ACT	330	<p>330 Notice of disciplinary hearing</p> <p>(1) The review officer for a review in relation to an accused detainee must give written notice of a hearing for the review to the accused detainee and the director-general.</p> <p>(2) The notice must include:</p> <p>(a) a statement about where and when the hearing is to be held; and</p> <p>(b) a statement about the accused detainee's entitlements under section 331 and section 332.</p> <p>(3) If practicable, the hearing must be held at the detention place where the accused detainee is detained.</p>
		ACT	331	<p>331 Review officer's powers at review</p> <p>(1) For a hearing for a review in relation to an accused detainee, the review officer may, by written notice given to the accused detainee or anyone else, require the person to appear before the review officer, at a stated time and place, to do either or both of the following:</p> <p>(a) answer questions; and</p> <p>(b) produce a stated document or other thing relevant to the review.</p>

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				<p>(2) A person is taken to have complied with a notice under subsection (1) (b) if the person gives the document or other thing to the review officer before the time stated in the notice for its production.</p> <p>(3) The review officer at a hearing for a review may require the accused detainee, or a witness, appearing before the review officer to do 1 or more of the following:</p> <p>(4) The review officer at the hearing may disallow a question put to a person if the presiding review officer considers the question:</p> <p>(a) is unfair, unduly prejudicial or vexatious; or</p> <p>(b) involves an abuse of the review process.</p> <p>(5) The review officer may allow a youth detention officer or anyone else to be present, and to be heard, at a disciplinary hearing.</p>
		ACT	349	<p>349 What is in best interests of child or young person?</p> <p>For the care and protection chapters, in deciding what is in the best interests of a child or young person, a decision-maker must consider each of the following matters that are relevant to the child or young person:</p> <p>(a) the need to ensure that the child or young person is not at risk of abuse or neglect; and</p> <p>(b) any views or wishes expressed by the child or young</p>

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				<p>person;</p>
		ACT	351	<p>351 Helping families understand care and protection procedures</p> <p>A decision-maker making a decision under the care and protection chapters in relation to a child or young person must endeavour to ensure that the relevant people for the decision:</p> <ul style="list-style-type: none"> (a) understand what the decision is going to be about; and (b) understand the decision-making process; and (c) know that the child or young person, and people with parental responsibility for the child or young person, may take part in the decision-making process and have their views and wishes heard; and (d) are informed of, and understand, the decision. <p>If a child or young person is the subject of a proceeding under this Act, the director-general must give the child or young person sufficient information about the proceeding, in language and a way that the child or young person can understand, to allow the child or young person to take part fully in the proceeding.</p> <p>If the decision-maker is a court, the court must also endeavour to ensure that the child or young person, and any other party present at the hearing of the proceeding, understands the nature and purpose of the proceeding and any</p>

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				<p>orders and knows of their appeal rights.</p> <p>The decision-maker must give the relevant people for the decision sufficient information about the decision-making process, in language and a way that they can understand, to allow the child or young person, and people with parental responsibility for the child or young person to take part fully in the decision-making process.</p> <p>Relevant people, for a decision in relation to a child or young person, means:</p> <p>(a) the child or young person or, if the child is represented, the representative of the child or young person; and</p> <p>(b) each person with parental responsibility for the child or young person.</p> <p>A child or young person has a right to take part in a proceeding under this Act in relation to the child or young person.</p> <p>A court must also take steps to ensure that the child or young person and other people understand proceedings etc.</p>
		ACT	352	<p>352 Views and wishes of children and young people</p> <p>(1) A decision-maker making a decision in relation to a child or young person under the care and protection chapters must give the child or young person a reasonable opportunity to express his or her views and wishes personally to the decision-maker, unless the decision-maker is satisfied that the</p>

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				<p>child or young person does not have sufficient developmental capacity to express his or her views or wishes.</p> <p>(2) A decision-maker may find out the views and wishes of a child or young person:</p> <p>(a) by having regard to:</p> <p>(i) anything said personally by the child or young person to the decision-maker; or</p> <p>(ii) anything said by a representative of the child or young person about the child's or young person's views or wishes; or</p> <p>(iii) anything about the child's or young person's views or wishes contained in a report given to the decision-maker; or</p> <p>(b) in any other way the decision-maker considers appropriate.</p> <p>(3) A decision-maker must not require a child or young person to express the child's or young person's views or wishes about anything.</p>
		ACT	397	<p>397 Voluntary care agreements—director-general's criteria</p> <p>If the director-general is satisfied that the child or young person has sufficient developmental capacity to understand that it is proposed that the child or young person will be temporarily cared for by a person who is not the child's or</p>

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				young person's former caregiver—the director-general finds out and considers the child's or young person's views and wishes
		ACT	400	<p>400- Voluntary Care Agreements - Extension</p> <p>The director-general may agree to extend the voluntary care agreement only if:</p> <p>(a) the director-general:</p> <p>(i) has considered whether another form of assistance would be preferable; and</p> <p>(ii) is satisfied that the voluntary sharing of responsibility for the child or young person under the voluntary care agreement is appropriate; and</p> <p>(iii) if satisfied that the child or young person has sufficient developmental capacity to understand that it is proposed that the child or young person will continue to be temporarily cared for under a voluntary care agreement:</p> <p>(a) finds out and considers the child's or young person's views and wishes; and</p> <p>(b) for voluntary care agreement about a young person who is 15 years old or older:</p> <p>(i) the young person agrees to the extension; or</p> <p>(ii) the young person does not have sufficient maturity or</p>

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				developmental capacity to understand and agree to the proposed voluntary care agreement.
		ACT	472	<p>472 Care and protection order—criteria for revocation</p> <p>(2) Before revoking a care and protection order, or a provision in a care and protection order, the Children's Court must consider the following matters:</p> <ul style="list-style-type: none"> (a) the age and maturity of the child or young person; and (b) the views and wishes of the child or young person; and (c) the living arrangements of the child or young person; and (d) the risk to the child or young person of harm if the order, or the provision of the order, is revoked.
		ACT	555	<p>555 Review—views to be considered (review of therapeutic protection order)</p> <p>This section applies if the director-general is carrying out an initial review, or ongoing review, of the operation of a therapeutic protection order.</p> <p>In carrying out the review, the director-general must consider the views of the child or young person.</p>
	Education Act 2004	ACT	36	36 Suspension, exclusion or transfer of student by director-general

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				<p>(1) This section applies if:</p> <p>(a) a student attending a government school:</p> <p>(i) is persistently and wilfully noncompliant; or</p> <p>(ii) threatens to be violent or is violent to another student attending the school, a member of the staff of the school or anyone else involved in the school's operation; or</p> <p>(iii) acts in a way that otherwise threatens the good order of the school or the safety or wellbeing of another student attending the school, a member of staff of the school or anyone else involved in the school's operation; or</p> <p>(iv) displays behaviour that is disruptive to the student's learning or that of other students; and</p> <p>(b) the principal of the school is satisfied that action should be taken under this section.</p> <p>(2) The principal may recommend to the director-general that the director-general:</p> <p>(a) suspend the student from the school for a stated period of no longer than 20 days; or</p> <p>(b) transfer the student to another government school; or</p> <p>(c) exclude the student from all government schools.</p> <p>(3) After considering the principal's recommendation, the</p>

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				<p>director-general may:</p> <ul style="list-style-type: none"> (a) give effect to the recommendation; or (b) take any other action mentioned in subsection (2) that the director-general considers appropriate; or (c) suspend the student for not longer than 20 days. <p>(4) The director-general may exclude the student only if:</p> <ul style="list-style-type: none"> (a) the student’s parents have been given an opportunity to be consulted, and told in writing, about the proposed exclusion of the child and the reasons for it; and (b) the student has been given a reasonable opportunity to attend counselling, undertake relevant educational programs or receive other appropriate assistance; and (c) as far as the student’s maturity and capacity for understanding allow, the participation of the student has been sought, and any views of the student considered, in deciding whether to exclude the student; and (d) the student has been given sufficient information about the decision-making process, in a language and way that the student can understand, to allow the student to take part in the process; and (e) the student has been offered alternatives for continuing the student’s education during the exclusion.

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				<p>(5) The director-general may suspend or transfer the student only if:</p> <p>(a) the student’s parents have been given an opportunity to be consulted, and told in writing, about the proposed suspension or transfer of the student and the reasons for it; and</p> <p>(b) as far as the student’s maturity and capacity for understanding allow, the participation of the student has been sought, and any views of the student considered, in deciding whether to suspend or transfer the student; and</p> <p>(c) the student has been given sufficient information about the decision-making process, in a language and way that the student can understand, to allow the student to take part in the process; and</p> <p>(d) the student has been given a reasonable opportunity to continue the child’s education during the suspension.</p>
		ACT	104	<p>104 Suspension, transfer or exclusion of students—Catholic systemic schools</p> <p>The director may exclude the student only if:</p> <p>(a) the student’s parents have been given an opportunity to be consulted, and told in writing, about the proposed exclusion of the student and the reasons for it; and</p> <p>(b) the student has been given a reasonable opportunity to attend counselling, undertake relevant educational programs</p>

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				<p>or receive other appropriate assistance; and</p> <p>(c) as far as the student’s maturity and capacity for understanding allow, the participation of the student has been sought, and any views of the student considered, in deciding whether to exclude the student; and</p> <p>(d) the student has been given sufficient information about the decision-making process, in a language and way that the student can understand, to allow the student to take part in the process; and</p> <p>(e) the student has been offered information about alternatives for continuing the student’s education after the exclusion.</p> <p>The director may suspend or transfer the student only if:</p> <p>(a) the student’s parents have been given an opportunity to be consulted, and told in writing, about the proposed suspension or transfer of the student and the reasons for it; and</p> <p>(b) as far as the student’s maturity and capacity for understanding allow, the participation of the student has been sought, and any views of the student considered, in deciding whether to suspend or transfer the student; and</p> <p>(c) the student has been given sufficient information about the decision-making process, in a language and way that the student can understand, to allow the student to take part in the</p>

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				<p>process; and</p> <p>(d) the student has been given a reasonable opportunity to continue the student’s education during the suspension.</p>
		ACT	105	<p>105 Suspension or exclusion of students—other nongovernment schools</p> <p>The principal may exclude the student only if:</p> <p>(a) the student’s parents have been given an opportunity to be consulted, and told in writing, about the proposed exclusion of the student and the reasons for it; and</p> <p>(b) the student has been given a reasonable opportunity to attend counselling, undertake relevant educational programs or receive other appropriate assistance; and</p> <p>(c) as far as the student’s maturity and capacity for understanding allow, the participation of the student has been sought, and any views of the student considered, in deciding whether to exclude the student; and</p> <p>(d) the student has been given sufficient information about the decision-making process, in a language and way that the student can understand, to allow the student to take part in the process; and</p> <p>(e) the student has been offered information about alternatives for continuing the student’s education after the exclusion.</p>

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				<p>The principal may suspend the student only if:</p> <p>(a) the student’s parents have been given an opportunity to be consulted, and told in writing, about the proposed suspension of the student and the reasons for it; and</p> <p>(b) as far as the student’s maturity and capacity for understanding allow, the participation of the student has been sought, and any views of the student considered, in deciding whether to suspend the student; and</p> <p>(c) the student has been given sufficient information about the decision-making process, in a language and way that the student can understand, to allow the student to take part in the process; and</p> <p>(d) the student has been given a reasonable opportunity to continue the student’s education during the suspension.</p>
		ACT	Evidence Act 165	<p>165 Unreliable evidence</p> <p>This section applies to evidence of a kind that may be unreliable, including the following kinds of evidence:</p> <p>(a) evidence in relation to which part 3.2 (Hearsay) or part 3.4 (Admissions) applies; and</p> <p>(b) identification evidence; and</p> <p>(c) evidence the reliability of which may be affected by age, ill health (whether physical or mental), injury or the like; and</p>

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				<p>(d) evidence given in a criminal proceeding by a witness who might reasonably be supposed to have been criminally concerned in the events giving rise to the proceeding; and</p> <p>(e) evidence given in a criminal proceeding by a witness who is a prison informer; and</p> <p>(f) oral evidence of questioning by an investigating official of a defendant that is recorded in writing and has not been signed, or otherwise acknowledged in writing, by the defendant; and</p> <p>(g) in a proceeding against the estate of a deceased person—evidence presented by or on behalf of a person seeking relief in the proceeding about a matter about which the deceased person could have given evidence if the deceased person were alive.</p> <p>(2) If there is a jury and a party requests, the judge must:</p> <p>(a) warn the jury that the evidence may be unreliable; and</p> <p>(b) tell the jury about matters that may cause it to be unreliable; and</p> <p>(c) warn the jury of the need for caution in deciding whether to accept the evidence and the weight to be given to it.</p> <p>(3) The judge need not comply with subsection (2) if there are good reasons for not doing so.</p> <p>(4) It is not necessary that a particular form of words be used</p>

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				<p>in giving the warning or information.</p> <p>(5) This section does not affect any other power of the judge to give a warning to, or to inform, the jury.</p> <p>(6) Subsection (2) does not permit a judge to warn or tell a jury in proceedings before it in which a child gives evidence that the reliability of the child's evidence may be affected by the age of the child.</p> <p>(7) Any warning or information in relation to that matter may be given only in accordance with section 165A (2) and (3).</p>
		ACT	165A	<p>165A Warnings in relation to children's evidence</p> <p>A judge in a proceeding in which evidence is given by a child before a jury must not do any of the following:</p> <p>(a) warn the jury, or suggest to the jury, that children as a class are unreliable witnesses; and</p> <p>(b) warn the jury, or suggest to the jury, that the evidence of children as a class is inherently less credible or reliable, or requires more careful scrutiny, than the evidence of adults; and</p> <p>(c) give a warning, or suggestion to the jury, about the unreliability of the particular child's evidence solely on account of the child's age; and</p> <p>(d) in a criminal proceeding—give a general warning to the jury of the danger of convicting on the uncorroborated</p>

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				<p>evidence of a witness who is a child.</p> <p>This does not prevent the judge, at the request of a party, from:</p> <p>(a) telling the jury that the evidence of the particular child may be unreliable and the reasons why it may be unreliable; and</p> <p>(b) warning or telling the jury about the need for caution in deciding whether to accept the evidence of the particular child and the weight to be given to it; if the party has satisfied the court that there are circumstances (other than solely the age of the child) particular to the child that affect the reliability of the child's evidence and that warrant the giving of the warning or information.</p> <p>(3) This section does not affect any other power of a judge to give a warning to, or to inform, the jury.</p>
	<p>Mental Health (Treatment and Care) Act 1994</p>	<p>ACT</p>	<p>25</p>	<p>25 Consultation by ACAT etc</p> <p>(1) Before making a mental health order in relation to a person, the ACAT must, as far as practicable, consult:</p> <p>(a) if the person is a child—the people with parental responsibility for the child under the Children and Young People Act 2008, division 1.3.2; and</p> <p>(b) if the person has a guardian under the Guardianship and Management of Property Act 1991—the guardian; and</p>

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				<p>(c) the person most likely to be responsible for providing the treatment, programs and other services proposed to be ordered.</p> <p>(2) If the person has an attorney appointed under the Powers of Attorney Act 2006, the ACAT must also consider consulting the attorney.</p> <p>(3) Before making a mental health order for the provision of a particular treatment, program or other service (including an assessment) at a stated facility or by a stated person, the ACAT must be satisfied that the treatment, program or service can be provided or performed at that facility or by that person.</p>
		ACT	26	<p>26 What ACAT must take into account</p> <p>In making a mental health order in relation to a person, the ACAT must take into account the following:</p> <p>(a) whether the person consents, refuses to consent or has the capacity to consent, to a proposed course of treatment, care or support; and</p> <p>(b) the views and wishes of the person, so far as they can be found out; and</p> <p>(c) the views and wishes of the people responsible for the day-to-day care of the person, so far as those views and wishes are made known to the ACAT; and</p>

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				<p>(d) the views of the people appearing at the proceeding; and</p> <p>(e) the views of the people consulted under section 25; and</p> <p>(f) that the person's welfare and interests should be appropriately protected; and</p> <p>(g) that the person's rights should not be interfered with except to the least extent necessary;</p>
		ACT	81	<p>81 Representation of children</p> <p>(1) This section applies in relation to a proceeding if:</p> <p>(a) the subject person is a child; and</p> <p>(b) the child is not separately represented; and</p> <p>(c) it appears to the ACAT that the child should be separately represented.</p> <p>(2) The ACAT may, on its own initiative or on the application of a person (including the child):</p> <p>(a) adjourn the proceeding to allow the child to obtain representation; and</p> <p>(b) give reasonably necessary advice and assistance to the child to allow the child to obtain representation.</p>
		ACT	10	<p>10 Functions of public advocate</p> <p>Acting as advocate for the rights of children and young</p>

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				<p>people and, as part of acting as advocate for those rights, doing the following:</p> <ul style="list-style-type: none"> (i) fostering the provision of services and facilities for children and young people; and (ii) supporting the establishment of organisations that support children and young people; and (iii) promoting the protection of children and young people from abuse and exploitation; and (e) monitoring the provision of services for the protection of children and young people; and (j) exercising the functions given to the public advocate under the Children and Young People Act 2008, the Guardianship and Management of Property Act 1991 and the Mental Health (Treatment and Care) Act 1994;