1. Commonwealth

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

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
ARTICLE 20: 1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State. 2. States Parties shall in accordance with their national laws ensure alternative care for such a child. 3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.	No Relevant Legislation Found			

2. New South Wales

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

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ARTICLE 20: 1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State. 2. States Parties shall in accordance with their national laws ensure alternative care for such a child. 3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.	**Adoption Act 2000**	NSW	7	What are the objects of this Act? The objects of this Act are as follows: (a) to emphasise that the best interests of the child concerned, both in childhood and later life, must be the paramount consideration in adoption law and practice, (b) to make it clear that adoption is to be regarded as a service for the child concerned, (c) to ensure that adoption law and price assist a child to know and have access to his or her birth family and cultural heritage, (d) to recognise the changing nature of practices of adoption, (e) to ensure that equivalent safeguards and standards to those that apply to children from New South Wales apply to children adopted from overseas, (f) to ensure that adoption law and practice complies with Australia's obligations under treaties and other international agreements, (g) to encourage openness in adoption, (h) to allow access to certain information relating to

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

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

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				(g) the attitude of each proposed adoptive parent to the child and to the responsibilities of parenthood, (h) the nature of the relationship of the child with each proposed adoptive parent, (i) the suitability and capacity of each proposed adoptive parent, or any other person, to provide for the needs of the child, including the emotional and intellectual needs of the child, (j) the need to protect the child from physical or psychological harm caused, or that may be caused, by being subjected or exposed to abuse, ill-treatment, violence or other behaviour, or being present while a third person is subjected or exposed to abuse, ill-treatment, violence or other behaviour, (k) the alternatives to the making of an adoption order and the likely effect on the child in both the short and longer term of changes in the child's circumstances caused by an adoption, so that adoption is determined among all alternative forms of care to best meet the needs of the child.
			10	Adoption services to be provided by or on behalf of Director-General (1) Subject to this Act, the Director-General is to provide, and may accredit others to provide, adoption services. Note: Under section 206, the Director-General may delegate

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				this and any other function under this Act to any person. (2) Without limiting subsection (1), the Director-General is, subject to this Act, responsible for the following: (a) the assessment of the suitability of a person or persons to adopt a child, (b) any decision to place a child with a person or persons wishing to adopt the child, (c) the transfer of the care responsibility for a child to the person or persons who will adopt the child, (d) the giving of consent to the adoption of a child of whom he or she has parental responsibility, (e) the accreditation of adoption service providers, (f) the provision in certain circumstances of post-adoption financial and other assistance to adopted children and their birth and adoptive parents, (g) the provision of post-adoption services, including the provision of information and arrangements to facilitate post-adoption contact with the parties to an adoption.
			32	Regard to be had to cultural heritage of child (1) In placing a child (other than an Aboriginal or Torres Strait Islander child) for adoption, the decision maker must take into account the culture, any disability, language and

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				religion of the child and the principle that the child's given name, identity, language and cultural and religious ties should, as far as possible, be preserved. (2) Without limiting matters that may be taken into account, the decision maker must take into account whether a prospective adoptive parent of a different cultural heritage to that of the child has demonstrated the following: (a) the capacity to assist the child to develop a healthy and positive cultural identity, (b) knowledge of or a willingness to learn about, and teach the child about, the child's cultural heritage, (c) a willingness to foster links with that heritage in the child's upbringing, (d) the capacity to help the child if the child encounters racism or discrimination in school or the wider community.

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			33	Aboriginal participation in decision making (1) The Director-General or appropriate principal officer must ensure that the following are consulted about the placement of an Aboriginal child: (a) a person approved in accordance with section 195, or (b) a person nominated by the child's parents, extended family or kinship group, as recognised by the Aboriginal community to which the child belongs, or by that community, with expertise in relation to the adoption or substitute care of Aboriginal children. (2) In addition, the Director-General or appropriate principal officer must ensure that the placement of the child is made in consultation with a local, community-based and relevant Aboriginal organisation.
			34	Application of Aboriginal child placement principles (1) The Director-General or appropriate principal officer is to make reasonable inquiries as to whether a child to be placed for adoption is an Aboriginal child. (2) The Aboriginal child placement principles are to be applied in placing a child that the Director-General or principal officer is satisfied is an Aboriginal child for adoption.
			35	Aboriginal child placement principles

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				(1) General principle It is a principle to be applied in the administration of this Act that Aboriginal people should be given the opportunity to participate with as much self-determination as possible in decisions relating to the placement for adoption of Aboriginal children (which is a concept that is absent in customary Aboriginal child care arrangements). (2) The general order for placement The Aboriginal child placement principles are as follows: (a) The first preference for placement of an Aboriginal child is for the child to be placed for adoption with a prospective adoptive parent or parents belonging to the Aboriginal community, or one of the communities, to which the birth parent or birth parents of the child belongs. (b) If it is not practicable or in the best interests of the child for the child to be placed in accordance with paragraph (a), the child is to be placed with a prospective adoptive parent or parents from another Aboriginal community. (c) If it is not practicable or in the best interests of the child for the child to be placed in accordance with paragraph (a) or (b), the child is to be placed with a non-Aboriginal prospective adoptive parent or parents. (3) Placement of child with person who is not Aboriginal An Aboriginal child is not to be placed with a non-Aboriginal prospective adoptive parent unless the Court is satisfied that the prospective adoptive parent:

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				(a) has the capacity to assist the child to develop a healthy and positive cultural identity, and (b) has knowledge of or is willing to learn about, and teach the child about, the child's Aboriginal heritage and to foster links with that heritage in the child's upbringing, and (c) has the capacity to help the child if the child encounters racism or discrimination in the wider community, and that the Aboriginal child placement principles have been properly applied. Note: Placement with a non-Aboriginal prospective adoptive parent requires an application to the Court for a preliminary hearing: see section 80. (4) Child with one Aboriginal parent and one non-Aboriginal parent If a child has one Aboriginal parent and one non-Aboriginal parent, the child may be placed with the person with whom the best interests of the child will be served having regard to the objects of this Act. (5) If a child to whom subsection (4) applies: (a) is placed with a person who is not within an Aboriginal family or community, an adoption plan must provide for the child to have the opportunity to develop an identity with the Aboriginal community to which the child belongs, or (b) is placed with a person who is within an Aboriginal community, an adoption plan must provide for the child to

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				have the opportunity to develop an identity with the non-Aboriginal community to which the child belongs.
			36	Alternatives to placement for adoption to be considered An Aboriginal child is not to be placed for adoption unless the Director-General is satisfied that the making of the adoption order is clearly preferable in the best interests of the child to any other action that could be taken by law in relation to the care of the child.
			37	Torres Strait Islander participation in decision making (1) The Director-General or appropriate principal officer must ensure that the following are consulted about the placement of a Torres Strait Islander child: (a) a person approved in accordance with section 196, or (b) a person nominated by the child's parents, extended family or kinship group, as recognised by the Torres Strait Islander community to which the child belongs, or by that community, with expertise in relation to the adoption or substitute care of Torres Strait Islander children. (2) In addition, the Director-General or appropriate principal officer must ensure that the placement of the child is made in consultation with a local, community-based and relevant Torres Strait Islander organisation.
			38	Application of Torres Strait Islander child placement

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				principles (1) The Director-General or appropriate principal officer is to make reasonable inquiries as to whether a child to be placed for adoption is a Torres Strait Islander child. (2) The Torres Strait Islander child placement principles are to be applied in placing a child that the Director-General or principal officer is satisfied is a Torres Strait Islander for adoption.
			39	Torres Strait Islander child placement principles (1) The general order for placement The Torres Strait Islander child placement principles are as follows: (a) The first preference for placement of a Torres Strait Islander child is for the child to be placed for adoption with a prospective adoptive parent or parents within the child's extended family. (b) If it is not practicable or in the best interests of the child for the child to be placed in accordance with paragraph (a), the child is to be placed with a prospective adoptive parent or parents within the community, or one of the communities, to which the birth parent or birth parents of the child belongs. (c) If it is not practicable or in the best interests of the child for the child to be placed in accordance with paragraph (a) or (b), the child is to be placed with a prospective adoptive parent or parents from another Torres Strait Islander

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				community. (d) If it is not practicable or in the best interests of the child for the child to be placed in accordance with paragraph (a), (b) or (c), the child is to be placed with a non-Torres Strait Islander prospective adoptive parent or parents. (2) A Torres Strait Islander child is not to be placed with a prospective adoptive parent who is not a Torres Strait Islander unless the Court is satisfied that the prospective parent: (a) has the capacity to assist the child to develop a healthy and positive cultural identity, and (b) is willing to learn about, and teach the child about, the child's Torres Strait Islander heritage and foster links with that heritage in the child's upbringing, and (c) has the capacity to help the child if the child encounters racism or discrimination in the wider community, and that the Torres Strait Islander child placement principles have been properly applied. Note: Placement with a non-Torres Strait Islander prospective adoptive parent requires an application to the Court for a preliminary hearing: see section 80. (3) Child with one Torres Strait Islander parent and one non-Torres Strait Islander parent If a child has one Torres Strait Islander parent and one non-Torres Strait Islander parent, the

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				child may be placed with the person with whom the best interests of the child will be served having regard to the objects of this Act. (4) If a child to whom subsection (3) applies: (a) is placed with a person who is not within a Torres Strait Islander family or community, an adoption plan must provide for the child to have the opportunity to develop an identity with the Torres Strait Islander community to which the child belongs, or (b) is placed with a person who is within a Torres Strait Islander community, an adoption plan must provide for the child to have the opportunity to develop an identity with the non-Torres Strait Islander community to which the child belongs.
			46	What is an adoption plan? (1) An **'adoption plan'** is a plan agreed to by two or more of the parties to the adoption of a child that includes provisions relating to: (a) the making of arrangements for the exchange of information between the parties in relation to any one or more of the following: (i) the child's medical background or condition, (ii) the child's development and important events in the

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				child's life, (iii) the means and nature of contact between the parties and the child, and (b) any other matter relating to the adoption of the child. Note: '**Parties**' to an adoption is defined in the Dictionary. The Court is required to take an adoption plan into consideration in making an adoption order. See section 90 (2) and (3). (2) Without limiting the matters for which an adoption plan may make provision: (a) it may set out the ways in which the child is to be assisted to develop a healthy and positive cultural identity and for links with that heritage to be fostered, and (b) it may provide for the giving of certain financial and other assistance as referred to in section 201. (3) An adoption plan for an Aboriginal child or Torres Strait Islander child to be adopted by persons of whom neither is an Aboriginal or Torres Strait Islander, as the case may be, must make provision of the kind referred to in subsection (2)(a). (4) If provisions of the kind referred to in subsection (2)(a) are proposed to be included in an adoption plan, those provisions should be made after consultation with a local, community-based and relevant Aboriginal or Torres Strait

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				Islander organisation.
			64	Consent to adoption of Aboriginal child (1) Before a person gives consent to the adoption of an Aboriginal child: (a) he or she is to be given adoption counselling by a person approved in accordance with section 195, or (b) if he or she is offered, but refuses, adoption counselling by such a person he or she must: (i) be provided by the Director-General or appropriate principal officer with written information on Aboriginal customs and culture and any other matters the Director-General or principal officer considers would have been raised by the person, and (ii) sign an acknowledgement that he or she has read (or, if he or she cannot read, had read to) and understood the information. (2) A person who refuses adoption counselling cannot consent to the adoption until at least 7 days after being given the information referred to in subsection (1)(b). (3) In this section: '**adoption counselling**' means consultation that includes consideration of the possibility of a child being cared for in

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				accordance with Aboriginal customs and culture.
			65	Consent to adoption of Torres Strait Islander child (1) Before a person gives consent to the adoption of a Torres Strait Islander child: (a) he or she must receive adoption counselling from a person approved in accordance with section 196, or (b) if he or she has been offered, but has refused, adoption counselling by such a person he or she must: (i) be provided by the Director-General or appropriate principal officer with written information on Torres Strait Islander customs and culture and on any other matters that the Director-General or principal officer considers would have been raised by the person, and (ii) sign an acknowledgement that he or she has read (or, if he or she cannot read, had read to) and understood the information. (2) A person who refuses adoption counselling cannot consent to the adoption until at least 7 days after being given the information referred to in subsection (1)(b). (3) In this section: '**adoption counselling**' means consultation that includes consideration of the possibility of a child being cared for in

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				accordance with Torres Strait Islander customs and culture.
			Part 6	This Part provides for parental responsibility for children between the period when consent to adoption is given and an adoption order made. Parental responsibility is given to the Director-General who has power to decide, for example, whether the child should be placed with temporary authorised carers or the proposed adoptive parents, in this period.
			79B	Power of search for and removal of children in need of care and protection (cf *Children and Young Persons (Care and Protection) Act 1998* , section 233) (1) The Director-General or a police officer may apply to an authorised officer for a search warrant if the Director-General or police officer has reasonable grounds for believing that: (a) a child whom the Director-General has placed in some other person's care responsibility pursuant to section 79(2), or (b) a child the subject of an order in force under section 79 (2B) or 79A, may be found in any premises. (2) An authorised officer to whom such an application is made may issue a search warrant if satisfied that there are reasonable grounds for doing so. (3) A search warrant authorises the person named in the

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				warrant: (a) to enter the premises (if any) specified in the warrant, and (b) to search the premises (if any) or elsewhere, or at large, for the presence of the child referred to in subsection (1)(a) or (b), and (c) to remove the child, and (d) to return the child to, or to place the child in, the custody of the Director-General or the person having care responsibility for the child under section 79 (2), as the case requires. (4) An application for a warrant or warrant may specify one or more addresses or other descriptions of premises. However, it is not necessary to specify an address or other description of premises in an application for a warrant or in a warrant. (5) It is not necessary in any search warrant issued under this section to name any particular child. (6) Division 4 of Part 5 of *the Law Enforcement (Powers and Responsibilities) Act* 2002 applies to a search warrant issued under this section. (7) In this section, 'authorised officer' has the same meaning as it has in the *Law Enforcement (Powers and Responsibilities) Act* 2002 .

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			80	The Court must hold a preliminary hearing before the placement for an adoption of an Aboriginal child or Torres Strait Islander child with a prospective adoptive parent other than an Aboriginal or Torres Strait Islander respectively.
			Part 8	The Court may make interim orders for parental responsibility for a child.
			90	Court to be satisfied as to certain matters (1) The Court must not make an adoption order in relation to a child unless the Court is satisfied: (a) that the best interests of the child will be promoted by the adoption, and (b) that, as far as practicable and having regard to the age and understanding of the child, the wishes and feelings of the child have been ascertained and due consideration given to them, and Note: Sections 127-129 contain provisions about ascertainment of the wishes of a child by the Court. (c) if the prospective adoptive parent or parents are persons other than a step parent or relative of the child: that the prospective adoptive parent or parents have been selected in accordance with this Act, and Note: See Part 3 of this Chapter. (d) that consent to the adoption of the child has been given

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				by every person whose consent is required under this Act or that consent has been, or should be, dispensed with, and (e) if the child is an Aboriginal child: that the Aboriginal child placement principles have been properly applied, and (f) if the child is a Torres Strait Islander child: that the Torres Strait Islander child placement principles have been properly applied, and (g) if the child is a non-citizen child from a Convention country or other country outside Australia: that the applicable requirements of this Act and any other relevant law have been satisfied, and Note: See for example, section 31. (h) in the case of a child (other than an Aboriginal or Torres Strait Islander child): that the culture, any disability, language and religion of the child and, as far as possible, that the child's given names, identity, language and cultural and religious ties have been taken into account in the making of any adoption plan in relation to the adoption. (2) The Court may not make an adoption order if the parties to the adoption have agreed to an adoption plan unless it is satisfied that the arrangements proposed in the plan are in the child's best interests and are proper in the circumstances. (3) The Court may not make an adoption order unless it considers that the making of the order would be clearly preferable in the best interests of the child than any other

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				action that could be taken by law in relation to the care of the child.
			92	Care of child after refusal of an application If the Court refuses an application for an adoption order, the Court may make such orders in relation to the parental responsibility for the child concerned as it thinks fit, including, if the child is less than 18 years of age, an order declaring the child to be under the parental responsibility of the Minister administering the *Children and Young Persons (Care and Protection) Act 1998* .
			195	Consultation with Aboriginal persons (1) The Director-General may approve an Aboriginal person as a person who may provide advice and assistance to Aboriginal families or kinship groups in relation to care options for Aboriginal children for the purposes of this Act. (2) The Director-General must not approve a person under this section unless the Director-General is satisfied that the person has relevant experience in working with Aboriginal children, whether or not in connection with their families or kinship groups.
			196	Consultation with Torres Strait Islanders (1) The Director-General may approve a Torres Strait Islander as a person who may provide advice and assistance to Torres Strait Islander families or kinship groups in relation to care options for Torres Strait Islander children for the

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				purposes of this Act. (2) The Director-General must not approve a person under this section unless the Director-General is satisfied that the person has relevant experience in working with Torres Strait Islander children, whether or not in connection with their families or kinship groups.
	Children and Young Persons (Care and Protection) Act 1998	NSW	8	What are the objects of this Act? The objects of this Act are to provide: (a) that children and young persons receive such care and protection as is necessary for their safety, welfare and well-being, having regard to the capacity of their parents or other persons responsible for them, and (b) that all institutions, services and facilities responsible for the care and protection of children and young persons provide an environment for them that is free of violence and exploitation and provide services that foster their health, developmental needs, spirituality, self-respect and dignity, and (c) that appropriate assistance is rendered to parents and other persons responsible for children and young persons in the performance of their child-rearing responsibilities in order to promote a safe and nurturing environment.
			9	Principles for administration of Act (1) This Act is to be administered under the principle that, in

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				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. (2) Subject to subsection (1), the other principles to be applied in the administration of this Act are as follows: (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. (b) In all actions and decisions made under this Act (whether by legal or administrative process) that significantly affect a child or young person, account must be taken of the culture, disability, language, religion and sexuality of the child or young person and, if relevant, those with parental responsibility for the child or young person. (c) In deciding what action it is necessary to take (whether by legal or administrative process) in order to protect a child or young person from harm, the course to be followed must be the least intrusive intervention in the life of the child or young person and his or her family that is consistent with the paramount concern to protect the child or young person from harm and promote the child's or young person's development. (d) If a child or young person is temporarily or permanently deprived of his or her family environment, or cannot be allowed to remain in that environment in his or her own best

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				interests, the child or young person is entitled to special protection and assistance from the State, and his or her name, identity, language, cultural and religious ties should, as far as possible, be preserved. (e) If a child or young person is placed in out-of-home care, arrangements should be made, in a timely manner, to ensure the provision of a safe, nurturing, stable and secure environment, recognising the child's or young person's circumstances and that, the younger the age of the child, the greater the need for early decisions to be made in relation to a permanent placement. (f) 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 to the child or young person, including birth or adoptive parents, siblings, extended family, peers, family friends and community.
			11	Aboriginal and Torres Strait Islander people are to participate in the care and protection of their children and young persons with as much self-determination as is possible.
			12	Aboriginal and Torres Strait Islander families, kinship groups, representative organisations and communities are to be given the opportunity to participate in decisions made concerning the placement of their children and young

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				persons.
			13	Aboriginal and Torres Strait Islander Child and Young Person Placement Principles (1) The general order for placement Subject to the objects in section 8 and the principles in section 9, an Aboriginal or Torres Strait Islander child or young person who needs to be placed in statutory out-of-home care is to be placed with: (a) a member of the child's or young person's extended family or kinship group, as recognised by the Aboriginal or Torres Strait Islander community to which the child or young person belongs, or (b) if it is not practicable for the child or young person to be placed in accordance with paragraph (a) or it would not be in the best interests of the child or young person to be so placed: a member of the Aboriginal or Torres Strait Islander community to which the child or young person belongs, or (c) if it is not practicable for the child or young person to be placed in accordance with paragraph (a) or (b) or it would not be in the best interests of the child or young person to be so placed: a member of some other Aboriginal or Torres Strait Islander family residing in the vicinity of the child's or young person's usual place of residence, or (d) if it is not practicable for the child or young person to be placed in accordance with paragraph (a), (b) or (c) or it would be detrimental to the safety, welfare and well-being of the child or young person to be so placed: a suitable person

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				approved by the Director-General after consultation with: (i) members of the child's or young person's extended family or kinship group, as recognised by the Aboriginal or Torres Strait Islander community to which the child or young person belongs, and (ii) such Aboriginal or Torres Strait Islander organisations as are appropriate to the child or young person. (2) Relevance of self-identification and expressed wishes of child or young person In determining where a child or young person is to be placed, account is to be taken of whether the child or young person identifies as an Aboriginal or Torres Strait Islander and the expressed wishes of the child or young person. (3) Child or young person with parents from different Aboriginal or Torres Strait Islander communities If a child or young person has parents from different Aboriginal or Torres Strait Islander communities, the order for placement established by paragraphs (a), (b), (c) and (d) of subsection (1) applies, but the choice of a member or person referred to in those paragraphs is to be made so that the best interests of the child or young person will be served having regard to the principles of this Act. (4) Child or young person with one Aboriginal or Torres Strait Islander parent and one non-Aboriginal and Torres Strait Islander parent If a child or young person has one Aboriginal or Torres Strait Islander parent and one non-Aboriginal and Torres Strait Islander parent, the child or

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				young person may be placed with the person with whom the best interests of the child or young person will be served having regard to the principles of this Act. (5) If a child or young person to whom subsection (4) applies: (a) is placed with a person who is not within an Aboriginal or Torres Strait Islander family or community, arrangements must be made to ensure that the child or young person has the opportunity for continuing contact with his or her Aboriginal or Torres Strait Islander family, community and culture, or (b) is placed with a person who is within an Aboriginal or Torres Strait Islander family or community, arrangements must be made to ensure that the child or young person has the opportunity for continuing contact with his or her non-Aboriginal and Torres Strait Islander family, community and culture. (6) Placement of child or young person in care of person who is not an Aboriginal or Torres Strait Islander The following principles are to determine the choice of a carer if an Aboriginal or Torres Strait Islander child or young person is placed with a carer who is not an Aboriginal or Torres Strait Islander: (a) Subject to the best interests of the child or young person, a fundamental objective is to be the reunion of the child or young person with his or her family or Aboriginal or Torres Strait Islander community.

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				(b) Continuing contact must be ensured between the child or young person and his or her Aboriginal or Torres Strait Islander family, community and culture. These principles are subject to subsection (2). (7) Exceptions: emergency placements and placements of short duration Subsection (1) does not apply to: (a) an emergency placement made to protect a child or young person from serious risk of immediate harm, or (b) a placement for a duration of less than 2 weeks. (8) Where an emergency placement is made to protect an Aboriginal or Torres Strait Islander child or young person from serious risk of immediate harm, the Director-General must consult with the appropriate Aboriginal or Torres Strait Islander community as soon as practicable after the safety of the child or young person has been secured. Note: In the course of any consultation under this Part, the Director-General must have regard to the right of Aboriginal or Torres Strait Islander children and young persons and their families to confidentiality.
			34	Taking of action by Director-General (1) If the Director-General forms the opinion, on reasonable grounds, that a child or young person is in need of care and protection, the Director-General is to take whatever action is necessary to safeguard or promote the safety, welfare and

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				well-being of the child or young person. (2) Without limiting subsection (1), the action that the Director-General might take in response to a report includes the following: (a) providing, or arranging for the provision of, support services for the child or young person and his or her family, (b) development, in consultation with the parents (jointly or separately), of a care plan to meet the needs of the child or young person and his or her family that: (i) does not involve taking the matter before the Children's Court, or (ii) may be registered with the Children's Court, or (iii) is the basis for consent orders made by the Children's Court, (b1) development, in consultation with one or more primary care-givers for a child or young person, of a parent responsibility contract instead of taking a matter concerning the child's or young person's need for care and protection before the Children's Court (except in the event of a breach of the contract), (c) ensuring the protection of the child or young person by exercising the Director-General's emergency protection powers as referred to in Part 1 of Chapter 5,

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				(d) seeking appropriate orders from the Children's Court. Note. In considering what action to take under this section, the Director-General is to have regard to the grounds under section 71 on which the Children's Court may make a care order.
			35	The Director-General can decide not to take action if he or she considers that proper arrangements exist for the care and protection of the child or young person and the circumstances that led to the report have been or are being adequately dealt with
			36	Principles of intervention (1) In deciding the appropriate response to a report concerning a child or young person, the Director-General must have regard to the following principles: (a) The immediate safety, welfare and well-being of the child or young person, and of other children or young persons in the usual residential setting of the child or young person, must be given paramount consideration. (b) Subject to paragraph (a), any action must be appropriate to the age of the child or young person, any disability the child, young person or his or her family members have, and the circumstances, language, religion and cultural background of the family. (c) Removal of the child or young person from his or her usual caregiver may occur only where it is necessary to

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				protect the child or young person from the risk of serious harm. (2) The principles in this section are to be applied in priority to the principles in section 9 in deciding the appropriate response to a report concerning a child or young person.
			37	In responding to a report, the Director-General is to consider the appropriateness of using alternative dispute resolution services.
			Part 3	This Part provides for care plans and parent responsibility plans to be entered into.
			43	The Director-General or a police officer may remove a child or young person from a place without a warrant in certain circumstances.
			44	The Director-General may assume care responsibility of child or young person in hospital or other premises.
			45	This Director-General is to make a care application to the Children's Court when a child has been removed pursuant to this Act or care responsibility has been assumed under s44.
			46	The Children's Court may make an order for the emergency care and protection of a child or young person if it is satisfied that the child or young person is at risk of serious harm. The order places the child or young person in the care responsibility of the Director-General or the person specified

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				in the order.
			48	On the making of a care application, the Children's Court may make orders for the removal of a child or young person.
			49	Care of child or young person pending care proceedings (1) If a child or young person is removed from the care of his or her parent or parents under this Part or a warrant issued under section 233: (a) the child or young person is to be kept at a place approved by the Minister for the purposes of this section, and (b) the Director-General has the care responsibility for the child or young person. (2) The Children's Court may, by order, vest the care responsibility in a designated agency. (3) The Director-General or designated agency having the care responsibility for the child or young person may delegate that responsibility to a relative of the child or young person, an authorised carer or a person approved by the Children's Guardian. (4) Despite subsection (3), the Director-General may delegate the care responsibility for the child or young person on an interim basis to a person other than a person specified in subsection (3) but must use his or her best endeavours to delegate that responsibility to a person so specified as soon as

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				is reasonably practicable. (5) The exercise of the care responsibility by a person referred to in subsection (3) or (4) is subject to any direction given to the person by the Director-General or the designated agency that made the delegation.
			50	The Director-General may discharge a child or young person form the Director-General's care responsibility.
			61	Applications for care orders (1) A care order may be made only on the application of the Director-General, except as provided by this Chapter. (2) A care application must: (a) specify the particular care order sought and the grounds on which it is sought, and (b) without limiting paragraph (a), be accompanied by a written report specifying such information as may be prescribed for the purposes of this section by the rules made under the *Children's Court Act 1987* . (3) The order sought may be varied: (a) without the leave of the Children's Court at any time before a determination is made under section 72 in relation to the care application concerned, and (b) after such a determination is made: only with the leave of

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				the Children's Court. Note: Section 34 requires the Director-General to consider a variety of alternative means to provide for the safety, welfare and well-being of the child or young person before commencing proceedings in the Children's Court. Section 71 sets out the various grounds that enable the making of a care order.
			62	Applications for care orders may be made by filing contract breach notices.
			69	The Court may make interim court orders after a care application is made and prior to its determination. The Director-General has the onus of satisfying the Court that it is not in the best interests of the safety, welfare and well-being of the child or young person to remain with the parents.
			70	Other interim orders The Children's Court may make such other care orders as it considers appropriate for the safety, welfare and well-being of a child or young person in proceedings before it pending the conclusion of the proceedings.
			70A	An interim order must be necessary.
			71	Grounds for care orders (1) The Children's Court may make a care order in relation to

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				a child or young person if it is satisfied that the child or young person is in need of care and protection for any reason including, without limitation, any of the following: (a) there is no parent available to care for the child or young person as a result of death or incapacity or for any other reason, (b) the parents acknowledge that they have serious difficulties in caring for the child or young person and, as a consequence, the child or young person is in need of care and protection, (c) the child or young person has been, or is likely to be, physically or sexually abused or ill-treated, (d) subject to subsection (2), the child's or young person's basic physical, psychological or educational needs are not being met, or are likely not to be met, by his or her parents or primary care-givers, (e) the child or young person is suffering or is likely to suffer serious developmental impairment or serious psychological harm as a consequence of the domestic environment in which he or she is living, (f) in the case of a child who is under the age of 14 years, the child has exhibited sexually abusive behaviours and an order of the Children's Court is necessary to ensure his or her access to, or attendance at, an appropriate therapeutic service, (g) the child or young person is subject to a care and

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				protection order of another State or Territory that is not being complied with, (h) section 171 (1) applies in respect of the child or young person, (i) in the case where the application for the order is made by filing a contract breach notice: any presumption arising from the operation of section 38E (4) that the child or young person is in need of care and protection has not been rebutted. (1A) If the Children's Court makes a care order in relation to a reason not listed in subsection (1), the Court may only do so if the Director-General pleads the reason in the care application. (2) The Children's Court cannot conclude that the basic needs of a child or young person are likely not to be met only because of: (a) a parent's or primary care-giver's disability, or (b) poverty. (3)(Repealed)
			72	Determination as to care and protection (1) A care order in relation to a child or young person may be made only if the Children's Court is satisfied that the child or young person is in need of care and protection or that even though the child or young person is not then in need of care

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				and protection: (a) the child or young person was in need of care and protection when the circumstances that gave rise to the care application occurred or existed, and (b) the child or young person would be in need of care and protection but for the existence of arrangements for the care and protection of the child or young person made under section 49 (Care of child or young person pending care proceedings), section 69 (Interim care orders) or section 70 (Other interim orders). (2) If the Children's Court is not so satisfied, it may make an order dismissing the application.
			74	Order for provision of support services (1) The Children's Court may make an order directing a person or organisation named in the order to provide support for that child or young person for such period (not exceeding 12 months) as is specified in the order. (2) The Children's Court must not make an order under this section unless: (a) it gives notice of its intention to consider making the order to the person or organisation who would be required to provide support pursuant to such an order, and (b) the person or organisation is given an opportunity to appear and be heard by the Children's Court before the

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				Children's Court makes such an order, and (c) the person or organisation consents to the making of the order, and (d) the views of the child or young person in relation to the proposed order have been taken into account. (3) The Director-General may be required to provide support pursuant to an order made under this section. Note. The parents of a child or young person cannot be compelled to accept the provision of support services, particularly if the services relate to the parents rather than to the child or young person.
			76	The Court may make an order placing a child or young person in relation to whom a care application has been made under the supervision of the Director-General if it is satisfied that the child or young person is in need of care and protection.
			77	While a child or young person is subject to a supervision order, the premises the child resides at is subject to inspection by the Director-General and the Director-General may meet and talk with the child or young person.
			78	Care plans (1) If the Director-General applies to the Children's Court for an order, not being an emergency protection order, for the removal of a child or young person from the care of his or her

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				parents, the Director-General must present a care plan to the Children's Court before final orders are made. (2) The care plan must make provision for the following: (a) the allocation of parental responsibility between the Minister and the parents of the child or young person for the duration of any period for which the child or young person is removed from the care of his or her parents, (b) the kind of placement proposed to be sought for the child or young person, including: (i) how it relates in general terms to permanency planning for the child or young person, and (ii) any interim arrangements that are proposed for the child or young person pending permanent placement and the timetable proposed for achieving a permanent placement, (c) the arrangements for contact between the child or young person and his or her parents, relatives, friends and other persons connected with the child or young person, (d) the agency designated to supervise the placement in out-of-home care, (e) the services that need to be provided to the child or young person. (3) The care plan is to be made as far as possible with the agreement of the parents of the child or young person

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				concerned. (4) The care plan is only enforceable to the extent to which its provisions are embodied in or approved by orders of the Children's Court. (5) Other requirements and the form of a care plan under this section may be prescribed by the regulations.
			78A	Permanency planning For the purposes of this Act, '**permanency planning**' means the making of a plan that aims to provide a child or young person with a stable placement that offers long-term security and that: (a) has regard, in particular, to the principle set out in section 9 (2)(e), and (b) meets the needs of the child or young person, and (c) avoids the instability and uncertainty arising through a succession of different placements or temporary care arrangements. (2) Permanency planning recognises that long-term security will be assisted by a permanent placement. (2A) A permanency plan need not provide details as to the exact placement in the long-term of the child or young person concerned but must be sufficiently clear and particularised so as to provide the Children's Court with a reasonably clear

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				picture as to the way in which the child's or young person's needs, welfare and well-being will be met in the foreseeable future. (3) A permanency plan for an Aboriginal or Torres Strait Islander child or young person must address how the plan has complied with the Aboriginal and Torres Strait Islander Child and Young Person Placement Principles in section 13. (4) If a permanency plan indicates an intention to provide permanent placement through an order for sole parental responsibility or adoption of an Aboriginal or Torres Strait Islander child or young person with a non-Aboriginal or non-Torres Strait Islander person or persons, such an order should be made only: (a) if no suitable permanent placement can be found with an Aboriginal or Torres Strait Islander person or persons in accordance with the Aboriginal and Torres Strait Islander Child and Young Person Placement Principles in section 13, and (b) in consultation with the child or young person, where appropriate, and (c) in consultation with a local, community-based and relevant Aboriginal or Torres Strait Islander organisation and the local Aboriginal or Torres Strait Islander community, and (d) if the child or young person is able to be placed with a culturally appropriate family, and

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				(e) with the approval of the Minister for Community Services and the Minister for Aboriginal Affairs.
			79	Order allocating parental responsibility (1) If the Children's Court finds that a child or young person is in need of care and protection, it may: (a) make an order allocating the parental responsibility for the child or young person, or specific aspects of parental responsibility: (i) to one parent to the exclusion of the other parent, or (ii) to one or both parents and to the Minister or another person or persons jointly, or (iii) to another suitable person or persons, or (b) make an order placing the child or young person under the parental responsibility of the Minister. (2) The specific aspects of parental responsibility that may be allocated by an order of the Children's Court include, but are not limited to, the following: (a) the residence of the child or young person, (b) contact, (c) the education and training of the child or young person,

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				(d) the religious upbringing of the child or young person, (e) the medical treatment of the child or young person. (3) The Children's Court must not make an order allocating parental responsibility unless it has given particular consideration to the principle in section 9 (2)(c) and is satisfied that any other order would be insufficient to meet the needs of the child or young person. (4) The Children's Court must not make an order allocating parental responsibility for a child or young person if the order would be inconsistent with any order in relation to the child or young person made by the Supreme Court in the exercise of its jurisdiction with respect to the custody and guardianship of children. (5) The Children's Court may only make an order that allocates parental responsibility for a child or young person to a designated agency if the designated agency (or principal officer of the agency) is the person specified in an emergency care and protection order made under section 46 in respect of the child or young person.
			80	Requirement to consider care plan The Children's Court must not make a final order: (a) for the removal of a child from the care and protection of his or her parents, or (b) for the allocation of parental responsibility in respect of

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				the child, unless it has considered a care plan presented to it by the Director-General.
			81	Where the Children's Court makes an order placing a child or young person under the parental responsibility of the Minister, the Minister may exercise parental responsibility alone or together with another person or other persons.
			82	Report on suitability of arrangements concerning parental responsibility (1) The Children's Court may, when making an order in any care proceedings (the '**relevant proceedings**') allocating parental responsibility of a child or young person to a person (including the Minister) other than a parent, order a party to the relevant proceedings to prepare a written report concerning the suitability of the arrangements for the care and protection of the child or young person. (2) The report must: (a) be provided to the Children's Court within 12 months or such earlier period as the Court may specify, and (b) include an assessment of progress in implementing the care plan, including progress towards the achievement of a permanent placement, and (c) unless the Court orders otherwise, be given to each of the

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				other parties to the relevant proceedings. (3) If, after considering the report, the Children's Court is not satisfied that proper arrangements have been made for the care and protection of the child or young person concerned, the Court is, within 30 days of receiving the report, to notify each party to the relevant proceedings inviting the party to make an application under section 90 in relation to the order. Any such application must be made within 30 days of the party being notified by the Court. (4) The Children's Court cannot, however, rescind or vary the order, or make a new order allocating parental responsibility, on its own motion. (5) Subsection (3) does not limit the circumstances in which a party to the relevant proceedings may make an application under section 90.
			83	Preparation of permanency plan (1) If the Director-General applies to the Children's Court for a care order (not being an emergency care and protection order) for the removal of a child or young person, the Director-General must assess whether there is a realistic possibility of the child or young person being restored to his or her parents, having regard to: (a) the circumstances of the child or young person, and (b) the evidence, if any, that the child or young person's parents are likely to be able to satisfactorily address the

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				issues that have led to the removal of the child or young person from their care. (2) If the Director-General assesses that there is a realistic possibility of restoration, the Director-General is to prepare a permanency plan involving restoration and submit it to the Children's Court for its consideration. (3) If the Director-General assesses that there is not a realistic possibility of restoration, the Director-General is to prepare a permanency plan for another suitable long-term placement for the child or young person and submit it to the Children's Court for its consideration. (4) In preparing a plan under subsection (3), the Director-General may consider whether adoption is the preferred option for the child or young person. (5) The Children's Court is to decide whether to accept the assessment of the Director-General. (6) If the Children's Court does not accept the Director-General's assessment, it may direct the Director-General to prepare a different permanency plan. (7) The Children's Court must not make a final care order unless it expressly finds: (a) that permanency planning for the child or young person has been appropriately and adequately addressed, and (b) that prior to approving a permanency plan involving

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				restoration there is a realistic possibility of restoration having regard to: (i) the circumstances of the child or young person, and (ii) the evidence, if any, that the child or young person's parents are likely to be able to satisfactorily address the issues that have led to the removal of the child or young person from their care. (7A) For the purposes of subsection (7)(a), the permanency plan need not provide details as to the exact placement in the long term of the child or young person to whom the plan relates but must provide the further and better particulars which are sufficiently identified and addressed so the Court, prior to final orders being made, can have a reasonably clear plan as to the child's or young person's needs and how those needs are going to be met. (8) A permanency plan is only enforceable to the extent to which its provisions are embodied in, or approved by, an order or orders of the Children's Court. (9) In this section, '**parent**', in relation to the child or young person concerned, means: (a) if the child or young person has been adopted: the child's or young person's adoptive parent, or (b) if the child or young person has not been adopted: the child's or young person's birth parent.

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			84	Requirements of permanency plans involving restoration (1) A permanency plan involving restoration is to include the following: (a) a description of the minimum outcomes the Director-General believes must be achieved before it would be safe for the child or young person to return to his or her parents, (b) details of the services the Department is able to provide, or arrange the provision of, to the child or young person or his or her family in order to facilitate restoration, (c) details of other services that the Children's Court could request other government departments or funded non-government agencies to provide to the child or young person or his or her family in order to facilitate restoration, (d) a statement of the length of time during which restoration should be actively pursued. (2) In this section, '**parent**', in relation to the child or young person concerned, means: (a) if the child or young person has been adopted: the child's or young person's adoptive parent, or (b) if the child or young person has not been adopted: the child's or young person's birth parent.
			85	Provision of services to facilitate restoration

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				A government department or agency or a funded non-government agency that is requested by the Children's Court to provide services to a child or young person or his or her family in order to facilitate restoration is to use its best endeavours to provide those services.
			85A	A permanency plan involving restoration is to be reviewed.
			86	The Children's Court may make orders with respect to the contact parents, relatives etc or specified persons are to have with a child or young person subject of Children's Court proceedings
			110	(Part 1 Serious or persistent conflict) What are the objects of this Part? The objects of this Part are: (a) to ensure, so far as possible, that conflicts between children or young persons and their parents are resolved without recourse to legal proceedings, and (b) to enable proper access to services where breakdowns in relationships occur between children or young persons and their parents, and (c) to enable the Children's Court to make appropriate orders in circumstances where the differences between a child or young person and his or her parents are so serious that it is no longer possible for the child or young person to continue

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				living with his or her parents.
			111	When does this Part apply? (1) This Part applies: (a) if there is a serious or persistent conflict between the parents and the child or young person of such a nature that the safety, welfare or well-being of the child or young person is in jeopardy, or (b) if the parents are unable to provide adequate supervision for the child or young person to such an extent that the safety, welfare or well-being of the child or young person is in jeopardy. (2) The provisions of this Part apply in addition to the provisions of Chapters 3, 4 and 5.
			112	What principle is to be applied in the administration of this Part? (1) The principle to be applied in the administration of this Part in its application to children is that the parents of a child should have responsibility for the child unless it is not in the best interests of the child that his or her parents have responsibility for him or her. (2) The provisions of this section apply in addition to the provisions of sections 9–13.

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			113	Request for assistance (1) A parent, child or young person, or any other person may ask the Director-General for assistance: (a) if there is a serious or persistent conflict between the parents and the child or young person of such a nature that the safety, welfare or well-being of the child or young person is in jeopardy, or (b) if the parents are unable to provide adequate supervision for the child or young person to such an extent that the safety, welfare or well-being of the child or young person is in jeopardy. (2) On receiving a request for assistance, the Director-General may provide or arrange for the provision of such advice or assistance as is necessary: (a) to help the parents and the child or young person to resolve the conflict between them without recourse to legal proceedings, or (b) to ensure that the child or young person is adequately supervised, or (c) to enable the child or young person and his or her parents to have access to appropriate services.
			114	Alternative dispute resolution (1) If the differences between a child or young person and

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				his or her parents are so serious that it is no longer possible for the child or young person to continue living with his or her parents, the child, the young person, or a parent or the parents may request the Director-General to attempt to resolve those differences. (2) On receiving a request, the Director-General must seek to resolve the differences, by any form of dispute resolution the Director-General considers appropriate, prior to making an application to the Children's Court for appropriate orders.
			115	Alternative parenting plan (1) In this Chapter, '**alternative parenting plan**' means a plan: (a) that sets out the way in which the needs of the child or young person are proposed to be met having regard to the breakdown in the relationship between the child or young person and his or her parents, and (b) that may include proposals concerning the following: (i) allocation of parental responsibility or specific aspects of parental responsibility, (ii) residential arrangements, (iii) supervision, (iv) contact arrangements,

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				(v) education and training, (vi) medical care, (vii) the provision of services. (2) In seeking to resolve conflict of a kind to which this Chapter applies: (a) the Director-General must formulate an alternative parenting plan if the Director-General is a party to the proceedings, and (b) any party may formulate an alternative parenting plan if the Director-General is not a party to the proceedings.
			116	Application for order for alternative parenting plan (1) If the differences between a child or young person and his or her parents are so serious that it is no longer possible for the child or young person to continue living with his or her parents, the child or young person, a parent or the parents, or the Director-General may make an application to the Children's Court for an order approving an alternative parenting plan. (2) An application is to be accompanied by an alternative parenting plan. (3) The Children's Court must not make an order unless it is satisfied that the parents and the child or young person have been advised of the desirability of seeking legal advice

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				concerning any proposed changes to the allocation of parental responsibility and: (a) that all appropriate steps that could be taken to resolve the matter have been taken and that all other appropriate forms of dispute resolution have been exhausted, or (b) that no useful purpose would be served in taking those steps or other forms of dispute resolution. (4) The Children's Court may order a person who makes an application under this section to notify those persons whom the Children's Court specifies of the making of the application. Note. Section 256A sets out the circumstances in which the Children's Court may dispense with service.
			118	Court orders (1) The Children's Court may make such orders as it considers appropriate to give effect to a proposed alternative parenting plan or specified parts of the plan. (2) In considering whether to make an order with respect to a child or young person, the Children's Court is to have regard to the following: (a) the views of the child or young person, (b) the age of the child or young person,

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				(c) the maturity of the child or young person, (d) the capacity of the child or young person for independent living, (e) the practical and emotional supports available to the child or young person. Note: In accordance with its power to monitor its orders, the Children's Court may monitor an order giving effect to an alternative parenting plan.
			120	The Director-General may provide or arrange for the provision of services, including residential accommodation, where appropriate, for a child whose homelessness has been reported.
			135	Definition and types of 'out-of-home care' (1) For the purposes of this Act, '**out-of-home care**' means residential care and control of a child or young person that is provided: (a) by a person other than a parent of the child or young person, and (b) at a place other than the usual home of the child or young person, whether or not for fee, gain or reward. (2) There are 3 types of out-of-home care for the purposes of

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				this Act, as follows: (a) 'statutory out-of-home care' -see section 135A, (b) 'supported out-of-home care' -see section 135B, (c) 'voluntary out-of-home care' -see section 135C. (3) For the purposes of this Act, 'out-of-home care' does not include: (a) daily care and control of a child given by a person in the person's capacity as an approved provider of education and care services under the Children (Education and Care Services) National Law (NSW) or the *Children (Education and Care Services) Supplementary Provisions Act 2011* , or (b) any care provided by a relative of a child or young person unless: (i) the Minister has parental responsibility for the child or young person by virtue of an order of the Children's Court, or (ii) the child or young person is in the care of the Director-General, or (iii) it is provided pursuant to a supported out-of-home care arrangement as referred to in section 153, or (c) anything prescribed by the regulations not to be out-of-home care.

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				(4) However, a child or young person who is in out-of-home care does not cease to be in that care merely because the child or young person becomes subject to any care or control referred to in subsection (3).
			135A	Statutory out-of-home care (1) '**Statutory out-of-home care**' is out-of-home care that is provided in respect of a child or young person for a period of more than 14 days: (a) pursuant to a care order of the Children's Court, or (b) by virtue of the child or young person being a protected person. (2) Any statutory out-of-home care provided in respect of a child or young person is taken to commence: (a) immediately on the making of a care order for a period of more than 14 days in respect of the child or young person, or (b) in any other case: immediately the child or young person is placed with an authorised carer. (3) In this section, '**protected person**' means: (a) a person who is a ward of the Supreme Court, or subject to an order of the Supreme Court in its parens patriae jurisdiction, and of whom the Minister or the Director-General has the custody or care pursuant to an order of the

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				Supreme Court, or (b) a person who is under the parental responsibility of the Director-General pursuant to Part 6 (Parental responsibility for children awaiting adoption) of Chapter 4 of the *Adoption Act 2000* , or (c) a person in respect of whom the Minister or the Director-General has parental responsibility, either wholly or partially, pursuant to an order in force under the *Family Law Act 1975* of the Commonwealth, or (d) a person who, having been a person referred to in paragraph (a), (b) or (c), was in the custody of a person referred to in section 91 (1)(d)(i) or (ii) of the *Children (Care and Protection) Act 1987* immediately before its repeal.
			135B	Supported out-of-home care '**Supported out-of-home care**' is out-of-home care in respect of a child or young person that is, as a result of the Director-General forming the opinion that the child or young person is in need of care and protection, arranged, provided or otherwise supported by the Director-General under Part 3 of this Chapter.
			135C	Voluntary out-of-home care (1) '**Voluntary out-of-home care**' is out-of-home care in respect of a child or young person that is arranged by a parent of the child or young person, but does not include:

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				(a) out-of-home care that is provided by an individual in a private capacity, or (b) out-of-home care that is provided outside New South Wales. (2) Out-of-home care is provided by an individual 'in a private capacity' if it is provided by an individual who is not acting on behalf of, or pursuant to an arrangement with, a body or organisation.
			149	An authorised carer may apply to the Children's Court for an order awarding sole parental responsibility for the child or young person to the authorised carer, subject to this section.
			150	This section provides for the review of placements by Court order.
			151	The Director-General may make a temporary care arrangement in respect of a child or young person if the child or young person is, in the opinion of the Director-General, in need of care and protection.
			152	A temporary care arrangement can be reviewed, renewed and terminated.
			153	Operation of other arrangements (1) The Director-General may provide support in respect of the placement of a child or young person in out-of-home care that has been arranged otherwise than under a temporary care

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				arrangement as referred to in Division 1. (2) If a child or young person has been placed in out-of-home care under any such other arrangement supported by the Director-General, the child or young person must not remain in the out-of-home care provided under the arrangement for a period in excess of 21 days unless the designated agency having supervisory responsibility for the child or young person is satisfied, following appropriate assessment, that the child or young person is unable to remain with his or her parent or parents. (3) Within 7 days after the expiration of the 21-day period, the designated agency must: (a) develop and implement a permanency plan involving restoration, or (b) develop a care plan, in respect of the child or young person.
			155	Supported out of home care arrangements are to be reviewed.
			156A	There is a limit to the time a child or young person is to remain in voluntary out-of-home care.
			157	An authorised carer has authority to do certain things with respect to the daily care and control of a child or young persons.

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			161	Financial assistance for children and young persons in out-of-home care (statutory and supported) (1) The Director-General may, in respect of any child or young person in out-of-home care, grant financial assistance to any person having the care of the child or young person for any period during which the child or young person is in that person's care. (1A) Without limiting subsection (1), financial assistance may take the form of a grant, an allowance or a refund of expenditure, or any other form of financial assistance that the Director-General may approve generally, or in a particular case or class of cases. (3) If financial assistance under this section was being provided in respect of a person immediately before the person attained the age of 18 years, the Director-General may: (a) for the purpose of securing education or vocational training on a full-time basis for the person, and (b) subject to such conditions as may be prescribed by the regulations and to such additional conditions as the Director-General may determine, from time to time, and until the person reaches the age of 25 years, continue to provide financial assistance in respect of the person for any period during which the person is residing in the home of the person to whom the financial assistance is provided.

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				(4) For the purposes of this section, '**out-of-home care**' is taken to include residential care and control of a child or young person that is provided: (a) by a relative of the child or young person who has, pursuant to an order of the Children's Court, parental responsibility for the child or young person at a place other than the usual home of the child or young person, or (b) by a person in accordance with an emergency care and protection order made under section 46.
			164	The Minister is responsible for providing accommodation to a child or young person for whom the Minster has parental responsibility.
			165	Provision of assistance after leaving out-of-home care (1) The Minister is to provide or arrange such assistance for children of or above the age of 15 years and young persons who leave out-of-home care until they reach the age of 25 years as the Minister considers necessary having regard to their safety, welfare and well-being. (2) Appropriate assistance may include: (a) provision of information about available resources and services, and (b) assistance based on an assessment of need, including financial assistance and assistance for obtaining accommodation, setting up house, education and training,

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				finding employment, legal advice and accessing health services, and (c) counselling and support. (3) The Minister has a discretion to continue to provide or arrange appropriate assistance to a person after he or she reaches the age of 25 years. Note: The assistance may be provided under section 166 by a designated agency. (4) The Minister may cause to be published guidelines specifying the circumstances in which assistance may be granted under this section.
			166	A plan must be created for a child or young person leaving statutory out of home care.

3. Victoria

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

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ARTICLE 20: 1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State. 2. States Parties shall in accordance with their national laws ensure alternative care for such a child.	**Children, Youth and Families Act 2005**	VIC	1	Purposes The main purposes of this Act are: (a) to provide for community services to support children and families; and (b) to provide for the protection of children; and (c) to make provision in relation to children who have been charged with, or who have been found guilty of, offences; and (d) to continue The Children's Court of Victoria as a specialist court dealing with matters relating to children.
3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.			4	Guardianship A person (including the Secretary) who has, or under this Act is granted, guardianship of a child, has responsibility for the long-term welfare of the child and has, in relation to the child, all the powers, rights and duties that are, apart from this Act, vested by law or custom in the guardian of a child, other than: (a) the right to have the daily care and control of the child;

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				and (b) the right and responsibility to make decisions concerning the daily care and control of the child.
			5	Custody A person (including the Secretary) who has, or under this Act is granted, custody of a child has: (a) the right to have the daily care and control of the child; and (b) the right and responsibility to make decisions concerning the daily care and control of the child.
			8	Decision makers are to have regard to certain principles in making decisions, taking action and/or providing services under this Act.
			9	Best interests principles (1) For the purposes of this Act the best interests of the child must always be paramount. (2) When determining whether a decision or action is in the best interests of the child, the need to protect the child from harm, to protect his or her rights and to promote his or her development (taking into account his or her age and stage of development) must always be considered. (3) In addition to subsections (1) and (2), in determining

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				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: (a) the need to give the widest possible protection and assistance to the parent and child as the fundamental group unit of society and to ensure that intervention into that relationship is limited to that necessary to secure the safety and wellbeing of the child; (b) the need to strengthen, preserve and promote positive relationships between the child and the child's parent, family members and persons significant to the child; (c) the need, in relation to an Aboriginal child, to protect and promote his or her Aboriginal cultural and spiritual identity and development by, wherever possible, maintaining and building their connections to their Aboriginal family and community; (d) the child's views and wishes, if they can be reasonably ascertained, and they should be given such weight as is appropriate in the circumstances; (e) the effects of cumulative patterns of harm on a child's safety and development; (f) the desirability of continuity and stability in the child's care; (g) that a child is only to be removed from the care of his or her parent if there is an unacceptable risk of harm to the

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				child; (h) if the child is to be removed from the care of his or her parent, that consideration is to be given first to the child being placed with an appropriate family member or other appropriate person significant to the child, before any other placement option is considered; (i) the desirability, when a child is removed from the care of his or her parent, to plan the reunification of the child with his or her parent; (j) the capacity of each parent or other adult relative or potential care giver to provide for the child's needs and any action taken by the parent to give effect to the goals set out in the case plan relating to the child; (k) access arrangements between the child and the child's parents, siblings, family members and other persons significant to the child; (l) the child's social, individual and cultural identity and religious faith (if any) and the child's age, maturity, sex and sexual identity; (m) where a child with a particular cultural identity is placed in out of home care with a care giver who is not a member of that cultural community, the desirability of the child retaining a connection with their culture; (n) the desirability of the child being supported to gain access to appropriate educational services, health services and

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				accommodation and to participate in appropriate social opportunities; (o) the desirability of allowing the education, training or employment of the child to continue without interruption or disturbance; (p) the possible harmful effect of delay in making the decision or taking the action; (q) the desirability of siblings being placed together when they are placed in out of home care; (r) any other relevant consideration. Division 3: Decision-making principles
			11	Decision-making principles 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: (a) the child's parent should be assisted and supported in reaching decisions and taking actions to promote the child's safety and wellbeing; (b) where a child is placed in out of home care, the child's care giver should be consulted as part of the decision-making process and given an opportunity to contribute to the process; (c) the decision-making process should be fair and

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				transparent; (d) the views of all persons who are directly involved in the decision should be taken into account; (e) decisions are to be reached by collaboration and consensus, wherever practicable; (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; (g) the decision-making process should be conducted in such a way that the persons involved are able to participate in and understand the process, including any meetings that are held and decisions that are made; (h) persons involved in the decision-making process should be: (i) provided with sufficient information, in a language and by a method that they can understand, and through an interpreter if necessary, to allow them to participate fully in the process; and (ii) given a copy of any proposed case plan and sufficient notice of any meeting proposed to be held; and (iii) provided with the opportunity to involve other persons

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				to assist them to participate fully in the process; and (iv) if the child has a particular cultural identity, a member of the appropriate cultural community who is chosen or agreed to by the child or by his or her parent should be permitted to attend meetings held as part of the decision-making process. Division 4: Additional decision-making principles for Aboriginal children
			12	Additional decision-making principles (1) In recognition of the principle of Aboriginal self-management and self-determination, in making a decision or taking an action in relation to an Aboriginal child, the Secretary or a community service must also give consideration to the following principles: (a) in making a decision or taking an action in relation to an Aboriginal child, an opportunity should be given, where relevant, to members of the Aboriginal community to which the child belongs and other respected Aboriginal persons to contribute their views; (b) a decision in relation to the placement of an Aboriginal child or other significant decision in relation to an Aboriginal child, should involve a meeting convened by an Aboriginal convener who has been approved by an Aboriginal agency or by an Aboriginal organisation approved by the Secretary and, wherever possible, attended by:

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				(i) the child; and (ii) the child's parent; and (iii) members of the extended family of the child; and (iv) other appropriate members of the Aboriginal community as determined by the child's parent; (c) in making a decision to place an Aboriginal child in out of home care, an Aboriginal agency must first be consulted and the Aboriginal Child Placement Principle must be applied. (2) The requirement under subsection (1)(c) to consult with an Aboriginal agency does not apply to the making of a decision or the taking of an action under Part 3.5. (3) In this section '**Aboriginal organisation**' means an organisation that is managed by Aboriginal persons and that carries on its activities for the benefit of Aboriginal persons.
			13	Aboriginal Child Placement Principle (1) For the purposes of this Act the Aboriginal Child Placement Principle is that if it is in the best interests of an Aboriginal child to be placed in out of home care, in making that placement, regard must be had: (a) to the advice of the relevant Aboriginal agency; and

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				(b) to the criteria in subsection (2); and (c) to the principles in section 14. (2) The criteria are: (a) as a priority, wherever possible, the child must be placed within the Aboriginal extended family or relatives and where this is not possible other extended family or relatives; (b) if, after consultation with the relevant Aboriginal agency, placement with extended family or relatives is not feasible or possible, the child may be placed with: (i) an Aboriginal family from the local community and within close geographical proximity to the child's natural family; (ii) an Aboriginal family from another Aboriginal community; (iii) as a last resort, a non-Aboriginal family living in close proximity to the child's natural family; (c) any non-Aboriginal placement must ensure the maintenance of the child's culture and identity through contact with the child's community. (3) The requirements under subsection (1)(a) to have regard to the advice of the relevant Aboriginal agency and under subsection (2)(b) to consult with the relevant Aboriginal agency do not apply to the making of a decision or the taking

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				of an action under Part 3.5.
			14	Further principles for placement of Aboriginal child Self-identification and expressed wishes of child (1) In determining where a child is to be placed, account is to be taken of whether the child identifies as Aboriginal and the expressed wishes of the child. Child with parents from different Aboriginal communities (2) If a child has parents from different Aboriginal communities, the order of placement set out in sections 13(2)(b)(i) and 13(2)(b)(ii) applies but consideration should also be given to the child's own sense of belonging. (3) If a child with parents from different Aboriginal communities is placed with one parent's family or community, arrangements must be made to ensure that the child has the opportunity for continuing contact with his or her other parent's family, community and culture. Child with one Aboriginal parent and one non-Aboriginal parent (4) If a child has one Aboriginal parent and one non-Aboriginal parent, the child must be placed with the parent with whom it is in the best interests of the child to be placed. Placement of child in care of a non-Aboriginal person

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				(5) If an Aboriginal child is placed with a person who is not within an Aboriginal family or community, arrangements must be made to ensure that the child has the opportunity for continuing contact with his or her Aboriginal family, community and culture.
			Part 3.5, Div 2	This division provides for short term child care agreements to be entered into with a view to encouraging and assisting the child's parent(s) to resume the care of the child.
			Part 3.5, Div 3	This division provides for long term child care agreements.
			162	When is a child in need of protection? (1) For the purposes of this Act a child is in need of protection if any of the following grounds exist: (a) the child has been abandoned by his or her parents and after reasonable inquiries: (i) the parents cannot be found; and (ii) no other suitable person can be found who is willing and able to care for the child; (b) the child's parents are dead or incapacitated and there is no other suitable person willing and able to care for the child; (c) the child has suffered, or is likely to suffer, significant harm as a result of physical injury and the child's parents have not protected, or are unlikely to protect, the child from

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				harm of that type; (d) the child has suffered, or is likely to suffer, significant harm as a result of sexual abuse and the child's parents have not protected, or are unlikely to protect, the child from harm of that type; (e) the child has suffered, or is likely to suffer, emotional or psychological harm of such a kind that the child's emotional or intellectual development is, or is likely to be, significantly damaged and the child's parents have not protected, or are unlikely to protect, the child from harm of that type; (f) the child's physical development or health has been, or is likely to be, significantly harmed and the child's parents have not provided, arranged or allowed the provision of, or are unlikely to provide, arrange or allow the provision of, basic care or effective medical, surgical or other remedial care. (2) For the purposes of subsections (1)(c) to (1)(f), the harm may be constituted by a single act, omission or circumstance or accumulate through a series of acts, omissions or circumstances.
			166	A case plan is prepared for a child. This must include all significant decisions concerning the present and future case and wellbeing of the child, including, the placement of, and access to, the child.
			167	The Secretary musts ensure that a case plan is prepared within 6 weeks after the making of certain Court Orders.

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			168	The case plan is to be reviewed from time to time as necessary.
			169	A stability plan is to be prepared for a child. This must plan for the long-term out of home care for the child.
			170	A stability plan is to be prepared for each child who is in out of home care as a result of an interim accommodation order or a protection order. This section provides for various timeframes in which a stability plan is to be prepared.
			171	A stability plan is not required if it is not in the best interests of the child.
			172	This section sets out the powers of the Secretary as guardian or custodian of a child.
			173	Placement of children (1) This section applies in relation to a child: (a) who is in the custody or under the guardianship of the Secretary under this Act; or (b) of whom the Secretary is the guardian under the *Adoption Act 1984*; or (c) in respect of whom the Secretary has authority under the *Adoption Act 1984* to exercise any rights of custody. (2) The Secretary may deal with the child in any of the

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				following ways: (a) place him or her in an out of home care service; (b) place him or her in a secure welfare service for a period not exceeding 21 days (and, in exceptional circumstances, for one further period not exceeding 21 days) if the Secretary is satisfied that there is a substantial and immediate risk of harm to the child; (c) place him or her for adoption under the *Adoption Act 1984* if he or she is under the guardianship of the Secretary and available for adoption; (d) place him or her in any other suitable situation as circumstances require. (3) For the purposes of subsection (2)(b), the assessment of risk may be made on the basis of a single incident or an accumulated risk.
			174	Secretary's duties in placing child (1) In dealing with a child under section 173, the Secretary: (a) must have regard to the best interests of the child as the first and paramount consideration; and (b) must make provision for the physical, intellectual, emotional and spiritual development of the child in the same way as a good parent would; and

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				(c) must have regard to the fact that the child's lack of adequate accommodation is not by itself a sufficient reason for placing the child in a secure welfare service; and (d) must have regard to the treatment needs of the child. (2) In placing a child under section 173(2)(d), the Secretary must have regard to the prescribed criteria (if any).
			175	Support for child moving from secure welfare service If a child is placed in a secure welfare service under section 173, the Secretary must plan for and support the transfer of the child to and integration of the child in another suitable placement in order to reduce the need for the child to be placed in a secure welfare service again.
			176	Cultural plan for Aboriginal child (1) The Secretary must prepare a cultural plan for each Aboriginal child placed in out of home care under a guardianship to Secretary order or long-term guardianship to Secretary order. (2) A cultural plan must set out how the Aboriginal child placed in out of home care is to remain connected to his or her Aboriginal community and to his or her Aboriginal culture. (3) For the purposes of subsection (2), a child's Aboriginal community is:

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				(a) the Aboriginal community to which the child has a sense of belonging, if this can be ascertained by the Secretary; or (b) if paragraph (a) does not apply, the Aboriginal community in which the child has primarily lived; or (c) if paragraphs (a) and (b) do not apply, the Aboriginal community of the child's parent or grandparent. (4) The Secretary must monitor compliance by the carer of a child with the cultural plan prepared for a child.
			177	This section provides for a state guardianship fund the money from which may only be used for the benefit of the child.
			178	This section addresses when the Secretary is and is not to furnish parents with information about the child.
			179	The Secretary or out of home care service is to furnish carers with information about the child.
			180	The information provided under s179 is confidential.
			240	A protective intervener may serve a notice requiring a child appear or be produced before the Court for the hearing of a protection application or take a child into safe custody pending the hearing of a protection application.
			241	A protective intervener may apply to a magistrate for a warrant to have a child taken into safe custody.

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			242	Actions on taking child into safe custody (1) A protective intervener must on taking a child into safe custody under section 241 give to: (a) the child's parents, unless they cannot be found after reasonable inquiries; and (b) the child, if he or she is of or above the age of 12 years: a written statement containing the prescribed information relating to the taking of children into safe custody under that section. (2) Subject to subsection (4), a child taken into safe custody under section 241 must be brought before the Court for the hearing of an application for an interim accommodation order as soon as practicable and, in any event, within one working day after the child was taken into safe custody. (3) Unless a child is brought before the Court under subsection (2) within 24 hours after the child was taken into safe custody, he or she must, subject to subsection (4), be brought before a bail justice as soon as possible within that period of 24 hours for the hearing of an application for an interim accommodation order. (4) A child of tender years need not be brought before the Court under subsection (2) or a bail justice under subsection (3) unless the Court or bail justice otherwise orders but the Court or bail justice may deal with the application in the absence of the child.

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				(5) Until a child taken into safe custody under section 241 is brought before the Court or a bail justice for the making of an interim accommodation order, the child may only be placed: (a) in an out of home care service; or (b) if there is a substantial and immediate risk of harm to the child, in a secure welfare service; or (c) in other accommodation approved by the Secretary in accordance with the prescribed criteria (if any).
			243	A protection application may be made without taking a child into safe custody. A notice may be served requiring the child to appear and the parents to produce the child before the Court. If the Child does not appear the Court may issue a search warrant for the purpose of having the child taken into safe custody.
			262	The Court may make an interim accommodation order.
			263	Conditions of interim accommodation order (1) An interim accommodation order may provide for: (a) the release of the child pending the hearing, or the resumption of the hearing; or (b) the release of the child into the care of his or her parent

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				pending the hearing, or the resumption of the hearing; or (c) the placement of the child with a suitable person or suitable persons pending that hearing, or the resumption of the hearing, and following a report (whether oral or written) from the Secretary on that person's or those persons' suitability; or (d) the placement of the child in an out of home care service pending that hearing or resumption; or (e) the placement of the child in a secure welfare service pending that hearing or resumption if there is a substantial and immediate risk of harm to the child; or (f) the placement of the child in a declared hospital on the provision to the Court or bail justice of a statement in the prescribed form by or on behalf of the chief executive of the hospital that a bed is available for the child at the hospital; or (g) the placement of the child in a declared parent and baby unit on the provision to the Court or bail justice of a statement in the prescribed form by or on behalf of the chief executive of the agency managing the parent and baby unit that a place is available for the child at the parent and baby unit. * * * * * (3) An interim accommodation order must not be made providing for the placement of a child in a secure welfare service in any case referred to in section 262(1)(d) or

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				262(1)(e) unless the Court or bail justice making the order is of the opinion that the placement is necessary to ensure the attendance of the child on the hearing of the irreconcilable difference application. (4) An interim accommodation order must not be made in any case referred to in section 262(1)(c) unless the Court or bail justice making the order is of the opinion that the placement is necessary to ensure the attendance of the child on the hearing of the therapeutic treatment application. (5) The fact that the child does not have adequate accommodation is not by itself a sufficient reason for the making of an order providing for the placement of a child in a secure welfare service. (6) In preparing a report under subsection (1)(c), the Secretary must have regard to the prescribed criteria (if any). (7) An interim accommodation order may include any conditions that the Court or bail justice considers should be included in the best interests of the child. (8) Conditions included in an interim accommodation order may relate to the access of a parent or other person to the child. (9) The Governor in Council may by Order published in the Government Gazette declare hospitals and parent and baby units for the purposes of subsection (1).

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			264	This section provides for the duration of an interim accommodation order.
			265	A parent is entitled to be given details of a child's whereabouts under an interim accommodation order unless the Court or bail justice orders otherwise. Such a direction is made if the Court of bail justice is of the opinion it is in the best interests of the child.
			266	The Secretary may transfer a child between out of home care services or between secure welfare services if it is in the best interests of the child.
			267	An interim accommodation order may be extended.
			268	An interim accommodation order may be varied.
			269	This section provides for the procedure in the case of a breach of an interim accommodation order.
			270	A new interim accommodation order may be applied for in certain circumstances.
			271	There is a right of appeal to the Supreme Court in respect of an interim accommodation order.
			274	When Court may make order under this Part The Court may make an order under this Part in respect of a child if the Court finds:

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				(a) that the child is in need of protection; or (b) that there is a substantial and irreconcilable difference between the person who has custody of the child and the child to such an extent that the care and control of the child are likely to be seriously disrupted.
			275	Types of protection order (1) If the Court makes a finding under section 274 it may make any one of the following protection orders: (a) an order requiring a person to give an undertaking; (b) a supervision order; (c) a custody to third party order; (d) a supervised custody order; (e) a custody to Secretary order; (f) a guardianship to Secretary order; (g) a long-term guardianship to Secretary order; (h) an interim protection order. (2) A protection order may continue in force after the child attains the age of 17 years but ceases to be in force when the child attains the age of 18 years.

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			276	Restrictions on the making of protection orders (1) Subject to section 557(2), the Court must not make a protection order unless: (a) it has received and considered a disposition report; and (b) it is satisfied that all reasonable steps have been taken by the Secretary to provide the services necessary in the best interests of the child. (2) The Court must not make a protection order that has the effect of removing a child from the custody of his or her parent unless: (a) the Court has considered and rejected as being contrary to the best interests of the child, an order allowing the child to remain in the custody of his or her parent; and (b) the Court is satisfied by a statement contained in a disposition report in accordance with section 558(c) that all reasonable steps have been taken by the Secretary to provide the services necessary to enable the child to remain in the custody of his or her parent; and (c) the Court considers that the making of the order is in the best interests of the child. (3) The fact that the child does not have adequate accommodation is not by itself a sufficient reason for the making of an order referred to in subsection (2).

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			277	This section provides for the service of applications for protection orders.
			283	Custody to third party order (1) A custody to third party order: (a) grants sole or joint custody of the child to the person or persons named in the order; and (b) must not be made in favour of: (i) the Secretary in his or her official capacity; or (ii) a person employed by a community service in his or her official capacity; or (iii) a parent of the child; and (c) does not affect the guardianship of the child; and (d) remains in force for the period (not exceeding 12 months) specified in the order; and (e) may include any conditions that the Court considers to be in the best interests of the child, including: (i) a condition concerning access by a parent or other person; and (ii) in the case of an Aboriginal child, a condition incorporating a cultural plan for the child; and

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				(f) must not include any condition that gives powers or duties to, or otherwise involves, the Secretary. (2) The Court must not make a custody to third party order unless the Court: (a) has considered the effect of the order on the likelihood of the re-unification of the child with his or her family; and (b) is satisfied that, so far as practicable, the wishes and feelings of the child have been ascertained and due consideration given to them, having regard to the age and understanding of the child. (3) If two persons who have been granted joint custody of a child under a custody to third party order cannot agree on the exercise or performance of a right, power or duty vested in them as custodian of the child, either of them may apply to the Court and the Court may make such orders regarding the exercise of the right or power or the performance of the duty as it thinks fit.
			284	Supervised custody order (1) A supervised custody order: (a) grants sole or joint custody of the child to the person or persons named in the order; and (b) must not be made in favour of:

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				(i) the Secretary in his or her official capacity; or (ii) a person employed by a community service in his or her official capacity; or (iii) a parent of the child; and (c) does not affect the guardianship of the child; and (d) remains in force for the period (not exceeding 12 months) specified in the order; and (e) may include any conditions that the Court considers to be in the best interests of the child, including: (i) a condition concerning access by a parent or other person; and (ii) in the case of an Aboriginal child, a condition incorporating a cultural plan for the child; and (f) must provide that if, while the order is in force, the Secretary is satisfied that it is in the child's best interests, the Secretary may in writing direct that the child return to the sole or joint custody of a parent or the parents of the child. (2) The Court must not make a supervised custody order unless the Court: (a) has considered the effect of the order on the likelihood of the re-unification of the child with his or her family; and

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				(b) is satisfied that, so far as practicable, the wishes and feelings of the child have been ascertained and due consideration given to them, having regard to the age and understanding of the child. (3) A supervised custody order remains in force for the period (not exceeding 12 months) specified in the order. (4) In making a supervised custody order the Court must have regard to the fact that the ultimate objective is the re-unification of the child with his or her parent and must by the order direct the parties to it to take all appropriate steps to enable the re-unification of the child with his or her parent before the end of the period for which the order remains in force. (5) If two persons who have been granted joint custody of a child under a supervised custody order cannot agree on the exercise or performance of a right, power or duty vested in them as custodian of the child, either of them may apply to the Court and the Court may make such orders regarding the exercise of the right or power or the performance of the duty as it thinks fit.
			285	A person who has supervised custody of a child must permit the Secretary to visit the child and carry out the duties of the Secretary under the order.
			286	If the Secretary directs that a child is to be reunified with his or her parent(s) the supervised custody order ceases.

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			287	Custody to Secretary order (1) A custody to Secretary order: (a) grants sole custody of the child to the Secretary; and (b) does not affect the guardianship of the child; and (c) subject to this Division, remains in force for the period (not exceeding 12 months) specified in the order; and (d) may include any conditions that the Court considers to be in the best interests of the child, including: (i) a condition concerning access by a parent or other person; and (ii) in the case of an Aboriginal child, a condition incorporating a cultural plan for the child. (2) In determining whether or not to make a custody to Secretary order, the Court must have regard to advice from the Secretary as to whether or not the Secretary is satisfied that the making of the order is a workable option.
			288	A custody to Secretary order ceases to be in force on the making of an order under the Cth *Family Law Act 1975*.
			289	Guardianship to Secretary order (1) A guardianship to Secretary order:

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				(a) grants custody and guardianship of the child to the Secretary to the exclusion of all other persons; and (b) subject to this Division, remains in force for the period (not exceeding 2 years) specified in the order; and (c) ceases to be in force: (i) when the child attains the age of 18 years; or (ii) when the child marries; whichever happens first. (2) If the Court specifies in a guardianship to Secretary order a period exceeding 12 months for the order to remain in force it must direct the Secretary: (a) to review the operation of the order before the end of the period of 12 months after the making of the order; and (b) to notify the Court, the child, the child's parent and such other persons as the Court directs before the end of that period if the Secretary considers that it is in the best interests of the child for the order to continue for the duration of the period specified in the order. (3) Unless the Secretary makes a notification in accordance with subsection (2), the guardianship to Secretary order ceases to be in force at the end of the period of 12 months after it was made.

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				(4) Section 288 applies to a guardianship to Secretary order as if any reference to a custody to Secretary order were a reference to a guardianship to Secretary order.
			290	Long-term guardianship to Secretary order (1) A long-term guardianship to Secretary order: (a) may be made in respect of a child of or over the age of 12 years; and (b) grants custody and guardianship of the child to the Secretary to the exclusion of all other persons; and (c) subject to this Division, remains in force until the child attains the age of 18 years or marries whichever happens first; and (d) despite anything to the contrary in Division 7, may be made instead of extending a guardianship to Secretary order. (2) The Court must not make a long-term guardianship to Secretary order unless the Court is satisfied that: (a) there is a person or persons available with whom the child will continue to live for the duration of the order; and (b) the Secretary consents to the making of the order; and (c) the child consents to the making of the order; and (d) the making of the order is in the best interests of the

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				child. (3) The Court must direct the Secretary: (a) to review the operation of the order before the end of each period of 12 months after the making of the order; and (b) to notify the Court, the child, the child's parent and such other persons as the Court directs before the end of that period if the Secretary considers that it is in the best interests of the child for the order to continue for a further period of 12 months. (4) Unless the Secretary makes a notification in accordance with subsection (3), the guardianship to Secretary order ceases to be in force at the end of the period of 12 months to which the review applies. (5) Section 288 applies to a long-term guardianship to Secretary order as if any reference to a custody to Secretary order were a reference to a long-term guardianship to Secretary order.
				Interim protection order (1) If the Court in hearing and determining a protection application or an irreconcilable difference application is satisfied: (a) that the child is in need of protection or that there is a substantial and presently irreconcilable difference between the person who has custody of the child and the child to such

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				an extent that the care and control of the child are likely to be seriously disrupted; and (b) that it is desirable, before making a protection order, to test the appropriateness of a particular course of action; it may make an interim protection order. (2) If the Court in hearing and determining an application for a revocation of a supervised custody order or a custody to third party order or a matter relating to a breach of a supervision order or a breach of a supervised custody order is satisfied that it is desirable, before making a further protection order in respect of a child, to test the appropriateness of a particular course of action, it may make an interim protection order. (3) An interim protection order: (a) makes the Secretary accountable to the Court for the implementation of the order; and (b) states who has responsibility for the supervision of the child; and (c) may direct the preparation and submission to the Court of an additional report by a person specified in the order; and (d) must require the child and his or her parent or other person with whom the child is living to appear before the Court before the expiry of the order at the time specified in the order or in any notice caused by the Court to be served

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				on: (i) the child's parent or other person with whom the child is living; and (ii) if the child is of or above the age of 12 years, the child: a reasonable time before the hearing date specified in the notice; and (e) remains in force for the period (not exceeding 3 months) specified in the order; and (f) may include any conditions to be observed by: (i) the child in respect of whom the order is made; or (ii) the parent of the child; or (iii) the person with whom the child is living: that the Court considers to be in the best interests of the child, including conditions as to where the child lives or concerning access by a parent or other person. (4) If the child does not appear before the Court at the time required in accordance with subsection (3)(d): (a) the Secretary may, without a warrant, take the child into safe custody; or (b) the Court may issue a search warrant for the purpose of having the child taken into safe custody.

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				(5) Sections 241 and 242 apply with any necessary modifications to the taking of a child into safe custody and the issue and execution of a search warrant under this section. (6) On the child appearing or being brought before the Court under this section the Court, after considering a further disposition report, must make, or refuse to make, a further protection order but must not extend the interim protection order or make a new interim protection order (if it is still in force).
			292	Interim accommodation order if hearing adjourned (1) If an interim protection order expires and the Court adjourns the proceedings in relation to which it was made, the Court may make an interim accommodation order in respect of the child. (2) The interim accommodation order must include the same conditions as the interim protection order and must provide for the child to live with the same person or persons as those with whom the child was living under the interim protection order, unless: (a) the parties agree to different living arrangements for the child; or (b) the parties agree to different conditions; or (c) the Court is satisfied that the circumstances have changed.

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			Part 4.9, Div 10	This division provides for the extension of protection orders.
			Part 4.9, Div 11	This division provides for the variation of protection orders.
			Part 4.9, Div 12	This division provides for the revocation of protection orders.
			Part 4.9, Div 13	This division provides for instances where a protection order has been breached.
			319	When Court may make permanent care order (1) The Court may make a permanent care order in respect of a child if: (a) the child's parent or, if the child's parent has died, the child's surviving parent has not had care of the child for a period of at least 6 months or for periods that total at least 6 months of the last 12 months; and (b) it is satisfied that: (i) the parent is unable or unwilling to resume custody and guardianship of the child; or (ii) it would not be in the best interests of the child for the parent to resume custody and guardianship of the child; and (c) it is satisfied that the person or persons named in the application as suitable to have custody and guardianship of the child is or are suitable having regard to:

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				(i) any prescribed matters; and (ii) any wishes expressed by the parent in relation to those prescribed matters; and (d) it is satisfied that the person or persons named in the application is or are willing and able to assume responsibility for the permanent care of the child by having custody and guardianship of the child; and (e) it is satisfied that, so far as is practicable, the wishes and feelings of the child have been ascertained and due consideration given to them, having regard to the age and understanding of the child; and (f) it is satisfied that the best interests of the child will be promoted by the making of the order. (2) Any period that the child is in the care of a person or body under a child care agreement within the meaning of Part 3.5 must be disregarded in calculating any period under subsection (1).
			320	This section provides for the application of a permanent care order and for notice to be served.
			321	A permanent care order grants custody and guardianship of a child to the person(s) named in the order and in some instance may additionally grant guardianship to the child's parent. The order may include conditions including, inter alia, in the

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				case of Aboriginal children, a condition incorporating a cultural plan for the child.
			322	This section provides for restrictions on the making of permanent care orders.
			323	Restrictions on the making of a permanent care order in respect of an Aboriginal child The Court must not make a permanent care order to place an Aboriginal child solely with a non-Aboriginal person or persons unless: (a) the disposition report states that: (i) no suitable placement can be found with an Aboriginal person or persons; and (ii) the decision to seek the order has been made in consultation with the child, where appropriate; and (iii) the Secretary is satisfied that the order sought will accord with the Aboriginal Child Placement Principle; and (b) the Court has received a report from an Aboriginal agency that recommends the making of the order; and (c) if the Court so requires, a cultural plan has been prepared for the child.
			324	A permanent care order may lapse in relation to proceedings

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				brought under the Cth *Family Law Act 1975*.
			326	A permanent care order may be varied or revoked.
			327	The Court may vary or revoke a permanent care order if it is satisfied it is in the best interests of the child.
			598	A child may be taken into safe custody in certain circumstances.
	Child Wellbeing and Safety Act 2005	Vic	1	Purposes The main purposes of this Act are: (a) to establish principles for the wellbeing of children; and (b) to establish the Victorian Children's Council; and (c) to establish the Children's Services Co-ordination Board; and (d) to provide for the Child Safety Commissioner; and (e) to confer functions and powers on the Child Safety Commissioner in relation to the safety of children; and (f) to provide for the notification of births to municipal councils; and (g) to repeal Part IX of the *Health Act 1958*.
			4	The principles are for the guidance in the development and

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				provision of Government, Government-funded and community services for children and their families.
			5	Principles for children (1) The development and provision of services for children and families should be based upon the fundamental principles that: (a) society as a whole shares responsibility for promoting the wellbeing and safety of children; (b) all children should be given the opportunity to reach their full potential and participate in society irrespective of their family circumstances and background; (c) those who develop and provide services, as well as parents, should give the highest priority to the promotion and protection of a child's safety, health, development, education and wellbeing; (d) parents are the primary nurturers of a child and Government intervention into family life should be limited to that necessary to secure the child's safety and wellbeing, however, it is the responsibility of Government to meet the needs of the child when the child's family is unable to provide adequate care and protection; (e) every child should be able to enrol in a kindergarten program at an early childhood education and care centre. (2) Services for children and families should be designed and

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				developed: (a) to readily identify harm and damage to the child and to provide for intervention by providers of services to remove or ameliorate the causes of that harm or damage and to strengthen the capacity and efforts of parents, their families and communities to support the child as early as possible in the child's life; (b) to accord with the needs of each local community with the active involvement of that community's cultural groups, and to be accessible and responsive to the particular cultures, languages and circumstances of the community and to be properly planned and co-ordinated with services provided by other local and regional communities; (c) to give the highest priority to making appropriate and sufficient levels of assistance available to children and families in communities or population groups that are known to have the greatest need; (d) to promote continuous improvement in the quality of those services, based on the best available knowledge of the needs of children and their stages of development. (3) The providers of services to children and families should: (a) protect the rights of children and families and, to the greatest extent possible, encourage their participation in any decision-making that affects their lives; (b) acknowledge and be respectful of the child's individual

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				identity, circumstances and cultural identity and be responsive to the particular needs of the child; (c) make decisions about intervention by the providers of services into a child's or family's life and about access by a child or family to those services in a timely manner being mindful of any harmful effects that may be caused to the child by a delay in making decisions or providing services; (d) ensure that families are made aware of the services available to them and of the benefits these services can provide, especially to those families in most need of assistance; (e) co-operate with other services or professionals to work in the interests of the child and family.
	Community Services Act 1970	Vic	19A	Child care agreements (1) In this section '**service provider**' means the Secretary or the person in charge of a community service approved under section 58(1) of the *Children and Young Persons Act 1989* or a registered residential service within the meaning of the *Intellectually Disabled Persons' Services Act 1986*. (2) A parent of a child or young person under 18 years of age may enter into a written agreement with a service provider to place the child or young person in the care of the service provider for the purpose of supporting the child or young person and his or her parent and encouraging and assisting the child's or young person's parent to resume the care of the

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				child or young person. (3) An agreement under sub-section (2) does not affect the guardianship and custody of a child or young person. (4) An agreement under sub-section (2) must specify a period not exceeding 6 months, for which the agreement is to have effect. (4A) If a parent who does not have custody of a child or young person is a party to an agreement under sub-section (2), the person who does have custody of the child or young person may request the service provider to return the child or young person to that person. (4B) As soon as is practicable after receiving a request under sub-section (4A), the service provider must notify the parent who was a party to the agreement of the making of the request. (4C) Subject to any provision to the contrary made by or under the authority of this or any other Act, the service provider must cause the child or young person to be returned to the person who has custody of him or her: (a) as soon as practicable after notifying the parent under sub-section (4B); or (b) within a reasonable time if the parent cannot be notified. (5) The parties to an agreement under sub-section (2) may agree to extend the agreement before it expires for a further

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				period not exceeding 6 months after reviewing the agreement and consulting the Secretary if required by sub-section (5A), which consultation must be initiated by the service provider. (5A) For the purposes of sub-section (5), the Secretary must be consulted only if the child or young person has been in the care of the service provider for a continuous period of 6 months or for an aggregate of 6 months during a period of 9 months. (6) A child or young person under 18 years of age may not be placed in the care of a service provider by virtue of this section for a period exceeding 12 months, or for periods which in aggregate exceed 12 months in any period of 18 months, except in accordance with sub-section (7). (7) If a child or young person has been in the care of a service provider for a period of 12 months, or for periods which in aggregate are equal to 12 months in any period of 18 months, another agreement under sub-section (2) in respect of the child or young person must not be entered into unless: (a) the parties have consulted with the Secretary, which consultation must be initiated by the service provider; and (b) the Secretary has consented in writing to the making of the agreement. (7A) A child or young person under 18 years of age may not be placed in the care of a service provider by virtue of this section for a period exceeding 2 years or for periods which in

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				the aggregate exceed 2 years in any period of 3 years. (8) An agreement under this section is not void or voidable by reason only that a party to it has not attained the age of 18 years. (9) The wishes of the child or young person must be taken into account in making an agreement under this section. (10) An agreement under this section may be terminated by either party giving notice in writing to the other party. (11) Upon the expiry or termination of an agreement under this section, the person having the care of the child or young person must, as soon as is practicable, cause the child or young person to be returned to the parent of the child or young person. (12) The Minister may determine the rates to be paid in respect of children or young persons under an agreement under this section.
			13B	Children who may be the subject of a long-term child care agreement Subject to section 13C, an agreement under that section may be entered into with respect to a child or young person who, immediately before the entering into of that agreement, had for a period of 2 years or for periods which in the aggregate exceed 2 years in the preceding period of 3 years: (a) been the subject of an agreement or agreements under

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				section 13A; or (b) been in the care of a children's home, children's reception centre, approved foster care agency or youth hostel established or appointed under this Act; or (c) been in the care of a community service; or (d) been in the care of; (i) a registered residential service; or (ii) a residential institution, Within the meaning of the *Intellectually Disabled Persons' Services Act 1986*; or (e) been in the care of the Department at any premises proclaimed to be a residential program under section 19 of the Intellectually *Disabled persons' Services Act 1986*.
			13C	Long-term child care agreements (1) In this section '**service provider**' has the same meaning as in section 13A. (2) A parent of a child or young person under 18 years of age may, with the written approval of the Secretary, enter into a written agreement with a service provider and, if necessary for the purposes of sub-section (5)(b), a suitable person with

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				respect to the care of the child or young person. (3) The Secretary must not approve the entering into of an agreement under sub-section (2) unless the Secretary is satisfied that: (a) the agreement is in the best interests of the child or young person; and (b) there are no alternative means available that would enable the parent of the child or young person to resume the care of the child or young person; and c) the wishes of the child or young person have, having regard to the age and understanding of the child or young person, been taken into account in making the agreement; and (d) the agreement provides for the parent of the child or young person to have an on-going involvement with the child or young person in the terms specified in the agreement. (4) An agreement under sub-section (2) may provide for a child to be in the care of: (a) a community service; or (b) a suitable person or persons other than: (i) a parent of the child or young person; or (ii) the Secretary in his or her official capacity; or

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				(iii) a person employed by a community service in his or her official capacity; or (c) a registered residential service within the meaning of the *Intellectually Disabled Persons' Services Act 1986* or a residential institution within the meaning of that Act; or (d) the Department at any premises proclaimed to be a residential program under section 19 of the *Intellectually Disabled Persons' Services Act 1986*. (5) To be a suitable person for the purposes of sub-section (4)(b) a person must be: (a) approved in writing by the Secretary or by a person authorised by the Secretary in that behalf as being a person suitable to have the long-term care of a child or young person; and (b) a party to the agreement under sub-section (2). (5A) An authorisation under sub-section (5)(a): (a) must be made by instrument; and (b) may be made to the holder of an office or position or to any person for the time being acting in or performing the duties of an office or position. (6) An agreement under sub-section (2) must:

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				(a) set out the objectives of the agreement; and (b) set out the role of the service provider which must include: (i) participating in any review of the agreement; and (ii) assisting in the resolution of any disputes that may arise relating to the care of the child or young person; and (iii) assisting, if required, in the provision of particular services specified in the agreement; and (c) clarify the respective roles of the parent of the child, the service provider and (where appropriate) the person or persons in whose care the child is under sub-section (4)(b). (7) An agreement under sub-section (2) must specify the period for which the agreement is to have effect which: (a) in the case of an agreement referred to in sub-section (4)(a), (c) or (d), must not exceed 2 years; and (b) in the case of an agreement referred to in sub-section (4)(b), may be for any period up to the day on which the child or young person attains the age of 18 years. (7A) If a parent who does not have custody of a child or young person is a party to an agreement under sub-section (2), the person who does have custody of the child or young person may request the service provider to return the child or

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				young person to that person. (7B) As soon as is practicable after receiving a request under sub-section (7A), the service provider must notify the parent who was a party to the agreement of the making of the request. (7C) Subject to any provision to the contrary made by or under the authority of this or any other Act, the service provider must cause the child or young person to be returned to the person who has custody of him or her: (a) as soon as practicable after notifying the parent under sub-section (7B); or (b) within a reasonable time if the parent cannot be notified. (8) An agreement under sub-section (2) that is referred to in sub-section (4)(a), (c) or (d): (a) may be reviewed at any time during the period of the agreement at the request of one of the parties to the agreement; and (b) must be reviewed before the end of the agreement; and (c) may, with the written approval of the Secretary, be extended for a period not exceeding 2 years with or without any variation in its terms or another such agreement may be entered into. (9) An agreement under sub-section (2) that is referred to in

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				sub-section (4)(b): (a) may be reviewed at any time during the period of the agreement at the request of one of the parties to the agreement; and (b) must be reviewed at least once in each period of 2 years. (10) Any of the following may result from a review of an agreement under sub-section (9): (a) the agreement may be terminated; (b) the agreement may be extended for a period that does not extend beyond the day on which the child or young person attains the age of 18 years; (c) the terms of the agreement may be varied; (d) another such agreement may be entered into. (11) An agreement under sub-section (2) is not void or voidable by reason only that a party to it has not attained the age of 18 years. (12) An agreement under sub-section (2) may be terminated by any party by giving notice in writing to the other party or parties. (13) On the expiry or termination of an agreement under sub-section (2), the person having the care of the child or young person must, as soon as is practicable, cause the child or

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				young person to be returned to the parent of the child or young person. (14) The Minister may determine the rates to be paid in respect of children or young persons under an agreement under sub-section (2).
			13E	The Secretary must prepare and implement procedures for the review of decisions relating to the care of a child or young person made under or in relation to child care agreements and long term child care agreements.
			13F	An application for a review of a decision made under or in relation to child care agreements and long term child care agreements made be made to the Victorian Civil and Administrative Tribunal.
	Adoption Act 1984	Vic	10	An order may be made for the adoption of a child.
			15	(1) The Court shall not make an order for the adoption of a child unless the Court has received a report in writing on behalf of the Secretary or the principal officer of an approved agency concerning the proposed adoption and, after considering the report and any other evidence before the Court, the Court is satisfied that: (a) the applicants satisfy the prescribed requirements relating to approval of applicants and, except in the case of an order referred to in section 12, the applicants have been approved under section 13; (b) the Secretary or principal officer has given consideration

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				to any wishes expressed by a parent of the child in relation to the religion, race or ethnic background of the proposed adoptive parent or adoptive parents of the child; (c) the Secretary or principal officer has given consideration to any wishes expressed by a parent of the child after consent was given or dispensed with about access to or information about the child and any arrangements agreed between the parent and the proposed adoptive parents of the child for access to the child or for the giving of information about the child; and (d) the welfare and interests of the child will be promoted by the adoption. (2) Subsection (1) does not apply in relation to an order under section 10 for the adoption of a child who has attained the age of eighteen years before the making of the order but the Court shall not make an adoption order in such a case unless it is satisfied that special circumstances make it desirable that the child should be adopted. (3) A report on behalf of the Secretary or the principal officer of an approved agency may be made by the Secretary or principal officer or by a person authorized by the Secretary or principal officer in writing either generally or in any particular case.
			37	A consent by a parent to the adoption of a child in which the wish is expressed under section 50 that the child be adopted within the Aboriginal community may be made subject to a condition that that parent, and such relatives of the child as

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				are specified in the consent and members of the Aboriginal community to which the child belongs have a right of access in accordance with the prescribed terms to the child.
			45	The Secretary or Principle Officer has powers to do certain things in relation to the care of a child awaiting adoption.
			46	The Secretary or Principle Officer has powers to do certain things in relation to the guardianship of a child awaiting adoption.
			50	1) The provisions of this section are enacted in recognition of the principle of Aboriginal self-management and self-determination and that adoption is absent in customary Aboriginal child care arrangements. (2) Where: (a) consent is given to the adoption of a child by a parent: (i) who is an Aborigine; or (ii) who is not an Aborigine but, in the instrument of consent, states the belief that the other parent is an Aborigine- and who, in the instrument of consent, expresses the wish that the child be adopted within the Aboriginal community; or (b) the Court has dispensed with the consent of the parents and the Secretary or principal officer of an approved agency believes on reasonable grounds that the child has been accepted by an Aboriginal community as an Aborigine and so

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				informs the Court: the Court shall not make an order for the adoption of the child unless the Court is satisfied as to the matters referred to in section 15 and, where a parent has given consent, is satisfied that the parent has received, or has in writing expressed the wish not to receive, counselling from an Aboriginal agency and- (c) that the proposed adoptive parents are members, or at least one of the proposed adoptive parents is a member, of the Aboriginal community to which a parent who gave consent belongs; (d) that a person of a class referred to in paragraph (c) is not reasonably available as an adoptive parent and that the proposed adoptive parents, or at least one of the proposed adoptive parents, is a member of an Aboriginal community; or (e) that a person of a class referred to in paragraph (c) or (d) is not reasonably available as an adoptive parent and that the proposed adoptive parents are persons approved by or on behalf of the Secretary or the principal officer of an approved agency and by an Aboriginal agency as suitable persons to adopt an Aboriginal child. (3) In this section, '**Aboriginal agency**' means an organization declared by Order of the Governor in Council published in the Government Gazette to be an Aboriginal agency in accordance with subsection (4).

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				(4) An organization shall not be declared under subsection (3) to be an Aboriginal agency unless the Secretary is satisfied that the organization is managed by Aborigines, that its activities are carried on for the benefit of Aborigines and that it has experience in child and family welfare matters and the declaration includes a statement to that effect. (5) The Governor in Council may, by Order published in the Government Gazette, revoke or vary an order made under subsection (3).
			59	Where the consent of a parent to the adoption of an Aboriginal child was given subject to a condition in accordance with section 37, the adoption order may, subject to and in accordance with consents given to the adoption, be made subject to a condition that a parent or the parents, relatives of the child and members of the Aboriginal community to which the child belongs have such right to have access to the child as is specified in the order.
			60	Where the Court is satisfied: (a) that circumstances exist which make it desirable so to do, whether by reason of the age of the child or otherwise; and (b) that the parent or parents and the adoptive parent or adoptive parents have, after consent to the adoption was given, agreed that the adoption order should be made subject to certain conditions: the adoption order may be made subject to either or both of the following conditions: (c) a condition that a parent or both parents or such other

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				relatives of the child as are specified in the order or both the parent or parents and relatives so specified have such right to have access to the child as is specified in the order; (d) a condition that the adoptive parent or adoptive parents of the child provide information about the child to the Secretary or principal officer of an approved agency to be given to the parent or parents at such periods and in accordance with such terms as are specified in the order.
			60	The Court may vary or revoke conditions.
			61	An adoption order ceases to be subject to conditions when the child reaches 18 or the conditions are revoked.
			62	The Court may make interim orders with respect to the custody of a child and those orders may be subject to such terms and conditions relating to the maintenance, education and welfare of, and access to, the child as the Court thinks fit.
			105	The Secretary may, out of moneys available for that purpose, make grants or provide other financial or other assistance on such terms and conditions as the Secretary determines to a person or persons with whom a child of a prescribed class has been placed for the purposes of adoption or to an adoptive parent, or adoptive parents, of a child of a prescribed class.

4. Queensland

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

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ARTICLE 20: 1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State. 2. States Parties shall in accordance with their national laws ensure alternative care for such a child. 3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.	**Adoption Act 2009**	QLD	5	The main object of this Act is to provide for the adoption of children in Queensland, and for access to information about parties to adoptions in Queensland, in a way that: (a) promotes the wellbeing and best interests of adopted persons throughout their lives; and (b) supports efficient and accountable practice in the delivery of adoption services; and (c) complies with Australia's obligations under the Hague convention.
			6	(1) This Act is to be administered under the principle that the wellbeing and best interests of an adopted child, both through childhood and the rest of his or her life, are paramount. (2) Subject to subsection (1), this Act is to be administered under the following principles: (a) the purpose of an adoption is to provide for a child's long-term care, wellbeing and development by creating a permanent parent-child relationship between the child and the adoptive parents; (b) adoption is an appropriate long-term care option for a child if:

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				(i) the child's parents choose adoption for the child's long-term care; or (ii) the child does not have a parent who is willing and able to protect the child from harm and meet the child's need for long-term stable care; (c) each of the parties to an adoption or proposed adoption should be given the information he or she reasonably needs to participate effectively in processes under this Act; (d) 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; (e) 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; (f) an adopted child of a particular ethnic or other cultural background should have: (i) access to information about the child's ethnic or cultural heritage; and (ii) opportunities to develop and maintain a connection with

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				the child's ethnicity or culture; and (iii) opportunities to maintain contact with the child's community or language group; (g) a child's adoptive parents have the primary responsibility for the child's upbringing, protection and development; (h) an adopted child should be cared for in a way that: (i) ensures a safe, stable and nurturing family and home life; and (ii) promotes openness and honesty about the child's adoption; and (iii) promotes the development of the child's emotional, mental, physical and social wellbeing; (i) the same protection, support and resources should be available to an adopted person regardless of whether the adoption was a local adoption, intercountry adoption or adoption by a step-parent; (j) although a final adoption order changes legal relationships, it may be in an adopted child's best interests for: (i) the child's emotional connections with members of the child's birth family to continue; or (ii) the child to have ongoing contact with members of the

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				child's birth family; or (iii) the child or the child's adoptive parents to exchange information with members of the child's birth family.
			7	(1) This Act is also to be administered under the following principles: (a) because adoption (as provided for in this Act) is not part of Aboriginal tradition or Island custom, adoption of an Aboriginal or Torres Strait Islander child should be considered as a way of meeting the child's need for long-term stable care only if there is no better available option; Note: Island custom includes a customary child-rearing practice that is similar to adoption in so far as parental responsibility for a child is permanently transferred to someone other than the child's parents. This practice is sometimes referred to as either 'customary adoption' or 'traditional adoption'. (b) it is in the best interests of an Aboriginal or Torres Strait Islander child: (i) to be cared for within an Aboriginal or Torres Strait Islander community; and (ii) to maintain contact with the child's community or language group; and (iii) to develop and maintain a connection with the child's

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				Aboriginal tradition or Island custom; and (iv) for the child's sense of Aboriginal or Torres Strait Islander identity to be preserved and enhanced. (2) If the Childrens Court exercises a power under this Act in relation to an Aboriginal or Torres Strait Islander child, the court must have regard to the views, about the child and about Aboriginal tradition or Island custom relating to the child, of an appropriate Aboriginal or Torres Strait Islander person. (3) As far as is reasonably practicable, the chief executive and other officers of the department must try to conduct consultations, counselling, negotiations and other proceedings involving an Aboriginal person or Torres Strait Islander in a way and in a place that is appropriate to Aboriginal tradition or Island custom.
			9	Unless a contrary intention appears, a reference in this Act to a child's wellbeing or best interests is a reference to the child's wellbeing or best interests through both childhood and the rest of his or her life.
			10	A child may be adopted by an order of the Childrens Court under this Act.
			44	(1) The chief executive must ensure the child is given the prescribed information before an application for an adoption order for the child is made. (2) The information must be given in a way and to an extent

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				that is reasonable, having regard to the child's age and ability to understand. (3) In this section: '**prescribed information**' means information about the following matters: (a) options other than adoption for the child's long-term care; (b) possible psychological effects for the child, both short and long-term, of being adopted; (c) how the child's parents may give the chief executive their preferences relating to the child's adoption including, for example, preferences about: (i) the child's religious upbringing; or (ii) the characteristics of the child's adoptive parents and adoptive family; or (iii) the degree of openness in the adoption; (d) the adoption process under this Act, including: (i) the consents required for an adoption; and (ii) the process for recruiting, assessing and selecting prospective adoptive parents; and (iii) the chief executive's functions and powers relating to the

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				child's adoption; and (iv) the role of the Childrens Court; (e) support that may be available to the child under sections 47, 235 and 236; (f) the legal effect of adoption; (g) the rights and responsibilities of the parties to an adoption, including those relating to: (i) adoption plans; and (ii) access to information about, and contact with, other parties to an adoption throughout the life of the adopted person; (h) the requirement for counselling under section 45 and how it will be arranged; (i) if the child to be adopted is an Aboriginal person or Torres Strait Islander: (i) options other than adoption for the child's long-term care in accordance with Aboriginal tradition or Island custom; and (ii) the importance of the child being cared for in a way that: (a) helps the child to develop and maintain a connection with the child's Aboriginal tradition or Island custom; and (b) preserves and enhances the child's sense of Aboriginal or

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				Torres Strait Islander identity; (j) the guiding principles that: (i) the 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; and (ii) the child's views must be given consideration, having regard to the child's age or ability to understand.
			45	The chief executive must ensure the child receives counselling about the proposed adoption.
			46	(1) This section applies to the counselling under section 45 if the child is an Aboriginal person or Torres Strait Islander. (2) The counselling must be carried out in a way and at a place that is appropriate to Aboriginal tradition or Island custom. (3) A person who, as part of the counselling, explains the information under section 44(3), definition prescribed information, paragraph (i): (a) need not be a counsellor under section 45; but (b) must be an appropriate Aboriginal or Torres Strait Islander person. (4) This section does not apply to the extent the child declines to receive counselling in a way, or by a person,

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				required by this section.
			47	(1) The chief executive may appoint a qualified person to support the child during the adoption process. (2) In this section: '**qualified person**' means a social worker, lawyer or other person who the chief executive is satisfied has the necessary expertise or experience to give the relevant support and who is not an employee of the department.
			49	In this division: '**care agreement**' means an agreement under this division between a child's parent and the chief executive (child safety) for the short-term placement of the child in care while consents for the child's adoption are obtained.
			50	(1) This section applies if a parent of a child has asked the chief executive to arrange for the child's adoption or indicated to the chief executive that the parent is considering adoption for the child. (2) The chief executive (child safety) may enter into a care agreement with a parent who has custody of the child. (3) The agreement must be in the approved form, signed by the parties. (4) The child may also be a party to the agreement if the chief executive (child safety) considers it appropriate, having

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				regard to the child's age and ability to understand. (5) The agreement must state: (a) arrangements for contact between the child and the parents; and (b) the type of decisions relating to the child for which the parents must be consulted.
			51	(1) While a care agreement for a child is in force, the chief executive (child safety) has custody of the child and may place the child in care under the *Child Protection Act 1999*, chapter 2, part 6, division 4. (2) The *Child Protection Act 1999*, sections 74, 90 and 162 apply as if a reference in the sections to a care agreement included a care agreement under this Act.
			52	There is to be no care agreement against the wishes of the parents.
			53	A care agreement expires if it has been in force for 1 year.
			54	(1) Unless it ends earlier under this division, a care agreement has effect until the chief executive becomes a guardian of the child under section 57. (2) A care agreement may be ended at any time with the agreement of the chief executive and each parent who is a party to the agreement.

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				(3) A party to a care agreement may end the agreement at any time by giving at least 2 days' notice to the other parties. (4) A care agreement ends if the chief executive (child safety) obtains custody or guardianship of the child under the *Child Protection Act 1999*. Note: If a care agreement ends and the child is a child in need of protection under the *Child Protection Act 1999*, the chief executive (child safety) may take the action under that Act that the chief executive (child safety) considers appropriate.
			57	(1) This section applies when: (a) a parent consents to the child's adoption; or (b) the need for a parent's consent to the child's adoption is dispensed with. (2) The parent stops having guardianship of the child. (3) The chief executive becomes a guardian of the child under this section. (4) No-one else's guardianship of the child is affected.
			58	If the chief executive is the child's guardian under section 57, the chief executive may place the child in care under the *Child Protection Act 1999*, chapter 2, part 6, division 4.

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			64	(1) This section applies if: (a) the chief executive is a guardian of a child under section 57; and (b) it is at least 30 days since the last consent required for the adoption was given; and (c) the chief executive has received a notice from a corresponding officer for another State: (i) stating that the corresponding officer wishes to arrange for the child's adoption in the other State; and (ii) asking the chief executive to renounce the chief executive's guardianship of the child. (2) If the chief executive is satisfied it would be in the child's best interests, the chief executive may, by a signed document, renounce the chief executive's guardianship of the child. (3) Immediately after signing a document under subsection (2), the chief executive must give to the corresponding officer the document and all consents to the adoption of the child held by the chief executive. (4) When the chief executive gives the documents to the corresponding officer, the chief executive stops having guardianship of the child.
			88	(1) From time to time, the chief executive must select persons from the expression of interest register to be assessed

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				for suitability to be an adoptive parent. (2) The purpose of selections under this section is to ensure the likely future need for adoptive parents identified in planning under division 1 may be met. (3) The chief executive must select appropriate numbers of persons, with appropriate profiles, according to the likely need relating to local adoptions and the likely need relating to intercountry adoptions for each relevant country. (4) The chief executive must be satisfied the persons selected are, based on their profiles, likely to meet the anticipated placement needs of children to be adopted. Note: The placement needs of children to be adopted by an intercountry adoption are determined having regard to matters that include the requirements of the competent authority for the country that apply to prospective adoptive parents of children from the country. See schedule 3, definition placement needs, paragraph (c). (5) Subject to subsection (4), the chief executive may, in deciding whom to select, give priority to: (a) a person with the same ethnic background as children to be adopted; or (b) a person who has previously adopted a child with similar

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				placement needs as children to be adopted; or (c) a person with the earliest relevant expression of interest. (6) In this section: '**relevant expression of interest**', for a person, means: (a) if the person's name has previously been removed from the expression of interest register under section 79(1)(a), the expression of interest for which the person's name had been entered in the register; or (b) otherwise, the person's current expression of interest.
			89	(1) This section applies if the chief executive anticipates a particular child will need an adoptive placement. (2) To ensure the child's placement needs are met, the chief executive may select 1 or more persons under this section to be assessed for suitability to be an adoptive parent of the child. (3) If the child has an approved carer, the chief executive may select the approved carer. (4) If a sibling of the child has been adopted, the chief executive may select a person who adopted the sibling. (5) If the chief executive considers there is no-one listed in the suitable adoptive parents register who is likely to meet the anticipated placement needs of the child, the chief executive

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				may select anyone who the chief executive considers is likely to meet the anticipated placement needs of the child. Examples of persons who may be likely to meet the anticipated placement needs of a child: for a child with a disability, a person who has previously expressed an interest in adopting a child with a disability for an Aboriginal or Torres Strait Islander child, a person from the child's community or language group (6) A person may be selected under this section even if the person: (a) does not have a conforming expression of interest; or (b) is not listed in the expression of interest register; or (c) does not have a spouse. (7) However: (a) the chief executive may select a person listed in the expression of interest register who does not have a conforming expression of interest only if the person agrees to being selected; and (b) the chief executive may select a person who is not listed in the expression of interest register only if: (i) the person agrees to being selected; and

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				(ii) the person is an adult; and (iii) the person is an Australian citizen or has a spouse who is an Australian citizen; and (iv) the person is resident or domiciled in Queensland; and (v) for a person who has a spouse: (a) the spouse is not the same gender as the person; and (b) the person and the spouse are living together. (8) In this section: '**conforming expression of interest**', in relation to a child, means a current expression of interest that: (a) relates to a local adoption or an intercountry adoption from a particular country, whichever is relevant to the child; and (b) contains preferences that are consistent with the child's characteristics.
			118	(1) This section applies if the person is being assessed for suitability to be an adoptive parent of a child who is, or children who include, an Aboriginal or Torres Strait Islander child. (2) The chief executive must consult with an appropriate

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				Aboriginal or Torres Strait Islander person about: (a) Aboriginal tradition or Island custom relating to the child; and (b) the person's suitability.
			123	The chief executive must have regard to the guiding principles under section 6.
			124	The Chief Executive must have regard to certain criteria in determining a person's capacity to be an adoptive parent.
			127	The chief executive must have regard to the person's attitudes to, and understanding of, the issues relevant to adoptive parenting, including: (a) issues about informing a child of his or her adoption; and (b) the significance to an adopted child of his or her birth parents and their families; and (c) the importance of developing and maintaining relationships with an adopted child's birth parents and their families, through an open adoption arrangement, so far as this is possible and in the child's best interests.
			131	(1) This section applies if the chief executive is making a decision about the person's suitability to be an adoptive parent of a child who is, or children who include, an Aboriginal or Torres Strait Islander child.

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				(2) The chief executive must have regard to the person's ability and willingness to: (a) help the child to maintain contact with the child's community or language group; and (b) help the child to develop and maintain a connection with the child's Aboriginal tradition or Island custom; and (c) preserve and enhance the child's sense of Aboriginal or Torres Strait Islander identity. (3) If the chief executive is making a decision about the person's suitability to be an adoptive parent of a particular Aboriginal or Torres Strait Islander child, the chief executive must have regard to the person's links with, and standing in, the child's community or language group.
			132	(1) This section applies if the chief executive is making a decision about the person's suitability to be an adoptive parent of a child who is, or children who include, a child of a particular ethnic or other cultural background. (2) The chief executive must have regard to the person's ability and willingness to: (a) understand the child's background; and (b) help the child to maintain contact with the child's community or language group; and (c) help the child to develop and maintain a connection with

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				the child's ethnicity or culture; and (d) preserve and enhance the child's sense of ethnic or cultural identity. (3) If the person has a current expression of interest that relates to an intercountry adoption from a particular country, the chief executive must have regard to: (a) the person's attitudes to, and understanding of, the country and its culture; and (b) the person's ability and willingness, if the person adopted a child from the country, to: (i) continue to learn about the country and its culture; and (ii) help the child learn about the country and its culture.
			153	The Chief executive must select prospective adoptive parents.
			155	The chief executive must make the selection that will best promote the child's wellbeing and best interests.
			156	The chief executive must have regard to the needs of the child to be adopted, including any needs relating to the following matters: (a) the child's age and gender; (b) any Aboriginal, Torres Strait Islander or other cultural

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				background of the child; (c) any existing or possible future medical condition or disability of the child; (d) the child's education; (e) whether the child has a sibling who has been adopted or is proposed to be adopted; (f) the child's social background.
			157	(1) The chief executive must have regard to any preferences of the child's parents including, for example, preferences about: (a) the child's religious upbringing; or (b) the characteristics of the child's adoptive parents and adoptive family; or (c) the degree of openness in the adoption. (2) Subsection (1) does not apply to a preference that the chief executive considers is likely to be contrary to the child's wellbeing or best interests.
			158	(1) The chief executive must have regard to any of the characteristics of the persons the chief executive is considering selecting that are relevant to: (a) their willingness and ability to parent a child with the

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				needs of the child to be adopted; or (b) the extent to which they meet the preferences of the child's parents being considered under section 157. (2) In this section: characteristics, of a person, includes the matters relating to the person's suitability decided by the chief executive on an assessment under part 6.
			160	The chief executive must have regard to the consideration that it would ordinarily be in a child's best interests to be placed with the same family as any sibling of the child who is also to be adopted or has previously been adopted.
			163	(1) This section applies if the child to be adopted is an Aboriginal person or Torres Strait Islander. (2) The chief executive must consult with an appropriate Aboriginal or Torres Strait Islander person about the selection decision. (3) The chief executive must give proper consideration to selecting, in order of priority: (a) a member of the child's community or language group; or (b) another Aboriginal person or Torres Strait Islander who is compatible with the child's community or language group; or

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				(c) another Aboriginal person or Torres Strait Islander. (4) This section does not limit the application of the other provisions of this division to the selection of prospective adoptive parents for the child.
			165	(1) An adoption plan is a written plan, agreed to by the parties to the plan, about anything relating to the adopted child's wellbeing or interests. (2) An adoption plan may, for example, address any of the following matters: (a) the degree of openness there will be in the adoption, including: (i) when a party will communicate with another party; and (ii) how a party will communicate with another party, including whether the communication will be through the mailbox service or in another way that does not identify the first party; and (iii) the matters about which information will be exchanged; Examples of matters about which information may be exchanged: the child's development important events in the child's life

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				a medical condition of the child the medical history of the child's biological family (b) the adoptive parents' commitment to telling the child about the adoption and helping the child understand the circumstances of the adoption; (c) if the child is an Aboriginal or Torres Strait Islander child, how the adoptive parents will: (i) help the child to maintain contact with the child's community or language group; and (ii) help the child to develop and maintain a connection with the child's Aboriginal tradition or Island custom; and (iii) preserve and enhance the child's sense of Aboriginal or Torres Strait Islander identity; (d) if the child has a particular ethnic or other cultural background, how the adoptive parents will: (i) help the child to maintain contact with the child's community or language group; and (ii) help the child to develop and maintain a connection with the child's ethnicity or culture; and (iii) preserve and enhance the child's sense of ethnic or cultural identity.

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			169	(1) On request by the parties to a proposed adoption or adoption, the chief executive must help them to prepare an adoption plan, for example, by making an officer of the department available to act as an intermediary. (2) If an adoption plan is required under section 172, the chief executive must arrange for an appropriate Aboriginal or Torres Strait Islander person to be available to help the parties to prepare the plan.
			170	(1) This section applies if a birth parent and a prospective adoptive parent have advised the chief executive that they wish there to be in-person contact, after the adoption, between the child and the child's birth family. (2) An adoption plan must be agreed to, between the birth parent and prospective adoptive parents, that addresses how the contact will happen and the nature and frequency of the contact.
			172	(1) This section applies if the child is an Aboriginal or Torres Strait Islander child and the prospective adoptive parents are not from the child's community or language group. (2) An adoption plan must be agreed to that addresses the matters stated in section 165(2)(c).
			174	The Children's Court may make adoptions orders.
			Part 9, Div 2	The Chief Executive may apply for interim orders with

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				respect to the adoption of a child.
	Child Protection Act 1999	QLD	4	The purpose of this Act is to provide for the protection of children.
			5A	Paramount principle The main principle for administering this Act is that the safety, wellbeing and best interests of a child are paramount. Example: If the chief executive is making a decision under this Act about a child where there is a conflict between the child's safety, wellbeing and best interests, and the interests of an adult caring for the child, the conflict must be resolved in favour of the child's safety, wellbeing and best interests.
			5B	The following are general principles for ensuring the safety, wellbeing and best interests of a child: (a) a child has a right to be protected from harm or risk of harm; (b) a child's family has the primary responsibility for the child's upbringing, protection and development; (c) the preferred way of ensuring a child's safety and wellbeing is through supporting the child's family; (d) if a child does not have a parent who is able and willing to protect the child, the State is responsible for protecting the

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				child; (e) in protecting a child, the State should only take action that is warranted in the circumstances; (f) if a child is removed from the child's family, support should be given to the child and the child's family for the purpose of allowing the child to return to the child's family if the return is in the child's best interests; (g) if a child does not have a parent able and willing to give the child ongoing protection in the foreseeable future, the child should have long-term alternative care; (h) if a child is removed from the child's family, consideration should be given to placing the child, as a first option, in the care of kin; (i) if a child is removed from the child's family, the child should be placed with the child's siblings, to the extent that is possible; (j) a child should only be placed in the care of a parent or other person who has the capacity and is willing to care for the child (including a parent or other person with capacity to care for the child with assistance or support); (k) a child should have stable living arrangements, including arrangements that provide: (i) for a stable connection with the child's family and community, to the extent that is in the child's best interests;

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				and (ii) for the child's developmental, educational, emotional, health, intellectual and physical needs to be met; (l) a child should be able to maintain relationships with the child's parents and kin, if it is appropriate for the child; (m) a child should be able to know, explore and maintain the child's identity and values, including their cultural, ethnic and religious identity and values; (n) a delay in making a decision in relation to a child should be avoided, unless appropriate for the child.
			5C	The following additional principles apply in relation to an Aboriginal or Torres Strait Islander child: (a) the child should be allowed to develop and maintain a connection with the child's family, culture, traditions, language and community; (b) the long-term effect of a decision on the child's identity and connection with their family and community should be taken into account. Note: See also sections 6 (Recognised entities and decisions about Aboriginal and Torres Strait Islander children) and 83 (Additional provisions for placing Aboriginal and Torres

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				Strait Islander children in care).
			5E	This section sets out the protocol and factors in relation to giving a child an opportunity to express their views under this Act.
			6	(1) When making a significant decision about an Aboriginal or Torres Strait Islander child, the chief executive or an authorised officer must give an opportunity to a recognised entity for the child to participate in the decision-making process. (2) When making a decision, other than a significant decision, about an Aboriginal or Torres Strait Islander child, the chief executive or an authorised officer must consult with a recognised entity for the child before making the decision. (3) However, if compliance with subsection (1) or (2) is not practicable because a recognised entity for the child is not available or urgent action is required to protect the child, the chief executive or an authorised officer must consult with a recognised entity for the child as soon as practicable after making the decision. (4) If the Childrens Court exercises a power under this Act in relation to an Aboriginal or Torres Strait Islander child, the court must have regard to: (a) the views, about the child and about Aboriginal tradition and Island custom relating to the child, of: (i) a recognised entity for the child; or

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				(ii) if it is not practicable to obtain the views of a recognised entity for the child: members of the community to whom the child belongs; and (b) the general principle that an Aboriginal or Torres Strait Islander child should be cared for within an Aboriginal or Torres Strait Islander community. Editor's note: The *Acts Interpretation Act 1954*, section 36, contains definitions of Aboriginal tradition and Island custom. (5) As far as is reasonably practicable, the chief executive or an authorised officer must try to conduct consultations, negotiations, family group meetings and other proceedings involving an Aboriginal person or Torres Strait Islander (whether a child or not) in a way and in a place that is appropriate to Aboriginal tradition or Island custom. (6) In this section: significant decision, about an Aboriginal or Torres Strait Islander child, means a decision likely to have a significant impact on the child's life. Examples of decisions relating to an Aboriginal or Torres Strait Islander child that may be significant decisions: 1 a decision made in the course of investigating an allegation of harm to the child

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				2 a decision about placing the child in care
			Part 3AA	This Part provides for the application and making of temporary custody orders of a child. The purpose of a temporary custody order is to authorise the action necessary to ensure the immediate safety of a child while the chief executive decides the most appropriate action to meet the child's ongoing protection and care needs (for example, applying for a child protection order).
			51B	(1) A case plan for a child is a written plan for meeting the child's protection and care needs. (2) A case plan may include any of the following matters: (a) a goal or goals to be achieved by implementing the plan; (b) arrangements about where or with whom the child will live, including interim arrangements; (c) services to be provided to meet the child's protection and care needs and promote the child's future wellbeing; (d) matters for which the chief executive will be responsible, including particular support or services; (e) the child's contact with the child's family group or other persons with whom the child is connected; (f) arrangements for maintaining the child's ethnic and

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				cultural identity; (g) matters for which a parent or carer will be responsible; (h) a proposed review day for the plan.
			51C	The chief executive must ensure a case plan is developed for each child who the chief executive is satisfied: (a) is a child in need of protection; and (b) needs ongoing help under this Act. Notes: 1 Ongoing help under this Act may be, for example: • giving support services to the child and his or her family • arranging for the child to be placed in care under a care agreement • seeking a child protection order for the child. 2 A case plan may not be required for a particular child because another entity is working to address the child's protection and care needs and, as part of the work, is undertaking case planning with the child and the child's family.
			51D	(1) The chief executive must ensure case planning for a child

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				is carried out in a way: (a) that enables timely decision-making; and (b) that is consistent with the principles for administering this Act; and (c) that encourages and facilitates the participation of: (i) the child; and (ii) the child's parents; and (iii) other appropriate members of the child's family group; and (iv) for an Aboriginal or Torres Strait Islander child: Aboriginal or Torres Strait Islander agencies and persons; and Note: Section 6(5) requires consultations, negotiations, family group meetings and other proceedings involving and Aboriginal person or Torres Strait Islander to be conducted in a way and in a place that is appropriate to Aboriginal tradition or Island custom. (v) other appropriate persons; and (d) that facilitates input from other appropriate entities; and

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				Example of input from another entity: information given by a local health agency about services available to a family (e) that gives priority to the child's needs for long-term stable care and continuity of relationships; and (f) that enables the persons involved to understand it. Examples for paragraph (f): 1 The chief executive should explain the case planning process to a child using language appropriate to the child's age, language skills and circumstances. 2 The chief executive should tell a child's parents about child protection concerns, and explain steps in the case planning process to them, in a way that helps them to understand, ask questions and participate in any discussion. For a parent from a non-English speaking background, this may involve the use of an interpreter. (2) The chief executive must give participants in case planning the information they reasonably need to participate effectively. (3) The information must be given to the participants in a timely way to facilitate their effective participation.
			51G	The purpose of a family group meeting is to provide family based responses to children's protection care and needs and to

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				ensure an inclusive planning and decision making process.
			51H	A family group meeting must be convened to develop a case plan for a child.
			51I	A private convenor can convene a family group meeting.
			51J	A family group meeting is to deal with the matters relating to a child's protection and care needs or wellbeing. For a case planning meeting this includes considering the child's protection and care needs; and agreeing on a plan to meet those needs and promote the child's wellbeing.
			51L	At a family group meeting, the convenor must give certain persons a reasonable opportunity to attend and participate including if the child is an Aboriginal or Torres Strait Islander child, a recognised entity, or member of a recognised entity, for the child. The convenor must also allow the child or parent of a child to have someone attend and participate to help or support the child or parent eg. an Aboriginal or Torres Strait Islander elder or a representative within a child's cultural community.
			51ZA	The intervention for the child is the action taken by the chief executive to give the help, including ongoing help, that the child needs. Examples: giving support services to the child and his or her family

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				arranging for the child to be placed in care under a care agreement
			51ZD	(1) A care agreement is an agreement between the chief executive and the child's parents for the short-term placement of the child in the care of someone other than the parents. Note: Section 82 deals with the persons in whose care the child may be placed under a care agreement. (2) A care agreement entered into for a child to whom section 51Z(a) applies is an assessment care agreement. (3) A care agreement entered into for a child to whom section 51Z(b) applies is a child protection care agreement.
			51ZE	(1) The chief executive may enter a care agreement for the child if satisfied: (a) it would be in the child's best interests to be temporarily placed in the care of someone other than the child's parents; and (b) it is not likely that, if the parents end the agreement, the child will be at immediate risk of harm. (2) The chief executive must obtain and have regard to the child's views before entering the care agreement, unless the child is unable to form and express views, taking into account

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				the child's age and ability to understand. (3) The child may also be a party to the care agreement. (4) Despite section 51ZD(1), the chief executive may enter an assessment care agreement with only 1 of the child's parents if: (a) it is impractical to obtain the consent of the other parent to the agreement before entering the agreement; or (b) the chief executive has made a reasonable attempt to obtain the consent of the other parent before entering the agreement. (5) If the chief executive has not obtained the consent of the other parent before entering an assessment care agreement under subsection (4), the chief executive must make a reasonable attempt to give a copy of the agreement to the other parent, and obtain the other parent's consent, after the agreement has been entered into. Note: See section 51ZI(2) for how the other parent may end the agreement. (6) The chief executive may not enter an assessment care agreement with only 1 of the child's parents if another parent refuses to enter the agreement.
			51ZF	(1) A care agreement must be in the approved form, signed

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				by the parties. (2) A care agreement must state the following: (a) the name of the person in whose care the child is to be placed; (b) the period of the agreement; (c) where the child will be living; (d) arrangements for contact between the child and his or her parents; (e) the type of decisions relating to the child for which the parents must be consulted.
			51ZG	While a child protection care agreement is in force for the child, the chief executive has custody of the child.
			51ZH	The period of an assessment care agreement must not be more than 30 days and may not be extended. A child protection care agreement initially must not be more than 30 days but may be extended.
			51ZI	A care agreement can be ended with 2 days' notice and it can also automatically end.
			54	(1) An authorised officer may apply to the Childrens Court for a child protection order for a child.

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				(2) The application must: (a) state the grounds on which it is made; and (b) state the nature of the order sought; and (c) comply with applicable rules of court; and (d) be filed in the court.
			59	(1) The Childrens Court may make a child protection order only if it is satisfied: (a) the child is a child in need of protection and the order is appropriate and desirable for the child's protection; and (b) there is a case plan for the child: (i) that has been developed or revised under part 3A; and (ii) that is appropriate for meeting the child's assessed protection and care needs; and (c) if the making of the order has been contested, a conference between the parties has been held or reasonable attempts to hold a conference have been made; and (d) the child's wishes or views, if able to be ascertained, have been made known to the court; and (e) the protection sought to be achieved by the order is unlikely to be achieved by an order under this part on less

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				intrusive terms. (2) Before making a child protection order, the court may have regard to any contravention of this Act or of an order made under this Act. (3) When deciding whether a case plan is appropriate under subsection (1)(b)(ii), it is not relevant whether or not all persons who participated in the development or revision of the plan agreed with the plan. (4) The court must not make a child protection order unless a copy of the child's case plan and, if it is a revised case plan, a copy of the report about the last revision under section 51X have been filed in the court. (5) Also, before making a child protection order granting custody or guardianship of a child to a person other than the chief executive, the court must have regard to any report given, or recommendation made, to the court by the chief executive about the person, including a report about the person's criminal history, domestic violence history and traffic history. Editor's note: Section 95 deals with reports about the person's criminal history, domestic violence history and traffic history. (6) In addition, before making a child protection order granting long-term guardianship of a child, the court must be

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				satisfied: (a) there is no parent able and willing to protect the child within the foreseeable future; or (b) the child's need for emotional security will be best met in the long term by making the order. (7) Further, the court must not grant long-term guardianship of a child to: (a) a person who is not a member of the child's family unless the child is already in custody or guardianship under a child protection order; or (b) the chief executive if the court can properly grant guardianship to another suitable person. (8) Before the court extends or makes a further child protection order granting custody or short-term guardianship of the child, the court must have regard to the child's need for emotional security and stability. (9) This section does not apply to the making of an interim order under section 67.
			61	The Childrens Court may make any 1 or more of the following child protection orders that the court considers to be appropriate in the circumstances: (a) an order directing a parent of the child to do or refrain from doing something directly related to the child's

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				protection; (b) an order directing a parent not to have contact, direct or indirect: (i) with the child; or (ii) with the child other than when a stated person or a person of a stated category is present; (c) an order requiring the chief executive to supervise the child's protection in relation to the matters stated in the order; (d) an order granting custody of the child to: (i) a suitable person, other than a parent of the child, who is a member of the child's family; or (ii) the chief executive; (e) an order granting short-term guardianship of the child to the chief executive; (f) an order granting long-term guardianship of the child to: (i) a suitable person, other than a parent of the child, who is a member of the child's family; or (ii) another suitable person, other than a member of the child's family, nominated by the chief executive; or (iii) the chief executive.

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			64	Certain child protection orders can be extended.
			65	A child protection order may be varied or revoked in certain circumstances.
			67	On the adjournment of a proceeding, the Court may make interim orders with respect to, inter alia, the temporary custody of the child.
			68	On adjournment of proceedings for child protection orders, the Court may make other orders.
			73	(1) This section applies if: (a) a child protection order is made for a child, other than an order granting long-term guardianship of the child; or (b) a care agreement is entered into for a child. (2) The chief executive must take steps that are reasonable and practicable to help the child's family meet the child's protection and care needs. (3) For subsection (2), the chief executive must have regular contact with the child and the child's parents or other appropriate members of the child's family.
			74	(1) This section applies if the chief executive: (a) has custody or guardianship of a child under a child protection order; or

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				(b) has custody of a child under a care agreement. (2) 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. (3) Subsection (2) does not limit another provision of this Act. (4) The chief executive must ensure the child: (a) is told about the charter of rights and its effect; and (b) is given written information about the charter of rights unless, having regard to the child's age or ability to understand, the chief executive reasonably believes the child would not be able to understand the information; and (c) is told about the Commission for Children and Young People and Child Guardian and other entities known to the chief executive that can help the child if the child considers that the charter of rights is not being complied with in relation to the child.
			75	(1) This section applies to a child or person who is or has been a child in the custody or under the guardianship of the chief executive. (2) As far as practicable, the chief executive must ensure the child or person is provided with help in the transition from being a child in care to independence.

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				(3) Without limiting subsection (2), the help may include financial assistance provided under section 159.
			77	(1) The child's parents or other person with whom the child is living must: (a) keep the chief executive informed about where the child is living; and (b) allow authorised officers to have reasonable contact with the child. (2) For subsection (1)(b), an authorised officer may enter the place where the child is living at any reasonable time to have contact with the child and to inquire about the child's care. (3) The officer may exercise the officer's powers under subsection (2) with the help, and using the force, that is reasonable in the circumstances.
			78	For giving effect to the child protection order, the Chief Executive may direct a parent to do or refrain from doing something specifically relating to the supervisions matters.
			79	(1) If, under a child protection order, a member of a child's family is granted custody of the child, the family member must help the chief executive achieve the child's future protection, including, for example, by taking part in meetings with the child's family. (2) The family member must:

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				(a) keep the chief executive informed about where the child is living; and (b) allow authorised officers to have reasonable contact with the child.
			80	(1) If, under a child protection order for a child, a member of the child's family or another suitable person is granted custody or guardianship of the child, the family member or person must: (a) tell the parents where the child is living; and (b) give them information about the child's care; and (c) provide opportunity for contact between the child and the child's parents and appropriate members of the child's family as often as is appropriate in the circumstances. (2) However, if the Childrens Court is satisfied compliance with the requirements of subsection (1) would constitute a significant risk to the safety of the child or anyone else with whom the child is living, the court may order that all or part of the requirements do not apply, or apply with stated modifications or apply to a stated extent.
			80A	(1) This section applies if: (a) a child protection order granting long-term guardianship of a child under section 61(f)(i) or (ii) is in force; and (b) the child is no longer cared for by the child's long-term

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				guardian. Examples of situations where a child may no longer be cared for by the child's long-term guardian: (i) The child is an older child transitioning to independent living. (ii) The relationship between the child and the long-term guardian has broken down to the point where the child is unable to live with the long-term guardian. (2) The long-term guardian must immediately give the chief executive written notice that the care has ended and, if the long-term guardian knows where the child is living, that information. (3) If the chief executive is given notice under subsection (2), the chief executive must review the child's protection and care needs, and wellbeing, and take any further action the chief executive considers appropriate.
			82	(1) The chief executive may place the child in the care of: (a) an approved kinship carer for the child; or (b) an approved foster carer; or (c) an entity conducting a departmental care service; or (d) a licensee; or

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				(e) if it is not possible, or not in the child's best interests, for the child to be placed in the care of an entity mentioned in paragraphs (a) to (d): a provisionally approved carer for the child; or (f) if the chief executive is satisfied another entity would be the most appropriate for meeting the child's particular protection and care needs: that entity. Example for paragraph (f): A particular medical or residential facility may be the most appropriate entity for a child with a disability. (2) Also, if the child is in the chief executive's custody or guardianship under a child protection order, the chief executive may place the child in the care of a parent of the child.
			82A	(1) The child may be placed in the care of more than 1 approved carer at the same time. (2) If it is proposed to place the child in the care of an approved carer, and the approved carer lives with his or her spouse and holds a certificate of approval jointly with the spouse, the child must be placed in the care of both of them.
			83	(1) This section applies if the child is an Aboriginal or a Torres Strait Islander child. (2) The chief executive must ensure a recognised entity for the child is given an opportunity to participate in the process

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				for making a decision about where or with whom the child will live. (3) However, if because of urgent circumstances the chief executive makes the decision without the participation of a recognised entity for the child, the chief executive must consult with a recognised entity for the child as soon as practicable after making the decision. (4) In making a decision about the person in whose care the child should be placed, the chief executive must give proper consideration to placing the child, in order of priority, with: (a) a member of the child's family; or (b) a member of the child's community or language group; or (c) another Aboriginal person or Torres Strait Islander who is compatible with the child's community or language group; or (d) another Aboriginal person or Torres Strait Islander. (5) Also, the chief executive must give proper consideration to: (a) the views of a recognised entity for the child; and (b) ensuring the decision provides for the optimal retention of the child's relationships with parents, siblings and other people of significance under Aboriginal tradition or Island

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				custom. (6) If the chief executive decides there is no appropriate person mentioned in subsection (4)(a) to (d) in whose care the child may be placed, the chief executive must give proper consideration to placing the child, in order of priority, with: (a) a person who lives near the child's family; or (b) a person who lives near the child's community or language group. (7) Before placing the child in the care of a family member or other person who is not an Aboriginal person or Torres Strait Islander, the chief executive must give proper consideration to whether the person is committed to: (a) facilitating contact between the child and the child's parents and other family members, subject to any limitations on the contact under section 87; and (b) helping the child to maintain contact with the child's community or language group; and (c) helping the child to maintain a connection with the child's Aboriginal or Torres Strait Islander culture; and (d) preserving and enhancing the child's sense of Aboriginal or Torres Strait Islander identity.
			83A	Certain information is to be given to carers and children.

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			84	The Chief Executive and the approved carer are to enter into a written agreement for the child's care.
			87	(1) The chief executive must provide opportunity for contact between the child and the child's parents and appropriate members of the child's family as often as is appropriate in the circumstances. (2) However, the chief executive may refuse to allow, or restrict or impose conditions on, contact between the child and the child's parents or members of the child's family, if the chief executive is satisfied it is in the child's best interests to do so or it is not reasonably practicable in the circumstances for the parents or family member to have the contact. (3) If the chief executive refuses to allow, or restricts or imposes conditions on contact between the child and a person, the chief executive must give written notice of the decision to each person affected by the decision. (4) The notice mentioned in subsection (3) must comply with the *QCAT Act*, section 157(2).
			88	(1) This section applies if the child is an Aboriginal or a Torres Strait Islander child. (2) The chief executive must provide opportunity for contact, as often as is appropriate in the circumstances, between the child and appropriate members of the child's community or language group.

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			93	The chief executive may give written notice to the public trustee requiring the public trustee to manage the property for the child.
			122	(1) The chief executive must take reasonable steps to ensure a child placed in care under section 82(1) is cared for in a way that meets the following standards (the statement of standards): (a) the child's dignity and rights will be respected at all times; (b) the child's needs for physical care will be met, including adequate food, clothing and shelter; (c) the child will receive emotional care that allows him or her to experience being cared about and valued and that contributes to the child's positive self-regard; (d) the child's needs relating to his or her culture and ethnic grouping will be met; (e) the child's material needs relating to his or her schooling, physical and mental stimulation, recreation and general living will be met; (f) the child will receive education, training or employment opportunities relevant to the child's age and ability; (g) the child will receive positive guidance when necessary to help him or her to change inappropriate behaviour;

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				(h) the child will receive dental, medical and therapeutic services necessary to meet his or her needs; (i) the child will be given the opportunity to participate in positive social and recreational activities appropriate to his or her developmental level and age; (j) the child will be encouraged to maintain family and other significant personal relationships; (k) if the child has a disability, the child will receive care and help appropriate to the child's special needs. (2) For subsection (1)(g), techniques for managing the child's behaviour must not include corporal punishment or punishment that humiliates, frightens or threatens the child in a way that is likely to cause emotional harm. (3) For subsection (1)(j), if the chief executive has custody or guardianship of the child, the child's carer must act in accordance with the chief executive's reasonable directions. (4) The application of the standards to the child's care must take into account what is reasonable having regard to: (a) the length of time the child is in the care of the carer or care service; and (b) the child's age and development.
			Schedule 1	CHARTER OF RIGHTS FOR A CHILD IN CARE

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				Because: The Parliament recognises the State has responsibilities for a child in need of protection who is in the custody or under the guardianship of the chief executive under this Act, this Act establishes the following rights for the child: (a) to be provided with a safe and stable living environment; (b) to be placed in care that best meets the child's needs and is most culturally appropriate; (c) to maintain relationships with the child's family and community; (d) 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; (e) 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; (f) to privacy, including, for example, in relation to the child's personal information; (g) if the child is under the long-term guardianship of the chief executive, to regular review of the child's care

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				arrangements; (h) to have access to dental, medical and therapeutic services, necessary to meet the child's needs; (i) to have access to education appropriate to the child's age and development; (j) to have access to job training opportunities and help in finding appropriate employment; (k) to receive appropriate help with the transition from being a child in care to independence, including, for example, help about housing, access to income support and training and education.
	Adoption of Children Act 1964	Qld	5A	The objective of this Act is to facilitate securing for children who are available for adoption the best possible placements, having regard to the welfare and interests of the children, and to protect the rights and to provide for servicing the needs of all parties to the adoption process.
			18	(1) In making arrangements with a view to the adoption of a child in respect of whom a general consent has been given or dispensed with and who is not a special needs child and, in particular, in determining which prospective adopter or prospective adopters the chief executive will approve in the case of such a child the chief executive shall have regard to: (a) the needs of the child that are known to the chief executive at the time of making the arrangements; and

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				(b) the characteristics of the prospective adopters; and (c) expressed preferences of the child's parent or guardian; and (d) other matters the chief executive considers, on reasonable grounds, relevant. (2) In having regard to the child's needs, the chief executive must consider: (a) the child's age and gender; and (b) the child's indigenous or cultural background; and (c) the child's medical needs, including, for example, known medical conditions, disabilities or potential future health conditions or disabilities; and (d) the educational needs of the child; and (e) the principle that the child should ordinarily be the youngest child in the adoptive family at the time of the adoption order. (3) In having regard to the characteristics of the prospective adopters, the chief executive must consider: (a) the age and gender of a child the prospective adopters have been assessed as having the capacity to parent; and (b) whether the prospective adopters have been assessed as

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				having the capacity to parent children who are siblings; and (c) the prospective adopters' religion, if any; and (d) the prospective adopters' indigenous or cultural background; and (e) whether the prospective adopters are willing and have been assessed as having the capacity: (i) to parent a child with known medical conditions, disabilities or potential future health conditions or disabilities; and (ii) to parent a child from a particular social background; and (iii) to participate in exchanging non-identifying correspondence, through the department, with the child's birth family after an adoption order has been made; and (f) the age of other children in the prospective adopters' family. (4) In having regard to the expressed preferences of a parent or guardian, particularly preferences stated in the instrument of consent to the adoption of the child, the chief executive must consider: (a) the child's religious upbringing; and (b) characteristics of prospective adopters and adoptive

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				family composition; and (c) the parent's or guardian's wishes to participate in the voluntary exchange of non-identifying correspondence through the department; and (d) specific preferences the chief executive considers, on reasonable grounds, promote the child's welfare and best interests. (5) In this section: prospective adopters includes a sole prospective adopter.
			18A	In making arrangements with a view to the adoption of a child in respect of whom a general consent has been given or dispensed with and, in particular, in determining which prospective adopter or prospective adopters the chief executive will approve in the case of such a child the chief executive shall have regard to the indigenous or ethnic background and cultural background of the child and shall approve a prospective adopter who, or prospective adopters 1 of whom, has a similar indigenous or ethnic background and cultural background, unless: (a) it appears to the chief executive that such a prospective adopter or prospective adopters is not or are not available and cannot reasonably be expected to become available promptly; or (b) in the chief executive's opinion, the welfare and interests

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				of the child would not be best served by so doing.

5. South Australia

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

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ARTICLE 20: 1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State. 2. States Parties shall in accordance with their national laws ensure alternative care for such a child. 3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.	**Adoption Act 1988**	SA	4 (interpretation)	Defines '*adoptive parent*, *birth parent*, *Chief Executive*, *child*, *guardian* and *relative* and considers when a person will be regarded as an Aboriginal.
			7	In all proceedings under this Act, the welfare of the child must be regarded as the paramount consideration.
			11	(1) The Court will not make an order for the adoption of an Aboriginal child unless satisfied that adoption is clearly preferable, in the interests of the child, to any alternative order that may be made under the laws of the State or the Commonwealth. (2) Subject to subsection (3), an order for the adoption of an Aboriginal child will not be made except in favour of a member of the child's Aboriginal community who has the correct relationship with the child in accordance with Aboriginal customary law or, if there is no such person seeking to adopt the child, some other Aboriginal person. (3) An order for the adoption of an Aboriginal child may be made in favour of a person who is not an Aboriginal person if the Court is satisfied: (a) that there are special circumstances justifying the making of the order; and

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				(b) that the child's cultural identity with the Aboriginal people will not be lost in consequence of the adoption.
			25	There are certain procedures in place to follow relating to the guardianship of a child awaiting adoption.
			26	In special cases, the Minister may enter into an arrangement with prospective adoptive parents to contribute to the support of the child after the making of an adoption order.
	Children's Protection Act 1993	SA	3	The objects of this Act are: (a) to ensure that all children are safe from harm; and (b) to ensure as far as practicable that all children are cared for in a way that allows them to reach their full potential; and (c) to promote caring attitudes and responses towards children among all sections of the community so that the need for appropriate nurture, care and protection (including protection of the child's cultural identity) is understood, risks to a child's wellbeing are quickly identified, and any necessary support, protection or care is promptly provided; and (d) to recognise the family as the primary means of providing for the nurture, care and protection of children and to accord a high priority to supporting and assisting the family to carry out its responsibilities to children.
			4	(1) Every child has a right to be safe from harm.

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				(2) Every child has a right to care in a safe and stable family environment or, if such a family environment cannot for some reason be provided, in some alternative form of care in which the child has every opportunity that can be reasonably provided to develop to his or her full potential. (3) In the exercise of powers under this Act, the above principles and the child's wellbeing and best interests are to be the paramount considerations. (4) In determining a child's best interests, consideration must be given to the following: (a) the desirability of keeping the child within the child's own family and the undesirability of withdrawing the child unnecessarily from a neighbourhood or environment with which the child has an established sense of connection; (b) the need to preserve and strengthen relationships between the child, the child's parents and grandparents and other members of the child's family (whether or not the child is to reside with those parents, grandparents or other family members); (c) the need to encourage, preserve and enhance the child's sense of racial, ethnic, religious, spiritual and cultural identity and to respect traditions and values of the community into which the child was born; (d) if the child is able to form and express his or her own views as to his or her best interests: those views;

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				(e) the undesirability of interrupting the child's education or employment unnecessarily. (5) In relation to an Aboriginal or Torres Strait Islander child, the Aboriginal and Torres Strait Islander Child Placement Principle is to be observed. (6) A child who is placed or about to be placed in alternative care: (a) must be provided with: (i) a nurturing, safe and stable living environment; and (ii) care that is, as far as practicable, appropriate to the child's needs and culturally appropriate; and (b) must be allowed to maintain relationships with the child's family (including the child's grandparents) and community, to the extent that such relationships can be maintained without serious risk of harm; and (c) must be consulted about, and (if the child is reasonably able to do so) take part in making, decisions affecting the child's life, particularly decisions about the child's ongoing care, where the child is to live, contact with the child's family and the child's health and schooling; and (d) 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; and

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				(e) is entitled to have his or her privacy respected; and (f) if the child is in alternative care and under the guardianship, or in the custody, of the Minister: is entitled to regular review of the child's circumstances and the arrangements for the child's care. (7) All proceedings under this Act must be dealt with expeditiously, with due regard to the degree of urgency of each particular case.
			5	(1) No decision or order may be made under this Act as to where or with whom an Aboriginal or Torres Strait Islander child will reside unless consultation has first been had with a recognised Aboriginal organisation, or a recognised Torres Strait Islander organisation, as the case may require. (2) A person or court, in making any decision or order under this Act in relation to an Aboriginal or Torres Strait Islander child, must, in addition to complying with the requirements of section 4, have regard: (a) to the submissions made by or on behalf of a recognised Aboriginal or Torres Strait Islander organisation consulted in relation to the child; and (b) if there has been no such consultation: to Aboriginal traditions and cultural values (including kinship rules) as generally expressed by the Aboriginal community, or to Torres Strait Islander traditions and cultural values (including kinship rules) as generally expressed by the Torres Strait

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				Islander community, as the case may require; and (c) to the general principle that an Aboriginal child should be kept within the Aboriginal community and a Torres Strait Islander child should be kept within the Torres Strait Islander community. (3) For the purposes of this Act, a recognised Aboriginal or Torres Strait Islander organisation is an organisation that the Minister, after consulting with the Aboriginal community or a section of the Aboriginal community, or the Torres Strait Islander community or a section of the Torres Strait Islander community, as the case may require, declares by notice in the Gazette to be a recognised Aboriginal organisation, or a recognised Torres Strait Islander organisation, for the purposes of this Act. (4) The Minister may, by notice in the Gazette, after consulting with the relevant community or a section of the relevant community, vary or revoke a declaration under subsection (3). (5) All reasonable endeavours should be made when conducting consultations, negotiations, meetings or proceedings of any kind under this Act involving an Aboriginal person (whether a child or not) to do so in a manner and in a venue that is as sympathetic to Aboriginal traditions as is reasonably practicable. (6) All reasonable endeavours should be made when conducting consultations, negotiations, meetings or proceedings of any kind under this Act involving a Torres

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				Strait Islander person (whether a child or not) to do so in a manner and in a venue that is as sympathetic to Torres Strait Islander traditions as is reasonably practicable. (7) The Minister will cause discussions to be held from time to time between the Department and the relevant community for the purposes of implementing subsections (5) and (6).
			8	(1) The Minister must seek to further the objects of this Act and, to that end, should endeavor: (a) to promote a partnership approach between the Government, local government, non-government agencies and families in taking responsibility for and dealing with the problem of child abuse and neglect; (b) to promote and assist in the development of coordinated strategies for dealing with the problem of child abuse and neglect; (c) to provide, or assist in the provision of, services for dealing with the problem of child abuse and neglect and for the care and protection of children; (d) to provide, or assist in the provision of, preventative and support services directed towards strengthening and supporting families, reducing the incidence of child abuse and neglect and maximising the well-being of children generally; (e) to assist the Aboriginal community to establish its own programs for preventing or reducing the incidence of abuse or

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				neglect of children within the Aboriginal community; (f) to provide, or assist in the provision of, information or education services for parents, prospective parents and other members of the community in relation to the developmental, social and safety requirements of children; (g) to provide, or assist in the provision of, education to persons who are required to notify the Department on forming a reasonable suspicion that a child is being abused or neglected; (h) to provide, or assist in the provision of, services: (i) to assist children who are under the guardianship or in the custody of the Minister; and (ii) to assist persons who, as children, have been under the guardianship or in the custody of the Minister, to prepare for transition to adulthood; (i) to collect and publish relevant data or statistics or to assist in their collection or publication; (j) to promote, encourage or undertake research into child abuse and neglect; (k) to encourage the provision, by tertiary institutions in relevant courses, of instruction about child abuse and neglect and its prevention and treatment; (ka) to encourage the provision of child safe environments

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				particularly by government and non-government organisations that provide services for, or have contact with, children; (l) generally to do such other things as the Minister believes will further the objects of this Act. (2) The Minister must: (a) assist in the provision of: (i) services directed at enhancing the quality of care of children and family life by strengthening and supporting families, and thus preventing or reducing the incidence of child abuse and neglect; and (ii) support services to children who have been abused or neglected and their families; and (b) ensure that those support services are offered to children who are known by the Department to have been abused or neglected and their families and that genuine efforts are made to encourage such children and their families to avail themselves of the services. (3) The Minister must, at least twice in each calendar year, consult groups representing, or comprised of, children or other persons who are, or have been, under the guardianship, or in the custody, of the Minister. (4) The purpose of consultation as required under subsection (3) is to ensure that the Minister regularly receives

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				advice from, and is made aware of the experiences of, persons who are, or have been, under the guardianship, or in the custody, of the Minister.
			8A	The Chief Executive has various functions, including codifying principles and standards for dealing with children as well as information regarding an employee or volunteer's criminal history, provide guidance on dealing with suspected neglect of a child and the recruitment of staff who may have contact with children in the course of their employment, ensure procedures for making complaints of suspected child neglect are accessible and responsive to children.
			9	(1) The guardians of a child and the Minister may enter into an agreement (a '**custody agreement**') under which the Minister will have the custody of the child while the agreement has effect. (2) Despite subsection (1): (a) if the whereabouts of a guardian of a child cannot, after reasonable enquiries, be ascertained; or (b) if a guardian of a child has failed to respond within a reasonable period of time to a request that he or she enter into a custody agreement; or (c) if it is not, in all the circumstances of the case, reasonably practicable to request a particular guardian of a child to enter into a custody agreement, the remaining guardian or guardians may enter into a custody

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				agreement in respect of the child. (3) Negotiations for a 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. (4) 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. (5) A custody agreement: (a) must be in writing; and (b) may be terminated at any time: (i) by a guardian who is a party to the agreement, by notice in writing to the Minister; or (ii) by agreement between the parties to the agreement; and (c) will be taken to have been terminated on any order being made under this Act or any other Act or law for the guardianship or custody of the child. (6) 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

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				proper arrangements exist for the care of the child. (7) Unless the agreement is terminated under subsection (5) or (6), a custody agreement: (a) has effect for a period, not exceeding three months, specified in the agreement; and (b) may, on its expiration, be extended by the parties to the agreement in accordance with this section, but not so that the agreement will operate for a total period of more than six months.
			10 (Interpretation)	In this Division: '**abuse or neglect**', in relation to a child, has the same meaning as in section 6(1), but includes a reasonable likelihood, in terms of section 6(2)(b), of the child being killed, injured, abused or neglected by a person with whom the child resides.
			15	In this Division: '**officer**' means: (a) a police officer; or (b) an employee of the Department authorised by the Minister to exercise powers under this Division.
			16	(1) If an officer believes on reasonable grounds that a child is in a situation of serious danger and that it is necessary to

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				remove the child from that situation in order to protect the child from harm (or further harm), the officer may remove the child from any premises or place, using such force (including breaking into premises) as is reasonably necessary for the purpose. (1a) If: (a) a restraining order has been made under section 99AAC of the *Summary Procedure Act 1921* preventing a person from residing with a child; and (b) the child is residing, during the operation of the order, with the person, the child will be taken, for the purposes of this section, to be in a situation of serious danger from which an officer is authorised to remove him or her under subsection (1). (2) An officer's powers under this section are subject to the following limitations: (a) a police officer below the rank of inspector may only remove a child from a situation of danger with the prior approval of a police officer of or above the rank of inspector unless he or she believes on reasonable grounds that the delay involved in seeking such an approval would prejudice the child's safety; (b) an employee of the Department may only remove a child from the custody of a guardian with the Chief Executive's

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				prior approval. (3) An officer who removes a child under this section must, if possible, return the child to the child's home unless: (a) the child is a child who is under the guardianship, or in the custody, of the Minister; or (b) the officer is of the opinion that it would not be in the best interests of the child to return home. (4) If an officer removes a child under this section, and the child is not returned to the child's home under subsection (3), the officer must deliver the child into the care of such person as the Chief Executive, or the Chief Executive's nominee, directs. (5) If the Minister does not already have custody of a child who is removed from a situation of danger under this section, the Minister has custody of the child until: (a) the end of the working day following the day on which the child was removed; or (b) the child's return home, (whichever is the earlier). (6) The power to remove a child under this section is in addition to, and does not derogate from, the powers of an authorised police officer under section 51(4).

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			20	(1) If the Chief Executive is of the opinion: (a) that there is some information or evidence leading to a reasonable suspicion that a child is at risk; and (b) that further investigation of the matter is warranted or a family care meeting should be held; and (c) that: (i) the investigation cannot properly proceed unless an order under this Division is made; or (ii) it is desirable that the child be protected while the matter is being investigated or a family care meeting is being held, the Chief Executive may apply to the Youth Court for an order under this Division. (2) If the Chief Executive suspects on reasonable grounds that a child is at risk as a result of the abuse of an illicit drug by a parent, guardian or other person, the Chief Executive must apply for an order under this Division directing the parent, guardian or other person to undergo a drug assessment (unless the Chief Executive is satisfied that an appropriate assessment of the parent, guardian or other person has already occurred, or is to occur).
			21	(1) If, on an application under this Division, the Court is satisfied that there are sufficient grounds for making an order under this section and that it would be in the best interests of the child the subject of the application that such an order be

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				made, the Court may make all or any of the following orders: (a) an order authorising examination and assessment of the child; (ab) an order authorising or directing the assessment, by such person as the Court may appoint, of a parent, guardian or other person who has, or is responsible for, the care of a child to determine the capacity of that parent or other person to care for and protect the child; **Example:** Such an order could, for example, direct a parent, guardian or other person to undergo a drug assessment. (b) an order authorising the Chief Executive to require: (i) any person to answer, to the best of the person's knowledge, information or belief, questions put by an employee of the Department authorised by the Minister to exercise the power to question; or (ii) any person who has examined, assessed or treated a party to the proceedings (other than the child), or the agency for whom the person works, to furnish the Chief Executive with a written report of that examination, assessment or treatment; (c) an order granting custody of the child to the Minister; (d) an order directing a party to the application who resides with the child to cease or refrain from residing in the same

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				premises as the child; (e) an order directing a party to the application to refrain from having contact with the child; (f) such ancillary orders as the Court thinks fit. (2) An order under subsection (1): (a) has effect for the period (not exceeding 6 weeks) specified in the order; and (b) may, on application by the Chief Executive, be extended (once only) for a period (not exceeding four weeks) specified in the order. (3) An application for extension under subsection (2)(b) must be heard by the Senior Judge of the Court. (4) A party to the proceedings who, having been served personally with an order made under subsection (1), contravenes or fails to comply with the order is guilty of an offence. Maximum penalty: Imprisonment for 3 months.
			22	Upon application by the Chief Executive, the Court may vary the terms of the s 21 order, discharge the order or dismiss the application.
			23	The Court may adjourn the hearing of an application under

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				this Division for a period not exceeding seven days. (2) The Court cannot adjourn the hearing of an application more than once. (3) The Court may, on an adjournment under this section, make one or more of the following orders: (a) an order granting custody of the child to the Minister; (b) an order directing a guardian of the child take specified steps to secure the proper care and protection of the child; (c) an order directing that a specified person be allowed, or not be allowed, access to the child; (d) an order authorising the examination and assessment of the child; (e) an order authorising the Chief Executive to require: (i) any person to answer, to the best of the person's knowledge, information or belief, questions put by an employee of the Department authorised by the Minister to exercise the power to question; or (ii) any person who has examined, assessed or treated a party to the proceedings (other than the child), or the agency for whom the person works, to furnish the Chief Executive with a written report of that examination, assessment or treatment;

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				(f) such ancillary orders as the Court thinks fit. (4) An order under subsection (3) has effect only during the period of the adjournment. (5) A party to the application who, having been served personally with an order made under this section, contravenes or fails to comply with the order is guilty of an offence. Maximum penalty: Imprisonment for 3 months.
			26	While a child is in the Minister's custody pursuant to having been removed or being an investigation, the child may be taken to place(s) as authorised by the Chief Executive to be examined, tested or assessed. The child may be treated by a medical practitioner or dentist as required.
			27	(1) 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 meeting to be convened in respect of the child. (2) The Minister cannot make an application under Division 2 for an order granting custody of a child, or placing a child under guardianship, before a family care meeting has been held in respect of the child unless satisfied: (a) that it has not been possible to hold a meeting despite reasonable endeavors to do so; or (b) that an order should be made without delay; or

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				(c) that the guardians of the child consent to the making of the application; or (d) that there is other good reason to do so. (3) An application under Division 2 is not invalid by reason only of a failure to hold a family care meeting.
			28	A family care meeting aims to allow informed decisions be made to secure the care and protection of a child and to review those arrangements.
			29	The family care meeting will be presided over by a Care and Protection Co-ordinator, who must arrange for a child advocate, unless satisfied the child can make an independent decision. The Co-ordinator must consult with the child and his or her guardians to discuss meeting details.
			30	The Care and Protection Co-ordinator will issue written invitations to attend to relevant participants.
			31	Lists the constituents of a family care meeting.
			32	(1) The Care and Protection Co-ordinator must take reasonable steps to ascertain the views as to the care and protection of the child: (a) from those persons invited to a family care meeting who are unable to attend; and (b) from the child (so far as his or her views are ascertainable) if he or she has not been invited, or refuses, to

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				attend; and (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, and must relay all those views to the meeting. (2) The Co-ordinator 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 meeting. (3) The Co-ordinator must allow the child's guardians and other family members present at the meeting, and the child if the Co-ordinator thinks it appropriate to do so, an opportunity to hold discussions in private for the purpose of formulating the family's recommendations as to the arrangements for securing the care and protection of the child. (4) The Co-ordinator may adjourn the meeting to another date if he or she thinks it is necessary or desirable to do so. (5) A family care meeting should if possible make decisions by the consensus of the child and the child's guardians and other family members. (6) A decision made by a family care meeting will not however be regarded as validly made unless it is concurred in by the Care and Protection Co-ordinator as properly securing the care and protection of the child. (7) The decisions made by a family care meeting as to the

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				arrangements for securing the care and protection of the child must be recorded in writing by the Co-ordinator and acknowledged in writing by the Co-ordinator and such of the following persons who attend the meeting and concur in the decisions: (a) the child (unless excused by the Co-ordinator from the obligation); and (b) the child's guardians and other family members. (8) A copy of that written record must be made available by the Co-ordinator to: (a) the child; and (b) each guardian of the child; and (c) any other person involved in implementing the arrangements; and (d) such other persons as the Co-ordinator thinks fit.
			33	A family care meeting that makes decisions as to the arrangements for securing the care and protection of a child must also make provision for the review of those arrangements.
			35	If no decisions are made by a family care meeting as to the arrangements for securing the care and protection of the child, or if such decisions are made but are not implemented or complied with, the Minister will, if of the opinion that the

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				child is at risk and that an order under Division 2 is required to secure the child's care and protection, take out an application under Division 2.
			37	A care and protection order may be applied for if the Minister believes a child is at risk and that an order should be made. If the Minister knows or suspects on reasonable grounds the child is at risk due to a parent/guardian or other person's drug abuse, a care and protection order must be applied for. An order may be further applied for where the Minister is of the opinion that proper arrangements exists and it would be in the child's best interests to have those arrangements subject to the order.
			38	(1) If the Court finds, on an application under this Division, that the grounds of the application have been made out and that an order under this section should be made in respect of the child, the Court may exercise 1 or more of the following powers: (a) the Court may require a parent, guardian or other person who has the care of the child, or the child, to enter into a written undertaking (for a specified period not exceeding 12 months) to do any specified thing, or to refrain from doing any specified thing and, if the Court thinks fit, require the child to be under the supervision of the Chief Executive or some other specified person or authority for the duration of the undertaking; **Example:** A parent, guardian or other person could, for example, be

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				required to enter into an undertaking to undergo treatment for drug abuse, to submit to periodic testing for drug use and to authorise the release of information regarding such treatment, and the results of such testing, to the Chief Executive. (b) the Court may grant custody of the child, for a specified period not exceeding 12 months, to one of the following persons: (i) a guardian of the child; (ii) some other member of the child's family; (iii) the chief executive of a licensed children's residential facility, for placement of the child in such of those facilities as that officer from time to time thinks appropriate; (iv) the Minister; (v) any other person that the Court thinks appropriate in the circumstances of the case; (c) the Court may place the child, for a specified period not exceeding 12 months, under the guardianship of the Minister or such other person or persons (not exceeding two) as the Court thinks appropriate in the circumstances of the case; (d) the Court may place the child, until the child attains 18 years of age, under the guardianship of the Minister or such other person or persons (not exceeding two) as the Court thinks appropriate in the circumstances of the case;

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				(e) the Court may direct a party to the application to do one or more of the following: (i) to cease or refrain from residing in the same premises as the child; (ii) to refrain from coming within a specified distance of the child's residence; (iii) to refrain from having any contact with the child except in the presence of some other person; (iv) to refrain from having any contact at all with the child; (f) the Court may make consequential or ancillary orders: (i) providing for access to the child; or (ii) providing for the way in which a person who has custody or guardianship of the child under an order of the Court is to deal with matters relating to the care, protection, health, welfare or education of the child; or (iii) requiring a parent, guardian or other person who has the care of a child to undertake specified courses of instruction, or programmed activities, in order to increase his or her capacity to care for and protect the child; or (iv) dealing with any other matter. (2) Before the Court makes an order giving custody or guardianship of a child to a person who is not a parent of the

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				child, the Court must be satisfied: (a) that there is no parent able, willing and available to provide adequate care and protection for the child; and (b) that the order is the best available solution having regard to: (i) the child's need for care and protection (including emotional security); and (ii) the child's age, developmental needs and emotional attachments. (2a) If a child is to be placed in guardianship the Court must consider the importance of settled and stable living arrangements for the child and, as a general rule, a long term guardianship order (ie an order under subsection (1)(d)) is to be preferred to a series of temporary arrangements for the custody or guardianship of the child. (3) If the Court finds that a child is at risk because a person other than a guardian with whom the child resides has abused, neglected or threatened the child, the Court cannot make an order removing the child from the guardianship or custody of the guardians with whom the child resides unless satisfied that they knew, or ought to have known, of the abuse, neglect or threats. (4) If the Chief Executive or some other specified person or authority is, by order of the Court, to supervise a child who has entered into an undertaking, the supervisor may exercise

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				such powers as the Minister authorises either generally or in relation to a particular supervisor.
	Children's Protection Act 1993	SA	39	The Court cannot exercise its general power of adjournment in relation to an application so that the period between the lodging and the commencement of the hearing exceeds 10 weeks.
			40	The Court may vary or revoke an order. An order lapses when the child turns 18.
			42	The Court may convene a conference between the parties to determine or resolve the matters in dispute.
			43	If the Court places a child under the Minister's guardianship or any other person(s) under this Division, the Minister or others are the lawful guardian of the child to the exclusion of any others.
			48	(1) The Court must not proceed to hear an application under this Act unless: (a) the child is represented in the proceedings by a legal practitioner; or (b) the Court is satisfied that the child has made an informed and independent decision not to be so represented. (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

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				of the best interests of the child. (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: (a) the child is not capable of doing so; or (b) to do so would give rise to an unacceptable risk to the child's wellbeing.
			49	The Court may refer a matter to a family care meeting.
			51	(1) Subject to this Act, the Minister may from time to time make provision for the care of a child who is under the guardianship of the Minister or of whom the Minister has custody pursuant to this Act, in any of the following ways: (a) by placing the child, or permitting the child to remain, in the care of a guardian of the child or some other member of the child's family; (b) by placing the child in the care of an approved foster parent or any other suitable person; (c) by placing the child in a home (not being a training centre) established or licensed under the *Family and Community Services Act 1972* or in any other suitable place, and by giving such directions as to the care of the child in that home or place as the Minister thinks fit;

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				(d) by making arrangements for the education of the child; (e) by making arrangements (including admission to hospital) for the medical or dental examination or treatment of the child or for such other professional examination or treatment as may be necessary or desirable; (f) by making such other provision for the care of the child as the circumstances of the case may require. (2) In making provision for the care of a child pursuant to subsection (1), the Minister must, if appropriate, have regard to the desirability of securing settled and permanent living arrangements for the child. (3) The Minister must keep the guardians of the child informed about where the child is placed and how the child is being cared for, unless the Minister is of the opinion that it would not be in the best interests of the child to do so. (4) An authorised police officer may for the purposes of enforcing any order of the Youth Court, without warrant, remove from any place a child who is under the guardianship of the Minister or of whom the Minister has custody, using such force (including breaking into premises) as is reasonably necessary for that purpose.
	Children's Protection Act 1993	SA	52	(1) If a child is subject to an order placing the child under the guardianship of the Minister until the child attains 18 years of age, a review of the circumstances of the child must be carried out at least once in each year that the child remains

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				subject to the order. (2) The review will be carried out by a panel appointed by the Minister for the purpose. (3) The panel carrying out a review must keep under constant consideration whether the existing arrangements for the care and protection of the child continue to be in the best interests of the child. (4) Subject to subsection (5), the Minister must cause a copy of the conclusions reached by a review panel to be given to the child, the child's guardians and the persons who have the care of the child. (5) The Minister is not obliged to give a copy of the panel's conclusions to a particular person if: (a) the Minister is of the opinion that it would not be in the best interests of the child to do so; or (b) the whereabouts of the person cannot, after reasonable enquiries, be ascertained.
			52AA	In this Division: '**child**' means a child who is under the guardianship, or in the custody, of the Minister.
			52AAB	(1) The Chief Executive may, by written notice, direct a person not to communicate, or attempt to communicate, with a specified child (in any way or in a way specified in the

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				notice) during a specified period. (2) The Chief Executive may, by written notice, direct a person not to harbour or conceal, or attempt to harbour or conceal, or assist another person to harbour or conceal, a specified child during a specified period. (3) The Chief Executive must not issue a notice under subsection (1) or (2) unless he or she believes that the issuing of the notice is reasonably necessary: (a) to avert a risk that the child specified in the notice will: (i) be abused or neglected, or be exposed to the abuse or neglect of another child; or (ii) engage in, or be exposed to, conduct that is an offence against Part 5 of the *Controlled Substances Act 1984*; or (b) to otherwise prevent harm to the child. (4) A person who, without reasonable excuse, contravenes or fails to comply with a direction under subsection (1) is guilty of an offence. Maximum penalty: $4 000 or imprisonment for 1 year. (5) A person who, without reasonable excuse, contravenes or fails to comply with a direction under subsection (2) is guilty of an offence.

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				Maximum penalty: $15 000 or imprisonment for 4 years. (6) A notice under this section must be served personally on the person to whom the notice is directed. (7) However, if personal service cannot be effected promptly, it will be sufficient service for the notice: (a) to be left for the person with someone apparently over the age of 18 years; or (b) to be posted in an envelope addressed to the person, at the person's address.
			54L	(1) If the Court makes an order transferring a proceeding under this Division, the Court may also make an interim order. (2) An interim order: (a) may make provision for the guardianship, custody or care of the child in such terms as the Court considers to be appropriate; and (b) may give responsibility for the supervision of the child to the interstate officer in the participating State or any other person in that State to whom responsibility for the supervision of a child could be given under the child welfare law of that State; and (c) remains in force for the period (not exceeding 30 days)

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				specified in the order. (3) The appropriate court in the participating State may vary or revoke, or extend the period of, an interim order in accordance with the relevant interstate law.
	Family and Community Services Act 1972	SA	10	(1) The objectives of the Minister and the Department under this Act are: (a) to promote the welfare of the community generally and of individuals, families and groups within the community; and (b) to promote the dignity of the individual and the welfare of the family as the bases of the welfare of the community, in the following manner: (c) by providing, assisting in the provision of or promoting services designed to assist individuals or groups to overcome the personal or social problems with which they are confronted; (d) by providing, assisting in the provision of or promoting services designed to reduce the incidence of disruption of family relationships, to mitigate the adverse effects of such disruption, to support and assist families under stress and to enhance the quality of family life; (e) by providing, assisting in the provision of or promoting services designed to assist migrants, members of ethnic communities, aboriginals, children, youth, aged persons, unemployed persons, women, mentally or physically

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				handicapped persons, single parents, persons who live in isolated areas or any other section of the community to overcome the disadvantages suffered by them, and to participate to the greatest possible extent in the life of the community; (f) by providing individuals or families in need or distress with assistance by way of grants or loans of money or commodities, accommodation, financial counselling or any other form of assistance; (g) by providing, assisting in the provision of or promoting services designed to assist people to enrich their lives, or to develop their personalities and capabilities; (h) by encouraging or assisting in the provision of welfare services by volunteers and non-government groups or organisations; (i) by encouraging or assisting any section of the community to develop its own welfare services; (j) by providing, or assisting in the provision of, training or instruction for persons working, or proposing to work, in the field of welfare services; (k) by keeping the public informed as to all the welfare services, whether government or non-government, that are available and how they may be obtained; (l) by promoting a better understanding throughout the community of the problems or disadvantages faced by

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				various sections of the community; (m) by instituting, assisting in or promoting research in the field of welfare services; (n) by collecting, or assisting in the collection of, data and statistics in relation to the problems and disadvantages faced by the various sections of the community, and to the provision of family and community services; (o) by promoting the co-ordination of all family and community services, whether government or non-government, and the efficient use of resources for the provision of those services; (p) by collaborating and consulting with other government departments of this State, with non-government organisations that provide, or support or promote the provision of, family and community services, and with those government departments of the Commonwealth and the other States and Territories of the Commonwealth that are involved in the provision of family and community services; (q) by keeping the services provided by the Department and the policies of the Department under constant review and evaluation; (r) by doing such other things as may be necessary or desirable for the purposes of achieving those objectives. (2) The Minister and the Department, in providing any service, must endeavour to preserve and foster the dignity,

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				self-respect and independence of the persons to whom the service is being provided. (3) The Minister and the Department, in providing any service, must not discriminate against or in favour of any person on the ground of sex, marital status, mental or physical impairment, religion, race or nationality, except so far as it is necessary to do so for the purpose of assisting a person to overcome any social or other disadvantage arising out of his or her sex, marital status, mental or physical impairment, religion, race or nationality. (4) The Minister and the Department must, in administering this Act, take into consideration the different traditions, cultural values and religious beliefs of ethnic or racial groups within the community. (5) The Minister, for the purpose of giving effect to the provisions and objects of this Act, may: (a) employ the resources of the Department in such manner as the Minister thinks fit; and (b) establish any facility; and (c) acquire land in accordance with the provisions of the *Land Acquisition Act 1969*; and (d) perform any other action that may be necessary or expedient for that purpose.

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			40	The purpose of the foster care system is to provide for the care of a child in a safe and stable family environment during any period while the child cannot, for any reason, remain within the care of his or her own family.
			42	In considering any application for approval as a foster parent the Chief Executive Officer must attempt to assess the capacity and willingness of the applicant to care for a child according to adequate principles and standards of child care, and must, in such manner as the Chief Executive Officer thinks fit, satisfy himself or herself as far as reasonably possible: (a) that the applicant will have adequate interest in, and affection and respect for, a child placed in his or her care; and (b) that the applicant will treat the child in a consistent manner and will provide a safe and stable family environment for the child; and (c) that the applicant will understand adequately the developing personality of the child, and will provide opportunities to develop the abilities of the child; and (d) that the applicant will provide adequate accommodation for the child and any other material provision necessary for the welfare of the child; and (e) that, where appropriate, the applicant will provide opportunities for the child to maintain or recover his or her identity as a member of his or her own family and will allow

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				the child reasonable access to his or her own family; and (f) that, where appropriate, the applicant will assist the child to return to his or her own family; and (g) that the applicant is in sound health and is able to withstand the demands of providing foster care; and (ga) that the applicant is otherwise a fit and proper person to provide foster care; and (h) on any other matters that the Chief Executive Officer may consider relevant.
			84	(1) The Chief Executive Officer may receive money on behalf of a child. (2) The Chief Executive Officer must cause any money received on behalf of a child to be deposited in the Treasury in the name of the Chief Executive Officer on account of the child or in any ADI account in the name of the child. (3) All such money deposited in the Treasury will bear interest at a rate determined by the Treasurer. (4) The whole, or any portion, of the money deposited in the Treasury on behalf of a child pursuant to this section, and any interest on that money, may be expended for the benefit of the child by the Chief Executive Officer at such times, and for such purposes, as the Chief Executive Officer thinks fit. (5) Any money held on behalf of a child pursuant to this

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				section is payable to the child on the Chief Executive Officer ceasing to have any direct responsibility for the affairs of the child.
			Part 6	Orders may be made for persons to contribute to the past or future maintenance of a child.
	Guardianship of Infants Act 1940	SA	3 (Interpretation)	(1) In this Act, unless the context otherwise requires: **'child born outside marriage'** includes a child born to a married woman of which a man other than her lawful spouse is the father; **'infant'** includes an infant born outside marriage; **'maintenance'** includes education; **'parent'** of an infant, in sections 8, 9, and 10, includes any person at law liable to maintain the infant or entitled to his custody; **'person'**, in sections 8, 9, and 10, includes any school or institution; **'the court'** means the Supreme Court or any judge thereof or the local court of full jurisdiction nearest to the residence of the infant. (2) A person shall not be recognised under this Act as the father of a child born outside marriage unless he is so recognised under the provisions of the *Family Relationships*

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				Act 1975.
			6	(1) The court may, upon the application of a person who has a proper interest in the welfare of an infant, make such orders for the custody of, and access to, the infant as it thinks fit. (2) The court may upon the application of any person who has the guardianship of an infant jointly with some other person (whether or not one or both of those persons are parents of the infant) make any order that it thinks proper in relation to a matter in dispute between those guardians affecting the upbringing or welfare of the infant. (3) In exercising its powers under this section, the court shall have regard to the conduct of the parents of the infant, and of any other person who may be a party to the application. (4) The court may vary or discharge an order made under this section. (5) The fact that a person who seeks an order for the custody of an infant under this section is resident outside this State, or contemplates leaving this State, shall not of itself constitute a ground for denying custody of the infant to that person. (6) The court may make such orders for costs in relation to proceedings under this section as it thinks fit. (7) For the purposes of this section a person has a proper interest in the welfare of an infant if that person:

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				(a) is the mother or father of the infant; or (b) is a guardian of the infant; or (c) is a person who, in the opinion of the court, has in the circumstances of the case a proper interest in the welfare of the infant.
			7	The Court may exercise its powers under s 6, notwithstanding the mother and father of the infant are then residing together. A parent may be ordered to pay a reasonable sum for child maintenance. Any order made under this section may on application of an interested person, be varied or discharged by a subsequent order.
			8	Where the parent of an infant applies to any court of competent jurisdiction for a writ or order for the production of the infant and the court is of opinion that the parent has abandoned or deserted the infant or that he has otherwise so conducted himself that the court should refuse to enforce his right to the custody of the infant, the court may in its discretion decline to issue the writ or make the order.
			9	If at the time of the application for a writ or order for the production of the infant, the infant is being brought up by a person who is not the parent of the infant, the court to which the application is made may, in its discretion, if it orders the infant to be given up to the parent, further order that the parent shall pay to such person the whole of the costs, charges and expenses properly incurred in bringing up the infant or such portion thereof as seems to the court to be just

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				and reasonable having regard to all the circumstances of the case.
			10	Where a parent has abandoned or deserted his infant, or allowed his infant to be brought up by another person at that or some other person's expense for such length of time and in such circumstances as to satisfy a court of competent jurisdiction that the parent was unmindful of his parental duties, the court shall not make an order for the delivery of the infant to the parent unless the parent has satisfied the court that having regard to the welfare of the infant he is a fit person to have the custody of the infant, and that it is in the interests of the infant that he should be delivered to the parent.
			11	(1) Where in any proceeding before the court or any other court of competent jurisdiction the custody or upbringing of an infant, or the administration of any property belonging to or held in trust for an infant, or the application of the income thereof, is in question, the court in deciding that question shall regard the welfare of the infant as the first and paramount consideration, and shall not take into consideration whether from any other point of view the claim of the father, or any right at common law possessed by the father, in respect of such custody, upbringing, administration or application is superior to that of the mother, or the claim of the mother is superior to that of the father. (2) In this section: *upbringing* includes religious instruction.

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			15	Every guardian shall have all such powers over the estate and the person, or over the estate, as the case may be, of an infant as any guardian appointed by will or otherwise has.
			16	The Court may remove and appoint a guardian in his or her place.
			17	Where any guardian, trustee, executor, or person acting in a fiduciary capacity is, under any will, gift or settlement, or otherwise by law, possessed of any fund for the maintenance of any infant, or any fund a portion of which may by law be applied to such maintenance and the court makes an order for the custody of the infant, the court may also order any such guardian, trustee, executor, curator or person acting in a fiduciary capacity to pay from time to time (during the continuance of the custody) to the person to whom custody of the infant has been granted, for the purpose of the maintenance of the infant, such portion of such fund, not exceeding the portion lawfully applicable to such maintenance as the court may deem proper: Provided always that on proof that any money so paid for the purpose of such maintenance has been misapplied, the court may rescind, alter, or vary any order made as aforesaid.
			20A	Where the court has ordered the payment of any sum towards the maintenance of an infant under this Act that order may be enforced in the same manner as a maintenance order under the *Community Welfare Act 1972* in all respects as if it were a maintenance order made under that Act.

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
ARTICLE 20: 1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State. 2. States Parties shall in accordance with their national laws ensure alternative care for such a child. 3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.	**Adoption Act 1994 (WA) (relevant to Article 20 generally; key provisions relevant to the provision of special protection and assistance have been identified)**	WA	3(1)	The paramount considerations to be taken into account in the administration of the *Adoption Act* are: (a) the welfare and best interests of a child who is an adoptee or a prospective adoptee; (b) the principle that adoption is a service for a child who is an adoptee or a prospective adoptee; and (c) the adoption of a child should occur only in circumstances where there is no other appropriate alternative for the child. '**child**' means a person who is less than 18 years of age; and in the absence of positive evidence as to age, means a person who is apparently less than 18 years of age (s 4(1))
			3(2)	It is acknowledged that adoption is not part of Aboriginal or Torres Strait Island culture. The adoption of a child who is an Aboriginal person or a Torres Strait Islander should occur only in circumstances where there is no other appropriate alternative for that child. '**Aboriginal person**' means a person who is a descendant of Aboriginal people of Australia (s 4(1)) '**Torres Strait Islander**' means a person who is a descendant of the indigenous inhabitants of the Torres Strait Islands

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				(s 4(1))s
			Part 3 - The adoption process (ss 16 - 78B)	Part 3 of the *Adoption Act* details the adoption process.
			16A	An officer of the Department who is an Aboriginal person or a Torres Strait Islander is to be involved at all relevant times to assist in the adoption process of a child who is an Aboriginal person or a Torres Strait Islander. Also, the CEO is to consult with an Aboriginal or Torres Strait Islander agency that is approved by the CEO for the purposes of this section, regarding the prospective adoption of a child who is an Aboriginal person or a Torres Strait Islander.
			Pt 3, Division 2 - Consent to adoption (ss 17 - 23)	This Division deals with the consents required for adoption (which must be given for any adoption except where the Court dispenses with consents under s 24(2), and the revocation of consent.
			Pt 3, Division 3 - Court applications as to consents to adoption and notices (ss 24 - 26)	Provides for applications to the Court (being the Family Court of Western Australia) orders dispensing with consent, orders as to serving notice of applications for adoption orders, and applications for parenting orders in relation to prospective adoptees.
			Pt 3, Division 3A - Court	Procedure for applications for determination of a child's

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			applications for determinations of parentage (ss 26A to 26J)	parentage and associated orders.
			Pt 3, Division 4 - Guardianship of prospective adoptees (ss 27 - 35)	Provides for the guardianship of children awaiting adoption, transfer of guardianship, responsibilities of guardians (i.e. either arrange for application for adoption order within 12 months or apply for further orders re provision for guardianship) and for the cessation of guardianship. In some cases, the guardian will be the CEO of the Department.
			28	This section applies to a child if the child has been relinquished for adoption but where **either** not all the consents to the child's adoption required by section 17(1) have been delivered or dispensed with under the relevant sections [18(1)(e) and 24(2) respectively] **or** the child is in the care and control of a birth parent who has consented to the child's adoption and then revoked the consent for such number of times as to jeopardise, or be likely to jeopardise, the child's welfare. The CEO may make a protection application under the *Children and Community Services Act 2004* for a protection order (time-limited) or protection order (until 18) in respect of a child to whom this section applies. For the purposes of Part 4 of the *Children and Community Services Act 2004*, but without limiting s 28(2) of that Act, a child is in need of protection if this section (28)applies to a child.

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			30	Where the CEO is the guardian of a child under this Division of the *Adoption Act* (Part 3, Division 4) and is of the opinion that it is not possible or desirable to place the child with a view to the child's adoption, the CEO is to cause notice of that opinion to be given to each person who he or she believes is a birth parent of the child or was a guardian of the child before the commencement of guardianship under this Division, in which case: (a) the person who was the child's guardian before the commencement of guardianship under this Division becomes the child's guardian again; and (b) any consents to the child's adoption cease to be of effect from the day on which the notice is given.
			31	Where the CEO is the guardian of a child under this Division, the CEO may, pending placement of the child with a view to the child's adoption, place the child with a person who the CEO thinks is suitable and who has agreed to look after the child.
			Pt 3, Division 5 - Court applications as to guardianship of children awaiting adoption (s 36)	Provides for applications to Court for further provision for child's guardianship under Division 4.
			Pt 3, Division 6 - Prospective	Provides requirements for adoptive parents to ensure that those people are suitable/of appropriate character to adopt the

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			adoptive parents (ss 37-44)	child [i.e. carries through principle of the State providing special protection and assistance to a child who is deprived of his or her family environment].
			39	Sets out criteria for applicant adoptive parents - Australian citizen, 18 or more, resident or domiciled in Western Australia, or if applying jointly, has been married or de facto to the joint applicant for at least 3 years.
			40	Provides for assessment of applicants for adoption. CEO must appoint a person who CEO thinks is reasonably qualified to assess the application and prepare a report on the applicant/joint applicants. Each applicant must provide information as to applicant's suitability for adoptive parenthood, including evidence that applicant: (a) meets the s 39 application criteria; (b) is physical and mental ability to care for the child until child is 18; (c) is of good repute; (d) shows desire and ability to provide suitable family environment for the child; (e) if applying jointly, has a stable marriage or de facto relationship with the other applicant; (f) was not guilty of an offence punishable by imprisonment

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				for 5 years prior to application, has not at any time been found guilty of an offence punishable by life imprisonment/imprisonment for 20+ years, or has not at any time been convicted of any assault or sexual offence against a child when the applicant was 18 or more; and (g) satisfied other criteria as prescribed by regulation.
			Pt 3, Division 7 - Placement of prospective adoptees (ss 45-54)	Provides for: (a) the selection of adoptive parents (parents who consent to adoption may express wishes re child's upbringing and preferred attributes of the adoptive family) - s 45; (b) the preparation of adoption plans governing exchange of information between the parties to the adoption (child's medical background, development and important events in the child's life), and the means/nature of any contact - if any - between birth parents and prospective adopted parents; (c) placement of the child with or without an adoption plan - ss 48, 49; (d) obtaining medical reports on the child's health prior to placement - s 50; (e) further restrictions on placement, including birth parents wishes, age of adoptive parents, the child's wishes (if any), adoptive parents' recognition of value of, and need for, the child's cultural and ethnic continuity (and willingness to continue any cultural, ethnic, religious or educational arrangements), requirements where there are other children in

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				the prospective adoptive family, placement with siblings relinquished at the same time wherever possible - ss 52(1)(a), (c); (f) where the child is Aboriginal or Torres Strait Islander, the placement for adoption principle as set out in Schedule 2A (first priority being with an Aboriginal or Torres Strait Islander in the child's community etc) - s 52(1)(ab); and (g) supervision of the welfare and interests of the child who has been placed with a view to adoption by a suitably qualified person appointed by the CEO - s 54.
			Pt 3, Division 8 - Adoptions by step-parents or carers (s 55)	No application for an adoption order can be made by a step-parent or carer of the child unless an adoption plan has been agreed and signed before the revocation period for consent to the adoption expires.
			Pt 3, Division 9 - Applications for adoption orders (ss 56-64)	Provides for timing and process of making an application for adoption, including the CEO arranging for the preparation a written report for the Court's use in proceedings for an adoption order by an appropriately qualified person (s 61).
			Pt 3, Division 10 - Adoption orders (ss 65-78)	Provides for: (a) jurisdiction for the making of adoption orders by the Court (the child needs to be present in the State, and each prospective adoptive parent needs to reside or be domiciled in the State - s 65; (b) clarification of who may adopt the child (step-parent meeting requirements, carer, or person/s with whom child has

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				been placed with a view to adoption under Division 7) - s 67; (c) requirements that must be met before adoption orders can be made: Court needs to be satisfied that the various steps/requirements set out earlier in the Act have been followed - s 68; (d) approval/enforcement/dispensing /variation of adoption plans - ss 70, 72, 73, 76; (e) other powers in relation to adoption applications - s 71; (f) effect of adoption orders - s 75; and (g) discharge of adoption orders - s 77
			Part 4 - Adoptions Information (ss 79 - 109)	Governs the holding, preservation and exchange of, and access to, identifying and other information in relation to adoptions. Provides parties to an adoption with choice as to whether or not they wish to be contacted, and means for enforcing the wishes of those who choose to veto contact.
			Part 5 - Review of decisions and appeals (ss 110 - 119)	Provides for the review of adoption-related decisions under the Act including by the CEO, the adoptions application committee established by the Act, the Family Court and the Court of Appeal.
			Part 6 - Offences (ss 120 - 129)	Offences under the *Adoption Act* back up the principles of the Act, including unlawful provision of adoption services, publishing the identity of parties to adoptions or proposed

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				adoptions, using undue influence to induce people to consent to an adoption, harassing people in relation to adoption, disclosure of confidential information about adoption.
			Part 7 - Miscellaneous (ss 130 - 146)	Provides for miscellaneous matters including delegation of powers under the Act, that proceedings under the Act to be held in private, the Central Authority for the State of Western Australia for the purposes of the Hague Convention, non-Western Australian adoptions and interaction with other Australian States and Territories and recognition of adoptions, as well as recognition of non-Australian adoptions, and regulations made under the Act.
	Births, Deaths and Marriages Registration Act 1998 (WA)	WA	Part 4 - Registration of information about certain parentage changes (ss 24-28)	Provides for recording information regarding adoption and issuing of birth registrations (and the information to be contained) on the Register (of births, marriages, deaths etc).
	Children and Community Services Act 2004 (WA)	WA	Part 2 – Objects and principles (ss 6 – 14)	The objects of the Act are to promote the wellbeing of children (as well as other individuals, families and communities), and to provide for the protection and care of children in circumstances where their parents have not given, or unlikely or unable to give, that protection and care: s 6. Anyone who performs a function or exercises a power under the Act must regard the best interests of the child as the paramount consideration: s 7.

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				The matters that must be taken into account in determining the child's best interests are set out in s 8, including the need to protect the child from harm, the child's family relationships, the child's characteristics, including background, language, cultural, ethnic or religious identity (which specifically includes any need to maintain a connection with the lifestyle, culture, and traditions of Aboriginal people or Torres Strait Islanders). Broader principles to be observed are set out in s 9, including the principle that every child should be cared for and protected from harm, and should have stable secure and safe relationships and living arrangements. Further, the principle that if a child is removed from the child's family, then, so far as is consistent with the child's best interests, planning for the child's care should occur as soon as possible to ensure long-term stability for the child. Additional principles apply for Aboriginal or Torres Strait Islander children, directed to maintaining the child's connection with the community: s 12.
			Part 4, Division 1 – Introductory matters (ss 28-30)	Sets out when a child is in need of protection, as well as the meaning and effect of provisional protection and care. A child is in need of protection if the child has been abandoned by his or her parents, or the parents are dead (and there is no other suitable adult relative or suitable adult who is willing and able to care for the child), the child has suffered or is likely to suffer harm due to physical, sexual, emotional or psychological abuse or neglect and the child's

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				parents have not, or are unlikely or unable to protect the child from hard, or the child has suffered or is likely to suffer harm due to child's parents being unable to provide adequate care, medical treatment etc: s 28. A child will be in or taken into provision protection and care when the child is in or taken to the care of the CEO, who has the responsibility for the day-t0-day care, welfare and development of the child.
			Part 4, Division 2 – Measures to safeguard or promote child's wellbeing (ss 31-41)	Subdivision 1 (ss 31 – 33B) provides that the CEO may cause reasonable inquiries to be made to determine whether action should be taken to safeguard/promote child's wellbeing if the CEO receives information that raises concerns. If the CEO determines that action should be taken, the CEO then has certain duties he or she must fulfil, including the provision of social services, developing a plan to address needs of the child, enter into a negotiated placement agreement in respect of the child, cause an investigation to be conducted to ascertain whether the child may be in need of protection or take intervention action, or any other action the CEO considers reasonably necessary. This can apply before a child is born. Subdivision 2 (ss 33 - 34) provides for the powers relating to investigations for the purpose of ascertaining whether a child is in need of protection. Subdivision 3 (ss 35 – 39) deals with provisional protection and care. If a child is taken into provisional protection and care under a warrant, then the CEO must make a protection

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				application in respect of the child as soon as is practicable thereafter. A child can be taken into provisional care without a warrant if an 'authorised officer' (s 25) suspects on reasonable grounds that there is an immediate and substantial risk to the child's wellbeing, and the CEO must be notified as soon as practicable. Thereafter, the CEO is obliged to take some kind of action under s 38, including return to parents or apply for orders that the child is to remain in provisional protection and care. If a child is taken into provisional protection and care, and the CEO decides/must make a protection application, then within 7 days a provisional care plan must be prepared and implemented identifying the child's needs and how to meet those needs. Subdivision 4, in particular, s 40, provides for the power of a person in charge of a hospital to keep children under 6 in hospital to safeguard or promote the wellbeing of the child where it appears that the child is in need of protection.
			Part 4, Division3 – Protection orders (ss 42 – 73)	Subdivision 1 (ss 42-43) – various types of protection orders can be made, including those known as 'supervision', 'time-limited', until 18' or 'special guardianship'. Subdivision 2 – Applications for, and making of, protection orders (ss 44 – 46) – only the CEO can make a protection application, which must be lodged with the Children's Court, and specify the type of protection order sough and the grounds under s 28 (see above) on which it is made. The Court may make the protection order sought by the application or another order if the Court finds that the child is

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				in need of protection. Subdivision 3 relates to 'supervision' protection orders (ss 47-53). Supervision orders are those providing for the supervision of the wellbeing of the child by the CEO for a specified time period (which must not exceed 2 years and end before the child reaches 18), but here the child remains with the family. Subdivision 4 relates to 'time-limited' protection orders (ss 54-56). These orders give the CEO parental responsibility for a child for the specified period, which cannot exceed 2 years and which must end before the child turns 18. Order can be extended on multiple occasions, but again for not more than 2 years and ending before the child turns 18. Subdivision 5 relates to 'until 18' protection orders (ss 57 – 59). These orders give the CEO parental responsibility, to the exclusion of any other person, for a child until the child turns 18. Such an order can only be made by the Children's Court if that court is satisfied that long-term arrangements should be made for the wellbeing of the child. Subdivision 6 (ss 60 – 66) relates to 'special guardianship' protection orders, which give an individual, or 2 individuals jointly, parental responsibility for a child until the child turns 18. This person or persons cannot be the CEO or a parent of the child. Special guardian has parental responsibility for the child to the exclusion of any other person. The Court cannot make the order unless it is satisfied that long-term arrangements should be made for the wellbeing of the child,

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				and the proposed special guardian is suitable, willing and able to provide long-term care. If the child is Aboriginal or Torres Strait Islander, then the Court must have regard to the placement principle in s 12 (see above) in assessing the suitability of the proposed special guardian. If the child is from a culturally or linguistically diverse background, the Court must have regard to any guidelines established under s 80 in assessing the suitability of the proposed special guardian. A special guardianship order may include conditions about contact between the child and another person, which can be varied. Subdivision 7 (ss 67 – 69A) deals with the revocation and replacement of protection orders. Subdivision 8 (ss 69 – 73) deals with general/procedural matters relating to protection orders.
			Part 4, Division 4 – Negotiated placement (ss 74-77)	Where the parents of a child are unable to care for the child, the parents (together, or one, if the other is unable to be found or does not respond to requests etc, does not have ongoing contact with the child etc) and the CEO may enter into an agreement under which the CEO makes a placement arrangement for the child. Agreements can be extended or terminated. The CEO must take into account any views expressed by the child in deciding whether to enter into, extend or terminate any negotiated placement agreement. An agreement must not be entered into or extended if there are reasonable grounds to believe that the child is in need of protection.

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			Part 4, Division 5 – Children in the CEO's care (ss 78 – 95)	The CEO can make arrangements for the placement of a child who is in the CEO's care with appropriately approved individuals or in a residential facility operated or managed by the Department or another public authority. There are established guidelines, by the CEO, for the placement of children with culturally or linguistically diverse backgrounds. For Aboriginal and Torres Strait Islander children, the CEO must consult with an officer, agency or person with relevant knowledge about the child, its family or community, who is an Aboriginal or Torres Strait Islander. Authorised officers can require any carer of the child to hand over the child at any time, failing which a warrant can be obtained. Secure care arrangements into gazetted facilities (ss 88A to 88J), where the CEO is satisfied there is an immediate and substantial risk of the child causing significant harm to his or herself or to another person and there is no other suitable way to manage that risk. Secure-care arrangements are short term. Where such arrangements are made the CEO needs to obtain a continuation order under s 133(2)(ca)(ii). If such order is refused, the CEO must ensure the child is removed from the secure care facility as soon as is practicable. Care plans must be prepared by the CEO for the chid in secure care. Subdivision 3 (ss 88 – 90) specifically deals with care plans, which must identify the needs of the child, and outline steps to be taken to address those needs and decisions about the care of the child. Care plans must be prepared and

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				implemented as soon as practicable after a child first comes into the CEO's care. If that care is provisional, then a provisional care plan under s 39 must be prepared. Care plans must be modified when the child is leaving the care of the CEO. Care plans must be reviewed regularly by the CEO and at least once a year. Subdivision 4 provides for the review of care planning decisions set out in a care plan for a child (ss 91 – 95), by a case review panel of at least 3 members with appropriate experience, skills and qualifications (but not an officer). Applications for review can be made by the child, a parent, a carer or any other person the CEO considers to have a direct and significant interest in the child's wellbeing. After such review, a person aggrieved may apply to the SAT for a review.
			Part 4, Division 6 – Provisions about leaving the CEO's care (ss 96 – 100)	Provides for assistance to period under 25 who have left the CEO's care and were the subject of a protection order after 15 years old in relation to social services, accommodation, to undertake education and obtain employment, access health and counselling services and provide financial assistance.
			Part 4, Division 7 – Offences (ss 101 – 111)	Provides for criminal and other offences directed to the protection of children, which apply generally (i.e. and not simply to children who have been removed from their families / placed into care under the Act).
			Part 4, Division 8 – Powers of restraint, search	Provides when it is lawful for authorised officers (and in some cases, police officers) to restrain, search or seize

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			and seizure (ss 112-119) =	articles from, a child.
			Part 4, Divisions 9, 9A, 10 (ss 120-130)	Deal with warrants in relation to access and provisional care and protection for children, duties of certain people to report sexual abuse of children and general matters in relation to Part 4.
			Part 5 – Protection proceedings	Per s 3, '**protection proceedings**' means proceedings in respect of, or in connection with, a protection application or other application to the Children's Court under Part 4 (excluding applications under ss 65, 73 or 126).
			Part 5, Division 2 – Adjournment of proceedings and interim orders (ss 132-135)	The Court has power to adjourn protection proceedings and make interim orders at its own initiative or on the application of a party: ss 132, 133. Special provisions apply to applications for secure care interim orders, and applications can only be made by the CEO: ss 133, 134A. On the application of a party, the Court may vary or revoke an interim order. These orders cannot be made unless the Court is satisfied that there are new facts and circumstances or each party consents to the variation or revocation. Authorised officers may have access to the child whilst certain interim orders, including an order placing the child with a person approved by the Court following a report from the CEO as to the person's suitability (ie an order under s 133(2(c)), are in force: s 135. This entitles the officer to see and talk with the child without any other person being

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				present. Officers can obtain a warrant if access is denied or the child cannot be found.
			Part 5, Division 3 – Pre-hearing conferences (ss 136- 137	The Children's Court may at any time in the course of protection proceedings refer the application to a confidential conference presided over by a judge, magistrate or Court-appointed convenor to give the parties an opportunities to discuss and agree any matter relevant to the application: s 136, 137.
			Part 5, Division 4 – Reports about child (ss 138-142)	At any time during protection proceedings the Court may require a person to give the Court a report on any matter relevant to the wellbeing of the child, which is admissible as evidence and can be given such weight as the Court thinks fit: s 139. The reports are confidential: s 141.
			Part 5, Division 5 – Proposals about arrangements for child (ss 143-144)	Where the CEO makes any application for protection, and the Court agrees, the CEO must, if the CEO has not done so already, provide the Court with a proposal for the child as soon as practicable thereafter: s 143(2). A further proposal is to be provided if there is any application for extension of those orders: s 143(3). A proposal outlines arrangements proposed for the supervision of the wellbeing of the child if a supervision protection order is made, or the wellbeing of the child if a time-limited or until-18 protection order is made: s 143(1). The Court must consider the proposal before making or

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				extending a protection order. The Court may request reports in certain other instances: s 143(5).
			Part 5, Division 6 – Procedural matters (ss 145-155)	Sets out procedural aspects of protection proceedings, including that the proceedings are to be conducted expeditiously and with as little formality and legal technicality as the circumstances permit, and if the child is present in court, they are to be conducted in a way sensitive to the child's level of understanding: s 145.
			Part 6, Division 1 – Introductory matters (ss 156-157)	The purpose of Part 6 is to provide for the transfer of child protection orders and proceedings between Western Australia and other States – to maintain protection of children in need of it: s 156.
			Part 6, Division 2 – Transfer of child protection orders (ss 158-169)	The CEO can transfer protection orders made under the Act (i.e. in Western Australia) to another State under the law of which in the CEO's opinion a protection order to similar effect could be made, having regard to whether the interstate equivalent officer is in the better position to exercise powers and responsibilities under a protection order relating to the child: ss 158, 160. Certain consents need to be obtained, including from the child if of sufficient maturity and understanding and the child's parents, if they can be found and can give consent: s 159. The CEO also needs to notify the transfer decision to the child, its parent's and any other person considered by the CEO to have a direct and significant interest in the child's

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				wellbeing: s 161. The CEO's decision is subject to review by the Supreme Court or the SAT. The Children's Court may also transfer protection orders to another State on application from the CEO and subject to other conditions, being expiry of time for appeal and consent of equivalent interstate officer is obtained to the transfer: s 164. The matters the Court is to have regard to (interstate officer in better position to exercise powers and responsibilities re child etc and desirability of a protection order being under the child welfare law of the State where the child resides), and terms of proposed interstate orders are set out in ss 166 and 167. The Court can only make a transfer order having considered a report from the CEO: s 168. Parties can appeal the Children's Court decision on transfer to the Supreme Court: s 169.
			Part 6, Division 3 – Transfer of child protection proceedings (ss 170-174)	Governs the transfer of protection proceedings from WA Children's Court to other States. The Court must have regard to certain matters in deciding whether to transfer proceedings, which relate to the geographic connection of the other State, such as location of place of residence of the child, its parents etc, and the desirability of a child protection order being one under the child welfare law of the State where the child resides: s 172.

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				Transfer decisions can be appealed to the Supreme Court: s 174, on questions of law.
			Part 6, Division 4 – Registration (ss 175 – 179)	Provides for timely filing of child protection orders in the Children's Court that are transferred from another State: s 175, which must then be registered by the registrar: s 176. The effect of registration, being that the protection order is taken to be made by the Court on the day on which it is registered, is set out in s 178. It may then be varied or revoked under Part 4 of this Act. On application from a relevant party (i.e. CEO, child, parent, party to proceeding in the other State), the registration may be revoke, if the Court is satisfied the order was inappropriately registered as per the matters set out in s 179(3): s 179.
			Part 6, Division 5 – General (ss 180-187)	Provides for miscellaneous other matters relating to the transfer of protection orders between WA and another State. The CEO is able to disclose to an interstate officer any information that came to his or her notice in the performance of powers under this Act if the CEO considers that is necessary to enable the interstate officer to perform duties under a child welfare or interstate law: s 184.
			Part 10 – Confidentiality provisions (ss 237-241)	Provides restrictions on use of information relating to persons who are or were children in relation to whom s 32 investigations (see above) were conducted, or were subject to protection proceedings unless that person gives written

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				consent if they are 18 or over: s 237. There are restrictions on the use of any records kept by the Department (for Child Protection) in any other legal proceedings, where production of such records is required: s 238. There are various other restrictions on use of information/imposing of obligations not to disclose information obtained under the Act.
	Children's Court of Western Australia Act 1988 (WA)	WA	s 14	The determination of applications to declare a child in need of care and protection cannot be heard in chambers.
			ss 20, 42, 43	Provides for the non-criminal jurisdiction of the Children's Court of Western Australia, being the determination of all applications made with respect to a child under certain WA legislation including the *Children and Community Services Act 2004* (WA) and appeals from such determinations.
	Commissioner for Children and Young People Act 2006 (WA)	WA		Act could be indirectly relevant to Article 20 because the Commissioner has broader powers to conduct inquiries, and make reports recommending changes to the law etc in relation to the safe-guard and wellbeing of children etc (which could include as to adoption, foster care etc).
	Evidence Act 1906 (WA)	WA	S 19L(3), (4)	Provides that sections 238 and 239 of the *Children and Community Services Act* 2004 do not apply (i.e. restriction on use of Department for Child Protection records in other proceedings and objection to disclosure of information) do

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				not apply in criminal proceedings to a certain extent. This can be characterised as providing additional protection to the interests of children who have been removed from their family.
			S19L(5A)	(5A) If in criminal proceedings leave is given under the protection provisions to require disclosure of — (a) a child care record as defined in the *Child Care Services Act 2007* section 46(1), then section 46(5) to (8) of that Act applies as if the child care record had been produced in response to a requirement referred to in section 46(2) of that Act; or (b) protected information as defined in the *Education and Care Services National Law (Western Australia)* section 273(3), then section 46(5) to (8) of the *Child Care Services Act 2007* applies as if the protected information — (i) was a child care record; and

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				(ii) had been produced in response to a requirement referred to section 46(2) of that Act.
	Family Court Act 1997 (WA)	WA	s 35	The Family Court of WA has throughout the State the federal jurisdiction with which it is invested by or under the *Family Law Act 1975* (Cth) or any other *Commonwealth Act* (and any subsidiary legislation).
			s 36(2)	The Family Court has non-federal jurisdiction extends throughout the State, subject to the *Family Law Act*, the *Adoption Act 1994*, the *Surrogacy Act 2008* and the *Children and Community Services Act 2004*, to make: (a) parenting orders in respect of; (b) orders in respect of the welfare of; (c) orders under section 71 in respect of the appointment and removal of the guardian of;... any child of a marriage and any child whose parents were not married to each other at the time of the birth of the child or subsequently, whether or not the child is a member of a family.
			36(3)	Subject to the Act, the Court has non-federal jurisdiction under this Act to make...(b) an order with respect to the welfare of a child [if the relevant location nexus to State is

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				met - i.e. child present in state and applicant ordinarily resident in WA].
			36(4)	Subject to this Act, the Court in exercising its non-federal jurisdiction under this Act may make... (b) any order that is neither a parenting order in relation to a child nor an order with respect to the welfare of a child [if the person against whom the order is sought or for whose benefit the order is sought is resident in WA].
			37	The Court must, in the exercise of its non-federal jurisdiction under this Act, have regard, as is applicable to each case, to certain principles including the need to protect the rights of children and to promote their welfare.
			Part 5 – Children (ss 66 – 82)	This Part provides for orders that can be made by the Family Court in relation to children including setting out the underlying principles for making such orders (which include the best interests of the child and protecting children from harm
			S 71	A person who is appointed as a child's guardian has parental responsibility (within the meaning of the Act – s 68, each parent in this first instance has parental responsibility). A court may appoint a person to be the guardian of a child if no person has parental responsibility for the child. A guardian can be removed from office if the court considers it is in the best interest of the child.
			S 71A	When the provisions regarding guardianship are applied to an Aboriginal or Torres Strait Islander child, in identifying a

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				person to exercise parental responsibility, the court must have regard to any kinship obligations, and child-rearing practices, of the child's Aboriginal or Torres Strait Islander culture.
			S 85	Parenting orders may be made in favour of some other person who is not the parent of a child. Parenting orders are described in s 84 and include orders regarding with whom a child is to live, and the allocation of parental responsibility for a child, maintenance etc.
			Part 5, Division 7 Subdivision 2 - Child maintenance orders (ss 113 – 132A)	The parents of a child have the primary duty to maintain the child: s 114. However, applications for child maintenance orders can be made by persons who have responsibility for the child under child welfare law (i.e. who are not the parents of the child): s 118.
			Part 5, Division 11, Subdivision 5 – Child welfare laws not affected (ss 202)	Court is not to make orders under the Act (under than under Division 7 re maintenance) in relation to a child under the control or in the care of a person under child welfare law except in limited prescribed circumstances.
	Legal Aid Commission Act 1976 (WA)	WA	s 37(3a)	Where an applicant for legal aid is a child for whom the CEO has parental responsibility under the *Children and Community Services Act* 2004 (WA), in determining whether that child is in need of legal aid by reason that he or she is unable to afford legal services from private practitioners, the legal aid authority must **not** have regard to the resources of the Department for Child Protection that are capable of being

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				applied or the provision of legal aid to the child.
	Legal Representation of Infants Act 1977 (WA)	WA	s 3, 5	For proceedings in the Children's Court to which the *Children and Community Services Act* 2004 applies, and in the exercise of the non-Federal jurisdiction of the Family Court, a guardian ad litem may be appointed by the court to represent an infant's interests in those proceedings where an infant is not party to the proceedings and it appears to the Court that that infants interests may be affected by the proceedings. Where the infant is under the guardianship of the CEO under the *Children and Community Services Act* 2004, a guardian to the infant cannot be appointed unless the CEO is notified and the CEO is given the opportunity to be heard: s 5(5).
	Prohibited Behaviour Orders Act 2010 (WA)	WA	s 18	No prohibited behaviour order made under this Act affects the jurisdiction of a court or the power of an authority under a child welfare law to take action which places a child under the control, supervision or care of a person. A 'child welfare law' within the meaning of the section includes the *Adoption Act 1994*, the *Children and Community Services Act* 2004, the *Family Court Act* 1997 and the *Youth Offenders Act* 1994. Prohibited behaviour orders can be made in connection with an offence with which the person is charged and can, for example, constrain the person against whom it is made from communicating from certain people, engaging in certain behaviour or going to certain places: see s 10.

7. Northern Territory

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ARTICLE 20: 1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State. 2. States Parties shall in accordance with their national laws ensure alternative care for such a child. 3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.	**Adoption of Children Act**	NT	5	The Local Court in the NT has jurisdiction to hear and determine all adoption proceedings instituted under this Act, but not orders can be made unless at the time of the application both the applicant/joint applicants are resident or domiciled in NT, and the child was in the NT.
			8(1)	For the purposes of the administration of this Act, adoption shall be regarded as a service for the child concerned, and the welfare and interests of the child shall be the paramount consideration.
			8(2)	In determining the welfare and interests of a child, regard must be had, among other things, to the ethnicity and religion of the birth parents of the child and, in so doing, the matters

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				set out in Schedule 1 must be taken into account. Where matters of ethnicity and religion are relevant, Schedule 1 sets out certain principles: (a) It is preferable the child be placed with a family with the same ethnic and cultural origins to promote child's cultural heritage and identity. (b) Where the child is an Aboriginal child, recognition is to be given to fact the is no adoption in customary Aboriginal child care arrangements, and arrangements for guardianship being made with the child's extended family/other Aboriginal people with correct relationship under customary Aboriginal law, as well as the desire and effort of the Aboriginal community to preserve the integrity of its culture and kinship relations - hence efforts to find appropriate placements should be made. (c) Appropriate consultation with child's parents, other relative, representations of appropriate organisations etc to ascertain best course of action to promote ethnic welfare and development of the child. (d) If the child's birth parents expressly wish the child be placed with a family with particular religious convictions, preference is to be given to the placement of the child with such a family.
			9	The Minister is responsible for adoptions [and hence, in effect, the protection of a child who has been removed from his or her family environment and who is to be adopted],

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				including the assessment of the suitability of persons to adopt a child, the arrangements for allocation of a child to a person/s, the transfer of the care and custody of the child to the person/s adopting him or her, and consenting to adoption of a child of whom the Minister has guardianship.
			11(1)	Where an order for the adoption of an Aboriginal child is to be made, the Court shall satisfy itself that every effort has been made (including consultation with the child's parents, with other persons who have responsibility for the welfare of the child in accordance with Aboriginal customary law and with such Aboriginal welfare organisations as are appropriate in the case of the particular child) to arrange appropriate custody: (a) within the child's extended family; or (b) where that cannot be arranged, with Aboriginal people who have the correct relationship with the child in accordance with Aboriginal customary law.
			11(2)	In making an order for the adoption of an Aboriginal child, where, in the opinion of the Court, the custody referred to in subsection (1) [see above] is not possible or would not be consistent with the welfare and interests of the child, the Court shall ensure that a placement is made that is consistent with the best interests and welfare of the child and in so doing shall: (a) give preference to the adoption of the child by applicants one or both of whom are Aboriginal persons who are, in the

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				opinion of the Minister, suitable to adopt the child; (b) take into consideration the placement of the child in geographical proximity to the family or other relatives of the child who have an interest in, and a responsibility for, the welfare of the child; and (c) take into consideration undertakings, if any, by the persons who will have the care and custody of the child to encourage and facilitate the maintenance of contact between the child and its own kin and with its own culture.
			12(2)	Orders for the adoption of a child who has entered into a traditional Aboriginal marriage cannot be made. [i.e. cultural background recognised in appropriately limiting power to protect the child]
			13 - 16	Sets out who may adopt child, including relationship status and age/age differences with the child
			15(3)	The Court is not to make an order for adoption in favour of the spouse of one of its parents, a relative, or the spouse of a relative **unless** the Court is satisfied that: (a) an order in relation to the guardianship or custody of the child under the *Family Law Act 1975* (Cth) or the *Guardianship of Infants Act* would not make adequate provision for the welfare and interests of the child, (b) in the opinion of the Minister, exceptional circumstances exist which make the making of an order for the adoption of

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				the child desirable; and (c) an order for the adoption of the child would make better provision for the child than an order referred to in (a) above.
			Part 3 Divisions 2 and 3 - Application and assessment and Review of decision not to approve persons (ss 17-25)	Sets out requirements for those eligible to apply to adopt a child, provides for the establishment of a list of applicants for adoption, and that Minister is to have regard to the adoption list when allocating a child, as well as for the review of Minister's decisions that applicants for adoption are unsuitable.
			Part 3, Division 4 - Consents to adoptions (ss 26-35)	Sets out the various consents that are required for the adoption of a child, including the adoption of a non-citizen child
			Part 3, Division 5 - Guardianship of child awaiting adoption (ss 36-37)	Where a child is to be adopted by someone other than a step-parent, and the relevant consents to adoption have either been obtained or dispensed with, the child is to be placed in the Minister's guardianship (also provides for transfer of Guardianship where child is leaving the NT). Where a non-citizen child enters the NT, and the *Immigration (Guardianship of Children) Act* 1946 (Cth) no longer applies, the child is to be placed in the Minister's guardianship for so long as the NT is the child's normal place of residence.
			Part 3, Division 6 - Adoption	Provides for the process to be following, and requirements of which the Court is to be satisfied, before making orders for

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			orders (ss 38-44)	the adoption of a child. It also provides for the discharge of adoption orders.
			43	If an application for an adoption order is refused, then the Court must make order for the care and custody and guardianship of the child as the Court thinks fit.
			Part 3, Division 7 - Effect of adoption orders (ss 45-48)	Describes the effect of adoption orders.
			Part 4 - Recognition of adoptions (ss 49-53)	Provides for the recognition in the NT of adoptions of children in another State or Territory of Australia, and adoptions of children overseas.
			53	Adopted children who are non-citizens and who were adopted in accordance with the law of an overseas country by foreign nationals less than 12 months earlier who arrive in the NT may have their welfare and interests supervised by the Minister for no more than 12 months from the date of arrival in the Territory. Persons approved by the Minister are to have right of access to the child at all reasonable times during the supervision period.
			Part 5 - Registration of adoptions (ss 54-	Provides for recording of adoption orders on register by Registrar of Births, Deaths and Marriages.

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			57)	
			Part 6 - Access to information (ss 58-66)	Provides for access to, and in particular limitations on who may access, information about adoptions.
			Part 7 - Offences (ss 67-78)	Provides for offences associated with adoption, including in s 68 it being an offence for a relinquishing parent cannot take adopted child away with the intent to deprive the adopted parent/s of the child or of care and custody of the child,
			Part 8 - Miscellaneous (ss 79-88)	
			85	The Minister may, in his or her discretion, provide financial assistance, or another form of assistance, on such terms and conditions as the Minister determines, to a child who has been or is likely to be adopted and who has special care requirements on account of an intellectual or physical disability or illness.
	Births, Deaths and Marriages Registration Act	NT	42	Provides for the searches of the Register of Births, Deaths and Marriages, including the access of parties to an adoption to information on the Register, and prevents access where a notice of prohibition has been given in relation to information on the Register about an adoption.
			53	This Act does not affect the *Adoption of Children Act* (NT).

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	Care and Protection of Children Act	NT	4	Objects of the Act are to promote the wellbeing of children, including to protect them from harm and exploitation, maximise the opportunities for children to realise their full potential, assist families to achieve those objectives, and ensure anyone responsible for children has regard to those objectives in fulfilling their responsibilities.
			5	To achieve the above objectives, the Act provides for, among other things, the powers of the Minister, the CEO and other officers to take actions, and the Court to make orders, for the wellbeing of children.
			Part 1.3 - Principles underlying this Act (ss 6-12)	The underlying principles of the Act are set out in ss 7-12, and anyone exercising a power or performing a function under the Act must, as far as practicable, uphold those principles (subject to any other law of the NT: s 6.
			7	NT government has responsibility for promoting and safeguarding the wellbeing of children.
			8(4)	Provides that as far as practicable, and consistent with the best interests of the child, if a child is removed from his or her family, contact between the child and the family should be encouraged and supported, and the child should eventually be returned to the family.
			9(2)	Decisions involving a child should be made, inter alia, in a way that is consistent with the cultural, ethical and religious values and traditions relevant to the child.

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			10	When a decision involving a child is made, the best interests of the child are the paramount concern. Without limitation to that concept, a list of matters which should be considered is set out in s 10(2), including the child's cultural, ethnic and religious backgrounds.
			12(1) and (2)	Provides for particular considerations relevant to Aboriginal children, recognising the importance of kinship groups in promoting the wellbeing of Aboriginal children (and such groups nominated by an Aboriginal child's family should be able to participate in the making of a decision involving the child)..
			12(3) and (4)	(3) An Aboriginal child should, as far as practicable, be placed with a person in the following order of priority: (a) a member of the child's family; (b) an Aboriginal person in the child's community in accordance with local community practice; (c) any other Aboriginal person; (d) a person who: (i) is not an Aboriginal person; but (ii) in the CEO's opinion, is sensitive to the child's needs and capable of promoting the child's ongoing affiliation with the culture of the child's community (and, if possible, ongoing

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				contact with the child's family). (4) In addition, an Aboriginal child should, as far as practicable, be placed in close proximity to the child's family and community.
			20	A child is in need of care and protection ('**child is in need of protection**') if: (a) the child has suffered or is likely to suffer harm or exploitation because of an act or omission of a parent of the child; or (b) the child is abandoned and no family member of the child is willing and able to care for the child; or (c) the parents of the child are dead or unable or unwilling to care for the child and no other family member of the child is able and willing to do so; or (d) the child is not under the control of any person and is engaged in conduct that causes or is likely to cause harm to the child or other persons.
			Part 2.1, Division 7 - provisional protection of child (ss 50-54	Provides for CEO to take urgent action for children who might be in need of protection: s 50.
			Part 2.2 - Children in	

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			CEO's care	
			Part 2.2, Division 1 - Preliminary matters (ss 66-68)	
			66	The object of this Part is to safeguard the wellbeing of: (a) each child who is in the CEO's care; and (b) each young person who has left the CEO's care.
			67	(1) A child is in the CEO's care if: (a) the child is under a temporary placement arrangement or in provisional protection; or (b) the CEO otherwise has daily care and control of the child under an order of the Court (for example, a protection order) or a law of the Territory. (2) The child leaves the CEO's care when the child ceases to be in the CEO's care.
			Part 2.2, Division 2 - Care plans (ss 69-74)	Provides for care plans and provision of care plans to relevant parties (child, parents, carer, other person considered by CEO to have a direct and significant interest in wellbeing of child).
			69	This Division applies to a child who is in the CEO's care if:

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				(a) a protection order for the child is in force; or (b) the CEO has daily care and control of the child under a court order prescribed by regulation.
			70	As soon as practicable after the child is taken into the CEO's care, the CEO must prepare and implement a care plan for the child. A care plan is a written plan that identifies the child's needs, outlines measure that must be taken to address those needs, sets out decisions about daily care and control of the child, including placement arrangements and contact between the child and other persons.
			71	The CEO may modify the care plan at any time if the CEO considers it appropriate to do so, and must do so when the child is about to leave the CEO's care (to deal with the child's transition to other living arrangements).
			72	CEO must conduct regular reviews of the care plan, the first 2 months after the child is taken into the CEO's care, and every 6 months thereafter.
			Part 2.2, Division 3 - Interim care plans (ss 75-76)	Provides for the preparation of interim care plans where the child is in the CEO's care but Division 2 (see above) does not apply to the child. Interim care plans are directed to the immediate needs of the child, but otherwise cover similar territory to the Division 2 care plans.
			Part 2.2, Division 4 - Placement	Governs the requirements for placement arrangements which

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			arrangement (ss 77-85)	the CEO must make for children in his or her care.
			77	The CEO must enter into a placement arrangement with other persons or bodies for a child who is in the CEO's care. The CEO may cancel the arrangement and replace it by another placement arrangement at any time.
			78	A placement arrangement is an arrangement for placing a child who is in the CEO's care with any of the following persons (the '**carer**') a parent of the child; a family member of the child; an individual approved by the CEO; or any other arrangement for placing the child that the CEO considers appropriate in the circumstances.
			84	An authorised officer may, at any reasonable time, enter the place where the child ordinarily resides under a placement arrangement to monitor the wellbeing of the child.
			85(1)	If the child is absent from the place, an authorised officer may apprehend the child in order to return the child to the place.
			Part 2.2, Division 5 - Young persons who have left the CEO's care (s 86)-	Relevantly, section 68 provides that A young person who has left the CEO's care is someone who: (a) has left the CEO's care; and (b) is between 15 and 25 years of age; and (c) was last in the CEO's care for a continuous period of at

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				least 6 months; and (d) in the CEO's opinion, is unlikely to be in the CEO's care again in the future. Section 86 provides for assistance from the CEO for a young person who has left the CEO's care. (1) A young person who has left the CEO's care is entitled, free of any charges, to the possession of any of the person's personal items held by: (a) the Department; or (b) anyone who was a carer of the person; or (c) a party to a placement arrangement for the person. (2) The CEO must ensure the person is provided with child-related services and other services the CEO considers appropriate. (3) Without limiting subsection (2), the CEO may assist the person in obtaining any of the following: (a) accommodation; (b) education or training; (c) employment;

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				(d) legal services; (e) health services; (f) counselling services. (4) In addition, the CEO may give financial assistance to the person for any of the following purposes: (a) the person's education or training; (b) obtaining and furnishing the person's accommodation; (c) living in close proximity to the place where the person is or will be: (i) undertaking education or training; or (ii) employed or seeking employment. (5) The financial assistance must be given on terms and conditions the CEO considers appropriate in the circumstances. (6) In this section '**personal items**', of a person, includes the following: (a) the person's birth certificate; (b) school reports or other reports relating to the person's education or training;

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				(c) photographs belonging to the person; (d) anything else prescribed by regulation.
			Part 2.3 Court's powers for children, Division 1 - Preliminary matters (s 87)	The object of this Part is to create an appropriate judicial process for safeguarding the wellbeing of children, particularly children who are or might be in need of protection. The object is to be achieved by: (a) establishing the family matters jurisdiction of the Local Court (see Division 2); and (b) making provision for the jurisdiction, including: (i) the power of the Court to make various orders for children (see Division 4); and (ii) other procedural matters (see Divisions 3 and 5 to 7).
			Part 2.3, Division 2 - Family matters jurisdiction (ss 88-92)	Provides for the jurisdiction of the Local Court in relation to family matters, who may exercise those powers, and the paramount considerations to be applied by the Court, as well as other procedural matters.
			88(1)	The Local Court is invested with a jurisdiction (the '**family matters jurisdiction**') to hear and determine an application for any of the following:

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				(a) a temporary protection order; (b) an assessment order; (c) a protection order; (d) an order or decision under Part 2.4; (e) any other order or decision the Court may make for a child under this Act (other than sections 194 and 206); (f) any order or decision relating to an order or decision mentioned in paragraph (a), (b), (c), (d) or (e).
			88(2)	In this Act, the Court is the Local Court exercising its family matters jurisdiction.
			Part 2.3, Division 3 - Court proceedings (ss 93-102)	Provides for the conduct of family matters proceedings under the Act, including that they be conducted with as little formality and legal technicality as the circumstances permit, and the Court is not bound by the rules of evidence.
			Part 2.3, Division 4 - Orders for children, Subdivision 1 - Temporary protection order (ss 103-110)	Provides for the requirements / procedure before the Court can make a temporary protection order. A protection order is an order that gives daily care and control of the child to the CEO while the order is in force, and is generally in force for 14 days from the time it is made: s 107. Temporary protection orders are sought if the CEO reasonably believes the child is in need of protection, and the

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				proposed order is urgently needed to safeguard the wellbeing of the child, and no protection order is in force for the child: s 103. The Court must make the temporary order if it is also satisfied of those things: s 105.
			Part 2.3, Division 4, Subdivision 2 - Assessment order (ss 111-120)	Provides for the requirements / procedure before the Court can make an assessment order. An assessment is an assessment of the child for determining whether the child is in need of protection (or an assessment of a parent to determine whether the parent is capable of exercising parental responsibility for the child: s 111(2). Assessment orders are sought where the CEO reasonably believes the proposed assessment is necessary for determining whether the child is in need of protection, and the proposed assessment cannot be carried out without the order: s111(1).
			Part 2.3, Division 4, Subdivision 3 - Protection order (ss 121-137)	Provides for the requirements / procedure before the Court can make a protection order. A protection order can be one of the following kinds prescribed under s 123: (a) a direction (a '**supervision direction**') requiring one or more of the following: (i) that a person must do, or refrain from doing, a specified

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				thing directly related to the protection of the child; (ii) that the CEO must supervise the protection of the child in relation to specified matters; (b) a direction (a '**daily care and control direction**') giving daily care and control of the child to a specified person; (c) a direction (a '**short-term parental responsibility direction**') giving parental responsibility for the child to a specified person for a specified period not exceeding 2 years; (d) a direction (a '**long-term parental responsibility direction**') giving parental responsibility for the child to a specified person for a specified period that exceeds 2 years; and ends before the child turns 18 years of age. The CEO may apply to the Court for a protection order for a child if the CEO reasonably believes: the child is in need of protection, or would be in need of protection but for the fact the child is currently in the CEO's care, and the proposed order is the best means to safeguard the wellbeing of the child: s 121. The Court must consider the matters set out in s 130, including, where the CEO proposes that the daily care and control of, or parental responsibility for, the child be given to a person, information given to the Court about that person and whether any other person would be better placed to be given the daily care of the child, as well as the needs of the child for the long-term stability and security.

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			Part 2.3, Division 5 - Adjournment (ss 138-139)	The Court can only adjourn proceedings for an application for an assessment order or protection order, but the Court must avoid granting adjournments to the greatest extent possible, and only if the Court considers doing so is in the best interests of the child or there are other strong reasons for doing so. In granting an adjournment, the Court may make orders including an order giving daily care and control of the child to the CEO (if proceedings relate to assessment order) or the CEO or a family member (if the proceedings relate to a protection order).
			Part 2.3, Divisions 6 and 7 - Appeals and Other procedural matters (ss 140-151)	These Divisions deal with appeal to the Supreme Court of any order or decision of the Court in relation to family matters, other than a temporary protection order: 140. Other procedural matters relating to family matters proceedings are then provided.
			Part 2.4 - Transfer of orders and proceedings (ss 152-183)	The object of this part is to enable orders in the nature of protection orders and related proceedings to be transferred between different jurisdictions, so that children may be protected under the orders when moving from one jurisdiction to another, and the proceedings may be determined expeditiously: s 152. This includes transfer of orders made in the NT to other states by the CEO and the Court, and the transfer of orders and proceedings to the NT from interstate.

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			Part 5.1 - Children's Commissioner	
			258(1)	The object of having the Children's Commissioner is to ensure the wellbeing of vulnerable child.
			258(2)	A '**vulnerable child'** is any of the following: (a) a child who is the subject of the exercise of a power or performance of a function under Chapter 2; (b) a child who has been arrested or is on bail, or in relation to whom an order made under the *Youth Justice Act* is in force; (c) a child in relation to whom an order made under the *Volatile Substance Abuse Prevention Act* is in force; (d) a child who is suffering from a mental illness or is mentally disturbed, or has a disability; (e) a child who has sought or is seeking child-related services, or for whom a family member of the child has sought or is seeking child-related services, for any of the following: (i) the prevention of harm to, or exploitation of, the child; (ii) the protection of the child;

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				(iii) care or support of the child.
			260	One of the functions of the Commissioner to investigate a complaint about services required to be provided to vulnerable children by service providers.
			Part 5.1, Division 2 - Complaints (ss 263-268)	Complaints may be made by someone who is or was a vulnerable child, or who is an adult acting on behalf of the vulnerable child: s263 Complaints must be made on the ground either that a service provider failed to provide services for the child, as a vulnerable child, that the provider was reasonably expected to provide; or the required services provided by the provider for the child failed to meet the reasonably expected standard: s 264(1). The required services include any services relating to the care or wellbeing of the child, among other things: s 264(2). Provision is then made for complaint assessment procedure
			Part 5.1, Division 3 - Conducting investigations (ss 269-271)	Provides for the Commissioner's investigation of complaints. Under s 70, on completing the investigation, the Commissioner must: (a) prepare a report of the investigation; and (b) take any action the Commissioner considers appropriate in relation to the matter to which the investigation relates.

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				There are associated requirements regarding proposed findings by the Commissioner and giving the service provider a reasonable opportunity to comment etc.
			Part 5.1, Division 4 - Commissioner's other powers (ss 271-272)	Section 271(1) provides that for performing the Commissioner's functions, the Commissioner may request a person to allow the Commissioner to have contact with a child who is, or whom the Commissioner reasonably believes to be: (a) a vulnerable child; or (b) a witness for a matter to which a complaint relates; or a matter to which an investigation relates. Under s 272, for performing the Commissioner's functions, the Commissioner may also require information from persons, including that they attend at a reasonable time and place to give information.
			Part 5.1, Division 5 - Offences (ss 273-277)	Provides for offences associated with, in effect, hindering the performance of the Commissioner's functions.
			Part 5.1A Sharing information for the safety and wellbeing of children (ss 293A-293J)	As s 293A provides: (1) The object of this Part is to ensure the safety and wellbeing of children by enabling particular persons and bodies having responsibilities for a child to request or give particular information about the child. (2) For achieving that object, it is the underlying principle of

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				this Part that rules about protecting confidentiality and privacy of individuals should not prevent the sharing of information for ensuring the safety and wellbeing of children. (3) Anyone exercising a power or performing a function under this Part must, as far as practicable, uphold the principle. Under s 293C, those who may share information are set out, including the CEO, carers of child etc. The information sharing framework is set out in s 293D-E.
	Guardianship of Infants Act	NT	19	The court may, on being satisfied that it is for the welfare of the infant: (a) remove from his office any testamentary guardian, or any guardian appointed or acting by virtue of this Act; and (b) appoint another guardian in place of the guardian so removed.
	Youth Justice Act	NT	51	(1) This section applies if the Court believes: (a) a youth who is charged with an offence is or may be a child in need of protection; or (b) there is a risk to the wellbeing of the youth. (2) The Court may require the CEO:

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				(a) to investigate the circumstances of the youth; and (b) to take appropriate action to promote the wellbeing of the youth. (3) If the Court requires the CEO to investigate the circumstances of the youth, the CEO must, as soon as practicable, give the Court a report on: (a) those circumstances (including, for example, whether or not the youth is a child in need of protection); and (b) any action that has been taken in relation to the youth regarding those circumstances. (4) The Court may: (a) adjourn the matter for the preparation of the report; and (b) remand the youth under section 65. (5) In this section: **'CEO'**, see section 13 of the *Care and Protection of Children Act*. **'child in need of protection'** means a child who is in need of protection as defined in section 20 of the *Care and Protection of Children Act*. **'wellbeing of a youth'**, means the wellbeing of a child as defined in section 13 of the *Care and Protection of Children*

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				Act.

8. Tasmania

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

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ARTICLE 20: 1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State. 2. States Parties shall in accordance with their national laws ensure alternative care for such a child. 3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.	**Adoption Act 1988**	Tas		**8 Welfare and interests of child to be paramount** In the administration of this Act, the welfare and interests of the child or adopted person concerned shall be regarded as the paramount consideration at all times. **20. Persons in whose favour adoption orders may be made** (1) An order for the adoption of a child may be made in favour of two persons who, for a period of not less than 3 years before the date on which the order is made, have been married to each other or have been the parties to a significant relationship which is the subject of a deed of relationship registered under Part 2 of the *Relationships Act 2003*. (2) The period of 3 years referred to in subsection (1) may include a period during which the two persons resided together in a stable continuous relationship immediately before their marriage or the registration of the deed of relationship. (2A) The court may not make an adoption order in favour of a person who is in a significant relationship, within the meaning of the *Relationships Act 2003*, unless: (a) the other party to the relationship is the natural or

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				adoptive parent of the child proposed to be adopted; or (b) either party to the relationship is a relative of the child proposed to be adopted. (3) The court shall not make an adoption order in favour of a person who is, or persons either of whom is, the mother of the child or a man who, under section 29(3), is an appropriate person to give consent to the adoption of the child. (4) Subject to this section, where the court is satisfied that exceptional circumstances exist in relation to the welfare and interests of the child which make it desirable to do so, the court may make an adoption order in favour of one person. (5) The court shall not make an adoption order in favour of one person: (a) if that person is married or in a significant relationship referred to in subsection (1), unless that person is living separately and apart from his or her spouse; or (b) if that person is married or in a significant relationship referred to in subsection (1) and is living with his or her spouse, except with the consent of that spouse. (6) Subject to subsection (7), an adoption order may be made in favour of the spouse of a natural parent, or of an adoptive parent, of the child concerned. (7) Where an application is made for an adoption order in favour of the spouse of a parent, or of an adoptive parent, of a

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				child and there is an appropriate person within the meaning of section 29 to give consent to the adoption, the court shall not make an adoption order unless it is satisfied that: (a) the making of an order by a court of competent jurisdiction for the custody or guardianship of the child would not make adequate provision to serve the welfare and interests of the child; and (b) an order for the adoption of the child would better serve the welfare and interests of the child; and (c) special circumstances exist which warrant the making of the adoption order. (8) On the making of an adoption order under subsection (7) relating to a child, the spouse shall be deemed to be a parent of the child jointly with that parent or adoptive parent as if the spouse and that parent or adoptive parent had been married to each other at the time the child was born but, notwithstanding section 50 – (a) the child is not to be treated in law as if the child were not the child of that parent or adoptive parent; and (b) that parent or adoptive parent is not to be treated in law as if the parent or adoptive parent were not a parent of that child; and (c) the relationship between the child and that parent or adoptive parent is not terminated; and

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				(d) if that parent or adoptive parent is the guardian of the child, the order does not terminate the guardianship; and (e) if, immediately before the adoption order is made, the child was the adopted child of that adoptive parent, the order does not terminate that adoption. **21. Orders in favour of relatives** The court shall not make an order for the adoption of a child in favour of a person who, or whose spouse, is a relative of the child or in favour of 2 persons who are relatives, or one of whom is a relative, of the child unless the court is satisfied that: (a) the making of an order under the *Children, Young Persons and Their Families Act 1997* for the custody or guardianship of the child would not make adequate provision for the welfare and interests of the child; and (b) an order for the adoption of the child would better serve the welfare and interests of the child; and (c) special circumstances exist which warrant the making of the adoption order. **22. Age of adoptive parents** (1) The court shall not make an order for the adoption of a child in favour of a person who, or 2 persons either of whom, is less than 18 years older than the child unless the court, on the recommendation of the Secretary or the principal officer

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				of an approved agency, considers that there are circumstances relating to the needs of the child which make it desirable to make the adoption order. (2) Subsection (1) does not apply in relation to the proposed adoption of a child: (a) who has attained the age of 18 years; or (b) by a spouse of a natural parent of the child, by a person who is, or whose spouse is, a relative of the child, or by 2 persons who are relatives of the child. **23. Wishes of child** Subject to this Division, an order for the adoption of a child shall not be made unless the court is satisfied that, so far as practicable, the wishes and feelings of the child have been ascertained and due consideration given to them, having regard to the age and understanding of the child. **24. Court to be satisfied as to certain matters** (1) The court shall not make an order for the adoption of a child unless the court has received a report in writing on behalf of the Secretary or the principal officer of an approved agency concerning the proposed adoption and, after considering the report and any other evidence before it, the court is satisfied that– (a) the prospective adoptive parents:

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				(i) satisfy the prescribed requirements relating to approval of adoptive parents; or (ii) satisfy those prescribed requirements as varied by the Secretary under subsection (6); and (b) the Secretary or principal officer has given consideration so far as practicable to any wishes expressed by a parent of the child, particularly in relation to the religion, marital status, sexual orientation, race, or ethnic background of the prospective adoptive parents of the child; and (c) the Secretary or principal officer has given consideration to: (i) any wishes expressed by a parent of the child at the time when consent to the adoption was given or dispensed with about access to, or information about, the child, including notification in the event of the death of the child; and (ii) any arrangements agreed between a parent of the child and the prospective adoptive parents of the child for access to the child or for the giving of information about the child; and (d) the welfare and interests of the child will be promoted by the adoption. (2) Subsection (1) does not apply in relation to an order under section 19 for the adoption of a child who has attained the age of 18 years before the making of the order but the court shall not make an adoption order in such a case unless it is satisfied that special circumstances exist in relation to the

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				welfare and interests of the child which make it desirable that the child should be adopted. (3) The report on behalf of the Secretary or the principal officer of an approved agency may be made by the Secretary or the principal officer of an approved agency or by a person authorized by the Secretary or principal officer in writing, either generally or in any particular case. (4) Except in the case of an adoption referred to in subsection (5), the court shall not make an order for the adoption of a child unless the court has received a report in the prescribed form as to the physical and mental condition of the child, signed by a medical practitioner who examined the child not more than 60 days before the date on which the application for the order was filed in the court. (5) Subsection (4) does not apply in relation to the proposed adoption of a child: (a) who has attained the age of 18 years; or (b) by a spouse of a natural parent of the child, by a person who is, or whose spouse is, a relative of the child, or by 2 persons who are relatives of the child. (6) At his or her own discretion or on written application by a principal officer, the Secretary in writing may vary the prescribed requirements relating to approval of particular prospective adoptive parents, by altering or omitting any one or more of those prescribed requirements, if the Secretary is satisfied that there are special circumstances relevant to the

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				needs of a particular child. **28. Discharge of adoption orders** (1) In this section: **'adoption order'** includes an adoption order made under the repealed Act or any corresponding previous enactment; **'eligible person'** means the adopted person to whom an adoption order relates, a natural parent of the adopted person, an adoptive parent of the adopted person, the Secretary, or the principal officer of an approved agency by which the adoption was arranged: and a reference to special circumstances includes a reference to an irretrievable breakdown of the relationship between the adoptive parents and the adopted person. (2) An eligible person may apply to the court for an order discharging an adoption order on the grounds: (a) that the adoption order or a consent for the purposes of the adoption order was obtained by fraud, duress, or other improper means; or (b) that special circumstances exist in relation to the welfare and interests of the person why the adoption order should be discharged. (3) Where an application is made under subsection (2), the court shall, if satisfied that there may be grounds on which an

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				order may be made, direct that an investigation be made into the circumstances under which the application is made. (4) An investigation under subsection (3) shall be made by the Secretary and, where the court so directs, by a person nominated by the Attorney-General. (5) If, after consideration of a report of an investigation carried out under subsection (3), the court is satisfied that the adoption order should be discharged, the court shall make an order for the discharge of the adoption but shall not make such an order if it appears to the court that it would be prejudicial to the welfare and interests of the adopted person to do so. (6) Where the court makes an order discharging an adoption order, any consent given under this Act for the purposes of the adoption of the person to whom the adoption order relates ceases to have effect unless the court otherwise orders. (7) Where the court makes an order under this section in respect of an adopted person, it may, at the same time or subsequently, make such consequential or ancillary orders as it thinks necessary in the interests of justice or the welfare and interests of the person, including orders relating to: (a) the name of the person; and (b) the ownership of property; and (c) the care, control, custody, or guardianship of the person;

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				and (d) the domicile of the person. (8) On the making of an order under this section discharging an adoption order, but subject to an order made under subsection (7) and to section 50(2), the rights, privileges, duties, liabilities, and relationships of the person to whom the adoption order relates and of all other persons shall be the same as if that order had not been made, but without prejudice to: (a) anything lawfully done; or (b) the consequences of anything unlawfully done; or (c) a proprietary right or interest that became vested in a person: while the adoption order was in force. **43. Miscellaneous provisions as to care, control, placement, &c., of child** (1) Where the Secretary has become and remains for a period of 12 months the guardian of a child under section 40 or 42 or the Secretary continues to be the guardian of a child as mentioned in subsection (2): (a) the Secretary shall make a report in writing to the court concerning the welfare and interests of the child; and

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				(b) the court shall make such order for the care, control, and custody of the child as it thinks fit. (2) Without limiting the orders the court may make under subsection (1)(b), the court may make a care and protection order under the *Children, Young Persons and Their Families Act 1997*. (3) . . . . . . (4) . . . . . . (5) The fact that the Secretary is the guardian of a child under this Division does not affect the liability of any other person to provide adequate means of support for the child. Part V relates to Registration of adoption orders Part VI relates to Access to Information
	Child, Young Persons and Their Families Act 1997	Tas	4	A child is at risk if: (a) the child has been, is being, or is likely to be, abused or neglected; or (b) any person with whom the child resides or who has frequent contact with the child (whether the person is or is not a guardian of the child): (i) has threatened to kill or abuse or neglect the child and there is a reasonable likelihood of the threat being carried

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				out; or (ii) has killed or abused or neglected some other child or an adult and there is a reasonable likelihood of the child in question being killed, abused or neglected by that person; or (ba) the child is an affected child within the meaning of the *Family Violence Act 2004*; or (c) the guardians of the child are: (i) unable to maintain the child; or (ii) unable to exercise adequate supervision and control over the child; or (iii) unwilling to maintain the child; or (iv) unwilling to exercise adequate supervision and control over the child; or (v) dead, have abandoned the child or cannot be found after reasonable inquiry; or (vi) are unwilling or unable to prevent the child from suffering abuse or neglect; or (d) the child is under 16 years of age and does not, without lawful excuse, attend a school, or other educational or training institution, regularly. (2) For the purposes of subsection (1), it does not matter

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				whether the conduct that puts a child at risk occurred or, as the case requires, is likely to occur wholly or partly outside Tasmania.
			5	A person (including the Secretary) who has guardianship, or has been granted guardianship, of a child under this Act: (a) is the guardian of the child and administrator of the estate of the child to the exclusion of any person who does not have guardianship, or has not been granted guardianship, under this Act; and (b) has the same rights, powers, duties, obligations and liabilities as a natural parent of the child would have.
			6	A person (including the Secretary) who has custody, or has been granted custody, of a child under this Act: (a) has the right to have, and the responsibility for, the daily care and control of the child; and (b) has the right to make, and the responsibility for making, decisions concerning the daily care and control of the child.
			7	The Act's object is to provide for the care and protection of children in a manner that maximises a child's opportunity to grow up in a safe and stable environment and to reach his or her full potential. The Minister must seek to further the object of this Act and, to that end, should endeavour to do the things listed in s 7(2), including, relevantly, providing, or assisting in providing

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				services for dealing with child abuse, neglect, the care and protection of children (including specifically within the Aboriginal community).
			8	The following principles apply to the administration of the Act: (a) the primary responsibility for a child's care and protection lies with the child's family; (b) a high priority is to be given to supporting and assisting the family to carry out that primary responsibility in preference to commencing proceedings under Division 2 of Part 5; (c) if a family is not able to meet its responsibilities to the child and the child is at risk, the Secretary may accept those responsibilities. In any exercise of powers under this Act in relation to a child: (a) the best interests of the child must be the paramount consideration; and (b) serious consideration must be given to the desirability of' (i) keeping the child within his or her family; and (ii) preserving and strengthening family relationships between the child and the child's guardians and other family members, whether or not the child is to reside within his or

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				her family; and (iii) not withdrawing the child unnecessarily from the child's familiar environment, culture or neighbourhood; and (iv) not interrupting unnecessarily the child's education or employment; and (v) preserving and enhancing the child's sense of ethnic, religious or cultural identity, and making decisions and orders that are consistent with ethnic traditions or religious or cultural values; and (vi) preserving the child's name; and (vii) not subjecting the child to unnecessary, intrusive or repeated assessments; and (c) the powers, wherever practicable and reasonable, must be exercised in a manner that takes into account the views of all persons concerned with the welfare of the child. In any proceeding under the Act that may lead to any separation of a child from his or her family, other than a proceeding under Part 4 (Assessments), the child's family and other persons interested in the child's wellbeing must be given the opportunity to present their views in respect of the child's wellbeing. In any proceeding under the Act in relation to a child, the child's family and other persons interested in the child's wellbeing should be provided with information sufficient to

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				enable them to participate fully in the proceeding. All proceedings under the Act must be dealt with expeditiously, with due regard to the degree of urgency of each particular case.
			9	A decision or order as to where or with whom an Aboriginal child will reside cannot be made under the Act except where a recognised Aboriginal organisation has first been consulted. In making any decision or order under the Act in relation to an Aboriginal child, a person or the Court must, in addition to complying with the principles set out in s 8 (see above): (a) have regard to any submissions made by or on behalf of a recognised Aboriginal organisation consulted in relation to the child; and (b) if a recognised Aboriginal organisation has not made any submissions, have regard to Aboriginal traditions and cultural values (including kinship rules) as generally held by the Aboriginal community; and (c) have regard to the general principle that an Aboriginal child should remain within the Aboriginal community.
			10	Provides for guardians of child to enter into voluntary care agreement giving custody of the child to the Secretary.
			11	The care agreement can only be terminated if the Secretary is satisfied that proper arrangements exist for the care of the

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				child.
			Part 3 - Informing of concern about abuse or neglect (ss 12-17A)	Imposes obligations on certain people, and otherwise provides for reporting of concerns about, abuse or neglect of a child, and surrounding provisions to protect the informer etc.
			Part 4 - Assessments (ss 18-29)	If the Secretary believes, or suspects, on reasonable grounds that a child is at risk, the Secretary may carry out an assessment of the circumstances of the child: s 18. If the Secretary considers it necessary or appropriate, the Secretary may obtain the assistance of the Commissioner of Police in carrying out the assessment of the circumstances of a child: s 19. Where a child is taken for assessment under s 20, The Secretary may retain in his or her custody a child who has been taken to attend a place or person under section 20 or a requirement made under that section if the Secretary considers: (a) that there is a reasonable likelihood that the child is at risk; and (b) that further assessment of the matter is warranted; and (c) that: (i) the assessment cannot properly proceed unless the child

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				remains in the Secretary's custody; or (ii) it is desirable that the child be protected while the matter is being assessed. Sections 22-28 deal with applications for assessment orders from the Court - including the procedure for applications.
			Part 5 - Children in need of care and protection (ss 30-53)	
			Pt 5, Division 1 - Family Group conferences (ss 30-41)	The Secretary may cause a family group conference to be convened in respect of a child if the Secretary is of the opinion: that the child is at risk; and that arrangements should be made to secure the child's care and protection; and, after considering any report of an advisory panel relating to the child, that a family group conference is a suitable means of determining what those arrangements should be: s 30. Section 31 provides that the purpose of a family group conference convened under s 301(1) is to provide an opportunity for a child's family and other persons attending the conference: (a) to make informed recommendations as to the arrangements for best securing the care and protection of the child; or (b) to review those arrangements and make further recommendations in respect of those arrangements from time

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				to time. The procedure for family group conferences is then provided for. 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 the relevant persons: s 36. The Secretary may then either approve or not approve the arrangements, depending on Secretary's assessment of suitability. If not suitable, the Secretary can reconvene the family group conference or take action for care and protection orders for the child under Division 2: s 37. If the Secretary approves the arrangements for securing the care and protection of a child recommended in a decision of a family group conference, the Secretary must take such action as is necessary to implement and maintain those arrangements: s 38. There is then provision for the review of the arrangements, and provisions protecting information associated with family conferences from disclosure.
			Pt 5, Division 2 - Care and protection orders (ss 42-53)	Provides matters relevant to the making of care and protection orders, including interim care and protection orders, variation, revocation and suspension of orders, and other matters relevant to applications for such orders.

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			42	The Secretary may apply to the Court for a care and protection order. On the application of the Secretary, the Court may make a care and protection order if: (a) the Court is satisfied: (i) that a child is at risk; and (ii) that a care and protection order should be made to secure the care and protection of the child; or (b) the Court is satisfied that: (i) proper arrangements exist for the care and protection of a child (whether pursuant to the Secretary approving the arrangements recommended in a decision of a family group conference or otherwise); and (ii) the child would be likely to suffer significant psychological harm if the arrangements were to be disturbed; and (iii) it would be in the best interests of the child for the arrangements to be incorporated in a care and protection order. A care and protection order may contain one or more of the following orders: (a) an order requiring the child or a guardian of the child, for

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				a specified period not exceeding 12 months, to do any specified thing or to refrain from doing any specified thing; (b) an order granting custody of the child, for a specified period not exceeding 12 months, to one of the following persons: (i) a guardian of the child; (ii) a member of the child's family; (iii) the chief executive officer of a non-Government organisation that provides facilities for the residential care of children, or a person who holds a position similar in nature to that of chief executive officer in such an organisation; (iv) the Secretary; (v) any other person that the Court considers appropriate in the circumstances; (c) an order placing the child, for a specified period not exceeding 12 months, under the guardianship of the Secretary; or one or 2 other persons; (d) an order placing the child, until the child attains 18 years of age, under the guardianship of the Secretary; or one or 2 other persons; (e) an order providing for access to the child; (f) an order providing for the way in which a person who has

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				custody or guardianship of the child under an order of the Court is to deal with matters relating to the care, protection, health, welfare or education of the child; (g) any other order the Court considers appropriate. Care and protection orders can be extended as per the requirements of s 44.
			46	If the Court adjourns an application for care and protection orders, interim care and protection orders may be made, including placing the child under the guardianship of the Secretary or one or 2 other persons..
			48	A care and protection order or an interim care and protection order: (a) may be varied or revoked by the Court at any time on the application of the child, the Secretary or a person granted guardianship or custody by the order; and (ab) may be varied or revoked by the Court on the application of a former guardian of the child or a person who was party to the application for the order, other than a person referred to in (a) if: (i) circumstances have changed since the order was made; and (ii) the application is made with the leave of the Court; and

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				(b) ceases to have effect when the child turns 18.
			49	If a care and protection order or interim care and protection order grants custody of a child to a person: (a) that grant does not affect the guardianship of the child; and (b) that person has the sole right to the custody of the child. If a care and protection order or interim care and protection order grants guardianship of a child to a person: (a) that grant is a grant of both custody and guardianship of the child to that person; and (b) that person is the guardian of the child and his or her estate to the exclusion of all other persons; and (c) that person has the same rights, powers, duties, obligations and liabilities as a natural parent of the child would have.
			Part 5B - Community Based Intake Service (ss 53C-53F)	The Secretary may enter into an agreement with an organisation for the carrying out of the functions of a Community-Based Intake Service. A Community-Based Intake Service has functions which include undertaking preliminary inquiries, in accordance with the CBIS guidelines, to determine whether a child is at risk or in need etc.

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			Part 6 - Procedural matters (ss 54-68)	In any proceedings under this Act, the Court must consider the best interests of the child to be the paramount consideration, and observe the principles set out in ss 8 and 9 (see above): s 54. The other things the Court must do etc are set out in this Part, such as taking into account the child's wishes, representation of the child, evidence, parties, hearings, joinder.
			55	In determining what is in the child's best interests, the Court must consider the following matters: (a) any wishes expressed by the child and any factors (such as the child's maturity or level of understanding) that the Court considers relevant to the weight it should give to the child's wishes; (b) the nature of the relationship of the child with each of the child's guardians and with other persons; (c) the likely effect of any changes in the child's circumstances, including the likely effect on the child of any separation from: (i) either of his or her guardians; and (ii) any other child, or other person, with whom he or she has been living; (d) the practical difficulty and expense of a child having contact with a guardian and whether that difficulty or expense will substantially affect the child's right to maintain personal

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				relations and direct contact with each guardian on a regular basis; (e) the capacity of each guardian, or of any other person, to provide for the needs of the child, including emotional and intellectual needs; (f) the child's maturity, sex, background and culture (including any need to maintain a connection with the lifestyle, culture and traditions of the Aboriginal community) and any other characteristics of the child that the Court considers relevant; (g) the need to protect the child from physical or psychological harm; (h) the attitude to the child, and to the responsibilities of parenthood, demonstrated by each of the child's guardians; (i) any other fact or circumstance that the Court considers relevant.
			Part 7 - Children under guardianship or in custody of secretary (ss 69-75)	In addition to saying how the Secretary may provide for care of the child, this Part also provides for who must financially contribute to the maintenance of the child (i.e. parents etc).
			69	Subject to other provisions of the Act, the Secretary may provide for the care of a child who is under the guardianship, or in the custody, of the Secretary under this Act or any other

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				enactment in any one or more of the following ways: (a) by placing the child, or permitting the child to remain, in the care of a guardian of the child or a member of the child's family; (b) by placing the child in the care of any person or any body of persons, corporate or unincorporated, the Secretary considers suitable; (c) by giving such directions as to the care of the child in the place in which the child resides as the Secretary considers appropriate; (d) by making arrangements for the education of the child; (e) by making arrangements (including admission to hospital) for the medical or dental examination or treatment of the child or for such other professional examination or treatment as may be necessary or desirable; (f) by making such other provision for the care of the child (including financial assistance) as the Secretary considers appropriate. In making provision for the care of a child, the Secretary must: (a) consider the best interests of the child to be the paramount consideration; and (b) have regard to the principles set out in ss 8 and 9 (see

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				above); and (c) make provision for the physical, intellectual, psychological and emotional development of the child; and (d) have regard to the desirability of securing settled and permanent living arrangements for the child.
			70	The Secretary may consent to the adoption of a child under the *Adoption Act 1988* if the child is under the guardianship of the Secretary until the child reaches 18 by reason of: (a) a care and protection order under s 42(4)(d); or (b) a similar order made under an enactment; or (c) an assumption of guardianship by the Secretary under Part 8 of this Act; or (d) an enactment. In deciding whether to consent to the adoption of a child, the Secretary must: (a) consider the best interests of the child to be the paramount consideration; and (b) have regard to the principles set out in ss 8 and 9 (see above); and (c) have regard to the desirability of securing settled and

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				permanent living arrangements for the child.
			71	Where a child is subject to a care and protection order under s 42(4)(d), the Secretary must periodically review the circumstances of the child and do so at least once: (a) in each year during the first 3 years of that guardianship; and (b) in each 2 year period following those first 3 years until the child reaches 18 years of age or the Secretary or other person named as guardian in the order otherwise ceases to be the child's guardian. On finalising a review, the Secretary must determine whether or not the existing arrangements for the care and protection of the child continue to be in the best interests of the child.
			Part 8 - Interstate transfers of child protection order (ss 76-77ZB)	Provides for the transfer of child protection / child welfare orders between states by the secretary and the Court, including provisions for the registration of orders incoming to Tasmania. As with similar Acts in other States, this Part is intended to continue the protection of children who are subject to protection/welfare orders when they move between jurisdictions. The usual provisions re notification of decision, review and appeal provisions etc are included in the Part.
			Part 9 - Commissioner for Children	The Governor may appoint a person to be the Commissioner for Children. The Commissioner has various functions including on the Commissioner's own initiative or on the

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			(ss 78-90)	request of the Minister, to advise the Minister on any matter relating to the health, welfare, education, care, protection and development of children placed in the custody, or under the guardianship, of the Secretary under this or any other Act.
			Part 10 - Miscellaneous (ss 91-113)	Provides for offences under the Act, as well as the powers of police officers under the Act and the execution of warrants, and other miscellaneous provisions.
	Children, Young Persons and Their Families and Youth Justice (Transitional and Savings Provisions) Act 1998	Tas		An Act which transitions matters under the old *Child Welfare Act* 1960 and the *Child Protection Act* 1974 to the *Children, Young Persons and Their Families Act* 1997.
	Commonwealth Powers (Family Law) Act 1987	Tas		Delegates powers relating to children (eg maintenance, custody, determination of parentage) to the Commonwealth excepting those actions taken pursuant to the *Adoption Act 1988*, *Children, Young Persons and Their Families Act 1997* and *Youth Justice Act 1997*.
	Corrections Act 1997	Tas		**25. Children** (1) At the request of a prisoner who is a child's parent or guardian, the Director may permit the prisoner's child to live with the prisoner in the prison if the Director is satisfied that: (a) it is in the best interests of the child to live with his or her parent or guardian in the prison; and (b) the management, good order or security of the prison will

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				not be threatened by the child living in the prison. (2) The prisoner is responsible for the safety and care of the prisoner's child while the child lives in the prison. (3) If the Director considers that the child's behaviour is threatening the security or good order of the prison or the child's safety is threatened, the Director may cause the child to be removed from the prison.
	Family Violence Act 2004	Tas		**12. Bail** (1) A person charged with a family violence offence is not to be granted bail unless a judge, court or police officer is satisfied that release of the person on bail would not be likely to adversely affect the safety, wellbeing and interests of an affected person or affected child. (2) Without limiting the matters to be taken into account in considering whether or not to grant bail to a person, a judge, court or police officer must have regard to the following: (a) any available risk screening or rehabilitation program assessment; (b) the person's demeanour; (c) the result of any available safety audit; (d) the availability of suitable accommodation for the person and any affected person or affected child;

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				(e) any other matter the judge, court or police officer considers relevant. 14 - Police Family violence orders - prevents a person who has committed, or is likely to commit, a family violence offence (ie an offence against their spouse or partner) from doing a number of things including: (d) refrain from harassing, threatening, verbally abusing or assaulting an affected person, affected child or other person named in the order; (e) not approach, within a specified distance, an affected person, an affected child, other person named in the order or certain premises; (f) refrain from contacting an affected person, affected child or other person named in the order directly or indirectly or otherwise than under specified conditions. **Part 4: Family Violence orders (made by the court)** (1) In making an FVO, a court: (a) must consider the safety and interests of the person for whose benefit the order is sought and any affected child to be of paramount importance; and (b) must consider whether contact between the person for whose benefit the order is sought, or the person against whom the FVO is to be made, and any child who is a member of the family of either of those persons is relevant to the making of

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				the FVO; and (c) must consider any relevant Family Court order of which the court has been informed.
	Guardianship and Custody of Infants Act 1934	Tas	Sections 9 - 16	**9. Power of Court to remove guardian** The Court, in its discretion, on being satisfied that it is for the welfare of the infant, may remove from his office any testamentary guardian or any guardian appointed or acting by virtue of this Act and may also, if it shall deem it to be for the welfare of the infant, appoint another guardian in the place of the guardian so removed. **10. Power of Court to make orders as to custody** The Court may, upon the application of the mother or father of any infant (who may apply without next friend), make such order as it thinks fit regarding the custody of such infant and the right of access thereto of either parent, having regard to the welfare of the infant and to the conduct of the parents, and to the wishes as well of the mother as of the father, and may alter, vary or discharge such order on the application of either parent, or, after the death of either parent, of any guardian under this Act, and in any case may make such order respecting the costs of the mother and the liability of the father for the same or otherwise as to costs as it may think just. **11. Guardianship in case of divorce or judicial separation** In any case where a decree for judicial separation, or a decree

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				either *nisi* or absolute for divorce, shall be pronounced, the Court pronouncing such decree may thereby declare the parent, by reason of whose misconduct such decree is made, to be a person unfit to have the custody of the children, if any, of the marriage; and, in such case, the parent so declared to be unfit shall not, upon the death of the other parent, be entitled as of right to the custody or guardianship of such children. **12. Power of Court as to production of child** Where the parent of a child applies to the Court for a writ or order for the production of a child, and the Court is of opinion that the parent has abandoned or deserted the child, or that he has otherwise so conducted himself that the Court should refuse to enforce his right to the custody of the child, the Court may, in its discretion, decline to issue the writ or make the order. **13. Power of Court to order repayment of costs of bringing up child** If, at the time of the application for a writ or order for the production of a child, the child is being brought up by another person, the Court, in its discretion, if it orders the child to be given up to the parent, may further order that the parent shall pay to such other person the whole of the costs properly incurred in bringing up the child, or such portion thereof as shall seem to the Court to be just and reasonable, having regard to all the circumstances of the case. **14. Court in making order to have regard to conduct of**

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				parent Where a parent has: (a) abandoned or deserted his child; or (b) allowed his child to be brought up by another person at that person's expense for such a length of time and under such circumstances as to satisfy the Court that the parent was unmindful of his parental duties: the Court shall not make an order for the delivery of the child to the parent unless the parent has satisfied the Court that, having regard to the welfare of the child, he is a fit person to have the custody of the child. **15. Power of Court as to child's religious education** Upon any application by the parent for the production or custody of a child, if the Court is of opinion that the parent ought not to have the custody of the child, and that the child is being brought up in a different religion from that in which the parent has a legal right to require that the child should be brought up, the Court shall have power to make such order as it thinks fit to secure that the child is brought up in the religion in which the parent has a legal right to require that the child should be brought up. **16. Saving of power to consult child** Nothing in this Act shall interfere with or affect the power of the Court to consult the wishes of the child in considering

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				what order ought to be made, or diminish the right which any child now possesses to the exercise of its own free choice.
	Justices Act 1959	Tas	Section 106B	**Section 106B Restraint Orders** (4AAB) In deciding whether or not to make a restraint order, the justices : (a) must consider the protection and welfare of the person for whose benefit the order is sought to be of paramount importance; and (b) must consider whether access between the person for whose benefit the order is sought, or the person against whom the order is sought, and any child who is a member of the family of either of those persons is relevant to the making of the restraint order; and (c) must consider any relevant family contact order of which the justices have been informed.

9. ACT

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

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ARTICLE 20: 1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State. 2. States Parties shall in accordance with their national laws ensure alternative care for such a child. 3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.	**Adoption Act 1993**	ACT	4	This section provides for the objects of the Act, these include: (a) ensuring that the best interests of the child or young person are the paramount consideration in the adoption of a child or young person; and (b) providing an adoption process that promotes the wellbeing and care of children and young people in a way that recognises the child's or young person's right: (i) to grow in a safe and stable environment; and (ii) to be cared for by a suitable family and to establish enduring relationships; and (iii) to know about family background and culture and have the opportunity to maintain or develop cultural identity; and (c) ensuring that the Aboriginal and Torres Strait Islander people are included and participate in any adoption of an Aboriginal or Torres Strait Islander child or young person; and (d) ensuring that adoption is centred on the needs of the child or young person rather than an adult wanting to care for a child or young person; and (e) consulting with the child or young person throughout the

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				adoption process and, wherever possible, taking the child's or young person's views into account; and (f) recognising a birth parent's involvement in making decisions about their child's future; and (g) providing for adoption plans to recognise the intentions of parties in an adoption; and (h) ensuring that equivalent standards apply for a child or young person adopted from the ACT and a child or young person adopted from overseas; and (i) ensuring that the adoption process in the ACT complies with Australia's international obligations, in particular the obligations arising under the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.
			5	Requires 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. The matters that must be taken into account in forming a view about those best interests are set out in s5(2).
			6	Sets out the additional considerations, to s 5, for making a decision in relation to an Aboriginal or Torres Strait Islander person. The decision maker must: (a) take into account the need for the child or young person to maintain a connection with the lifestyle, culture and traditions of the child's or young person's Aboriginal or

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				Torres Strait Islander community; and (b) seek and consider submissions about the child or young person made by or on behalf of any Aboriginal or Torres Strait Islander people or organisations identified by the director-general as providing ongoing support services to the child or young person or the child's or young person's family; and (c) take into account Aboriginal and Torres Strait Islander traditions and cultural values (including kinship rules) as identified by reference to the child's or young person's family and kinship relationships and the community with which the child or young person has the strongest affiliation.
			7	The Supreme Court of the ACT has jurisdiction to hear and determine proceedings on applications for the making of adoption orders and other orders under this Act.
			Part 3 - Adoptions under this Act	
			Part 3, Division 3.1 - Who can be adopted (ss 9-12)	An adoption order can be made for a person who was under 18 years on the date of the application being filed and who is in the ACT: s 9..
			Part 3, Division 3.2 - Who can adopt? (ss 13-19)	Provides requirements for who may adopt a child - residence, relationship status, suitability, including adoption by step-parents and other relatives, and one person only: ss 13-17 Provides for approval of applicants to be registered as

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				suitable for the placement of a child for adoption, and register of suitable people for adoption to be kept by the director-general: ss 18-19.
			Part 3, Division 3.3 - Consents to adoptions (ss 26-35)	Provides for the necessary consents to adoption, and the procedures to be followed for valid consent, when consent not required, and revocation of consent. The court may refuse to make an adoption order it appears that any required consent was not given in accordance with the Act, or otherwise obtained improperly or was altered: s 34. The court may dispense with consent to adoption in appropriate circumstances: s 35.
			Part 3, Division 3.4 - Placement of child or young person before adoption (ss 35A-35B)	Section 35A sets out requirements re interim placement of children who are to be adopted. (1) The director-general may place a child or young person in the care of a person if: (a) the director-general is the guardian of the child or young person; and (b) the person: (i) is on the register of suitable people; and (ii) intends to apply for an adoption order for the child or young person; and

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				(iii) has asked the director-general, in writing, to place the child or young person in the person's care until the application is decided; and (c) the child or young person has been consulted under section 35B; and (d) if the child or young person is an Aboriginal or Torres Strait Islander child or young person: the additional requirements mentioned in section 6 (Aboriginal and Torres Strait Islander child or young person: additional requirements) have been complied with. (2) The director-general must not place a child or young person in the care of a person under subsection (1) unless the director-general considers that the person is suitable to adopt the particular child or young person having regard to the criteria set out in section 39F (1)(c)(Deciding application for adoption order for child or young person). (3) The director-general must remove a child or young person from the care of a person with whom the child or young person has been placed under this section if: (a) the person is no longer on the register of suitable people; or (b) the director-general considers that the person is no longer suitable to adopt the particular child or young person having regard to the criteria set out in section 39F (1)(c); or (c) within 1 year after the child or young person is placed in

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				the care of the person under this section, the person has not applied for an adoption order for the child or young person. (4) A person given care of a child under this section has daily care responsibility for the child or young person. (5) In this section '**daily care responsibility**': see the *Children and Young People Act 2008*, section 19
			Division 3.5 - Guardianship before adoption (ss 36-39)	Once relevant consents have been obtained, the director-general is the guardian of a child or young person before an adoption order is made, unless the adoption application is made by a step-parent and a natural parent has a continuing role, or the principal officer of a private adoption agency is the guardian, where the child or young person is under the guardianship of an authority of another State/Territory, or the director-general has long-term care responsibility for the child or young person under the *Children and Young People Act 2008*: ss 36(1), (2) The principals officer of a private adoption agency will be the pre-adoption guardian of a child or young person if the private adoption agency is appropriately authorised by those required to consent to the adoption and that principal officer is willing to assume guardianship: s 36(3) Guardianship of a non-citizen child/young person and the transfer of guardianship until adoption provided for in ss 37 and 38 respectively..
			Division 3.6 - Proceedings for	Provides for the court procedure/process that must be followed in relation to the adoption of a child or young

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			an adoption order (ss 39A-39L)	person. Included in this procedure is the requirement that the director-general or the principal officer of a private adoption agency must give a written report to the court which includes information about the proposed adoption, an adoption plan (which may include anything that is appropriate taking into account the best interests of the child or young person, including the way that child or young person is to develop an understanding about his or her family background and culture and have the opportunity to maintain or develop cultural identity): s 39D. Circumstances where discharge of an adoption order can be made are also provided in s 39L.
			39F	(1) The court must not make an adoption order for a child or young person unless: (a) each consent required under division 3.3 has been given; and (b) the period within which each required consent may be revoked has expired without the consent having been revoked; and (c) after considering the report or reports given to it under section 39D (Report on proposed adoption) or section 57A (Report on child for intercountry adoption) and any other evidence, the court considers that: (i) each applicant is of good reputation and able to fulfil the

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				responsibility of the parent of a child or young person (including protecting a child's or young person's physical and emotional wellbeing); and (ii) each applicant is suitable to adopt the particular child or young person having regard to: (A) the applicant's age, education and attitude to adoption; and (B) he applicant's physical, mental and emotional health, particularly as it impacts on capacity to nurture the child or young person; and (C) any other relevant consideration; and (iii) the adoption is in the best interests of the child or young person. (2) In deciding whether or not to make an adoption order, the court must have regard to: (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 (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).
			39G	(1) This section is in addition to, and does not limit, section

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				39F. (2) An adoption order must not be made for an Aboriginal or Torres Strait Islander child or young person unless the court is satisfied that: (a) the additional requirements mentioned in section 6 (Aboriginal and Torres Strait Islander child or young person: additional requirements) have been complied with; and (b) it is not practicable for the child or young person to remain in the care of the birth parents or a responsible person; and (c) the choice of the adoptive parents has been made having regard to the desirability of the child or young person: (i) being in the care of a person who is a member of an Aboriginal or Torres Strait Islander community; and (ii) being able to establish and maintain contact with his or her birth parents, any responsible person and the Aboriginal or Torres Strait Islander community of which the child or young person is or was a member.
			39K	(1) If the court refuses to make an adoption order for a child or young person, the court may: (a) if it considers that the child's or young person's best interests would be promoted by doing so: make an order relating to guardianship or custody of the child or young

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				person; and (b) make any other order it thinks fit. (2) An order under subsection (1)(a) may be made in favour of the director-general or any other person.
			Part 3, Division 3.7 - Conditional orders (ss 40-42)	Provides for attaching conditions to adoptions, such as that the birth parents and relatives of the child or young person have the right of access to the extent provided in the order.
			Part 3, Division 3.8 - Effect of adoption orders (ss 43-49)	Provides for the effect of adoption orders (eg child becomes in law a child of the adoptive parents etc), and other aspects such as dispositions of property in a will (adopted child's rights to), the child's name, bequests to a person who is adopted etc.
			Part 3, Division 3.9 - Interim orders (ss 50-52)	Provides Court will power to make interim order in favour of the applicants for adoption for the custody of the child or young person, if court postpones decision. An interim order can be in place for a maximum of 1 year.
			Part 4 - Recognition of Australian adoptions - s 53	Adoption orders made in other States or Territory will have the same effect as an order made under this Act.
			Part 4A - Intercountry and overseas adoption (ss 54-	Provides for when an adoption of a child in a country outside Australia will have effect as an adoption for the law of the ACT, and when children from overseas countries can be adopted in the ACT.

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			57M)	
			Part 5 - Access to information (ss 58-80)	Provides for rights of access to / limitations on release of information about adoptions - records relating to an adoption are prima facie confidential: s 60. Records of adoptions must be maintained: s 61. The director-general is required to maintain an adoption information register, containing information about the adopted person, birth parents and relatives, and adoptive parents who have requested their details be entered, also recording wishes of those persons re identifying information and contact: s 78. Provides for the right for contact vetos (i.e. by birth parents) to be lodged on behalf of adopted children: s 70. The director-general must maintain a contact veto register, including the name of each person who has lodged a contact veto: s 79.
			Part 6 - Private adoption agencies (ss 81-87)	Provides for charitable organisations desiring to conduct negotiations/make arrangements for the adoption of children or young people to be approved as private adoption agencies: s 81. Director-general must make decision taking into account qualifications, experience, character and number of persons who will take part in the management or control of the agency (as well as any other relevant considerations): s 82. Approval can be revoked or suspended by the director-general, including where the agency is no longer suitable or has contravened the requirements under which it is to

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				operate: s 85.
			Part 7 - Offences (ss 88-101)	Provides for offences associated with adoption, including birth parents removing adopted child or young person, or interfering with the upbringing of the child or young person.
			Part 7A - Notification and review of decisions (ss 102-103A)	Provides for ACAT to review certain decisions made under the Act (see regulations for decisions that are reviewable).
			Part 8 - Miscellaneous (ss 104-121)	Deals with miscellaneous matters/procedural issues relating to adoption proceedings and orders.
			108A	(1) This section applies if: (a) a child or young person is adopted in the ACT; and (b) the child or young person is ordinarily resident in the ACT; and (c) before the adoption order was made: (i) the director-general had daily care responsibility or long-term care responsibility for the child or young person under the *Children and Young People Act 2008*; or (ii) the adoptive parents had daily care responsibility or long-term care responsibility for the child or young person as foster carers under the *Children and Young People Act 2008*;

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				or (iii) the adoptive parents had daily care responsibility or long-term care responsibility for the child or young person as kinship carers under the *Children and Young People Act 2008*. (2) The director-general may provide financial support to the adoptive parents of the child or young person if: (a) the child or young person has complex or high needs; and (b) the adoptive parents require financial assistance to help manage the child's or young person's needs; and (c) the financial burden of meeting the child's or young person's needs without any financial assistance might prevent an adoption order which would otherwise be in the best interests of the child or young person. (3) Support provided under this section must be reviewed by the director-general every 12 months.
	Children and Young People Act 2008	ACT	7	Relevantly, the objects of the Act include: (a) providing for, and promoting, the wellbeing, care and protection of children and young people in a way that: (i) recognises their right to grow in a safe and stable environment; and (ii) takes into account the responsibilities of parents,

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				families, the community and the whole of government for them; and (b) ensuring that children and young people are provided with a safe and nurturing environment by organisations and people who, directly or indirectly, provide for their wellbeing, care and protection; and (c) preventing abuse and neglect of children and young people by providing whole of government assistance to children and young people, their parents and families, the community, and others who have responsibility for them; and (d) ensuring that Aboriginal and Torres Strait Islander people are included and participate in: (i) providing for, and promoting, the wellbeing, care and protection of Aboriginal and Torres Strait Islander children and young people; and (ii) preventing the abuse and neglect of Aboriginal and Torres Strait Islander children and young people; and (iii) rehabilitating and reintegrating Aboriginal and Torres Strait Islander young offenders; and (e) ensuring that services provided by, or for, government for the wellbeing, care and protection of children and young people: (i) are centred on the needs of children and young people;

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				and (ii) are informed by processes which engage children and young people, wherever possible, and take their views and wishes into account; and (iii) foster and promote the health, education, developmental needs, spirituality, self-respect, self-reliance and dignity of children and young people; and (iv) respect the individual race, ethnicity, religion, disability, sexuality and culture of children and young people; and (g) imposing standards that must be complied with for the delivery of services to children and young people.
			8	In making a decision under the Act, the decision-maker must in all circumstances have regard to the best interests of the child concerned, and where a child is the subject of the decision, that is the paramount concern.
			9	(1) In making a decision under this Act in relation to a child or young person, a decision-maker must have regard to the following principles where relevant, except when it is, or would be, contrary to the best interests of a child or young person: (a) the child's or young person's sense of racial, ethnic, religious, individual or cultural identity should be preserved and enhanced; (b) the child's or young person's education, training or lawful

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				employment should be encouraged and continued without unnecessary interruption; (c) the child's or young person's age, maturity, developmental capacity, sex, background and other relevant characteristics should be considered; (d) delay in decision-making processes under the Act should be avoided because delay is likely to prejudice the child's or young person's wellbeing. (2) A decision-maker exercising a function under this Act must, where practicable and appropriate, have qualifications, experience or skills suitable to apply the principles in subsection (1) in making decisions under the Act in relation to children and young people.
			10	In making a decision under this Act in relation to an Aboriginal or Torres Strait Islander child or young person, in addition to the matters in section 8 and section 9, the decision-maker must take into account the following: (a) the need for the child or young person to maintain a connection with the lifestyle, culture and traditions of the child's or young person's Aboriginal or Torres Strait Islander community; (b) submissions about the child or young person made by or on behalf of any Aboriginal or Torres Strait Islander people or organisations identified by the director-general as providing ongoing support services to the child or young

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				person or the child's or young person's family; (c) Aboriginal and Torres Strait Islander traditions and cultural values (including kinship rules) as identified by reference to the child's or young person's family and kinship relationships and the community with which the child or young person has the strongest affiliation.
			11	In this Act '**child**' means a person who is under 12 years old.
			12	In this Act '**young person**' means a person who is 12 years old or older, but not yet an adult.
			17(1)	Parental responsibility may be transferred from a person to someone else under: (a) a family group conference agreement; or (b) an appraisal order including a temporary parental responsibility provision; or (c) emergency action; or (d) a care and protection order including a parental responsibility provision; or (e) a safe custody warrant; or (f) a court order (under this Act or another law in force in the Territory); or

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				(g) a provision of another law in force in the Territory.
			22(1)	The director-general's functions are set out in s 22(1) of the Act. Relevantly, these include: (a) providing, or assisting in providing, services directed to strengthening and supporting families in relation to the wellbeing, care and protection of their children and young people; (b) supporting the community in preventing, or reducing, abuse and neglect of children and young people; (c) providing, or assisting in providing, information to parents, kinship carers and foster carers, prospective kinship carers and foster carers, government agencies, non-government agencies and members of the community about the operation of this Act; (f) exercising aspects of parental responsibility for children and young people; (g) providing, or assisting in providing, information, services or assistance to children and young people who have left the director-general's care; (i) working with other government agencies and community organisations, to coordinate and promote the care and protection of children and young people, including young offenders.

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			Chapter 3 - Family group conferences (ss 73-90)	Chapter 3 of the Act deals with family group conferences, of which a relevant object is to make arrangements for the care of the child or young person to reduce the likelihood of the child or young person being in need of care and protection in the future: s 74.
			80(2)	One of the situations where the director-general can arrange for a family group conference about a child or young person if the director-general believes on reasonable grounds that: (a) the child or young person is in need of care and protection; and (b) arrangements should be made to secure the child's or young person's care and protection.
			Chapter 10 - Care and protection - general (ss 336-352)	Section 336 sets out the structure of the care and protection chapters of the Act. In this Act: **'care and protection chapters'** means the following chapters: (a) Chapter 10 (Care and protection: general); (b) Chapter 11 (Care and protection: reporting, investigating and appraising abuse and neglect); (c) Chapter 12 (Care and protection: voluntary agreements to transfer or share parental responsibility);

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				(d) Chapter 13 (Care and protection and therapeutic protection: emergency situations); (e) Chapter 14 (Care and protection: care and protection orders); (f) Chapter 15 (Care and Protection: director-general has aspect of parental responsibility); (g) Chapter 16 (Care and protection: therapeutic protection of children and young people); (h) Chapter 17 (Care and protection: interstate transfer of orders and proceedings); (i) Chapter 18 (Care and protection: police assistance); (j) Chapter 19 (Care and protection: provisions applying to all proceedings under care and protection chapters).
			342	Sets out the meaning of abuse - includes physical, sexual and emotional.
			343	Sets out the meaning of neglect of a child or young person - being a failure to provide the child or young person with a necessity of life if the failure has caused or is causing significant harm to the wellbeing or development of the child or young person.
			345	(1) For the care and protection chapters, a child or young person is ***in need of care and protection*** if:

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				(a) the child or young person: (i) has been abused or neglected; or (ii) is being abused or neglected; or (iii) is at risk of abuse or neglect; and (b) no-one with parental responsibility for the child or young person is willing and able to protect the child or young person from the abuse or neglect or the risk of abuse or neglect. (2) Without limiting subsection (1), a child or young person is in need of care and protection if: (a) there is a serious or persistent conflict between the child or young person and the people with parental responsibility for him or her (other than the director-general) to the extent that the care arrangements for the child or young person are, or are likely to be, seriously disrupted; or (b) the people with parental responsibility for the child or young person are dead, have abandoned the child or young person or cannot be found after reasonable inquiry; or (c) the people with parental responsibility for the child or young person are sexually or financially exploiting the child or young person or not willing and able to keep him or her from being sexually or financially exploited.
			349	Section 349(1) sets out the factors a decision maker must consider when taking into account the best interests of the

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				child or young person, but s 349(2) confirms that the decision maker may consider anything else that is relevant. The factors set out in s 349(1) are: (a) the need to ensure that the child or young person is not at risk of abuse or neglect; (b) any views or wishes expressed by the child or young person; (c) the nature of the child's or young person's relationship with each parent and anyone else; (d) the likely effect on the child or young person of changes to the child's or young person's circumstances, including separation from a parent or anyone else with whom the child has been living; (e) the practicalities of the child or young person maintaining contact with each parent and anyone else with whom the child or young person has been living or with whom the child or young person has been having substantial contact; (f) the capacity of the child's or young person's parents, or anyone else, to provide for the child's or young person's needs including emotional and intellectual needs; (g) for an Aboriginal or Torres Strait Islander child or young person: that it is a high priority to protect and promote the child's or young person's cultural and spiritual identity and development by, wherever possible, maintaining and building

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				the child's or young person's connections to family, community and culture; (h) that it is important for the child or young person to have settled, stable and permanent living arrangements; (i) for decisions about placement of a child or young person: the need to ensure that the earliest possible decisions are made about a safe, supportive and stable placement; (j) the attitude to the child or young person, and to parental responsibilities, demonstrated by each of the child's or young person's parents or anyone else; (k) any abuse or neglect of the child or young person, or a family member of the child or young person; (l) any court order that applies to the child or young person, or a family member of the child or young person.
			350	(1) In making a decision under the care and protection chapters in relation to a child or young person, a decision-maker must apply the following principles (the '**care and protection principles**') except when it is, or would be, contrary to the best interests of a child or young person: (a) the primary responsibility for providing care and protection for the child or young person lies with the child's or young person's parents and other family members; (b) priority must be given to supporting the child's or young person's parents and other family members to provide for the

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				wellbeing, care and protection of the child or young person; (c) if the child or young person does not live with his or her family because of the operation of this Act: contact with his or her family, and significant people, must be encouraged, if practicable and appropriate; (d) if the child or young person is in need of care and protection and the child's or young person's parents and other family members are unwilling or unable to provide the child or young person with adequate care and protection (whether temporarily or permanently): it is the responsibility of the government to share or take over their responsibility; (e) if the child or young person does not live with the child's or young person's parents because of the operation of this Act: the safety and wellbeing of the child are more important than the interests of the parents; (f) a court should make an order for a child or young person only if the court considers that making the order would be better for the child or young person than making no order at all. (2) The care and protection principles must be applied in addition to the principles under section 9 (Principles applying to Act) and section 10 (Aboriginal and Torres Strait Islander children and young people principle).
			Chapter 11 - Care and protection -	

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			reporting, investigating and appraising abuse and neglect (ss 353-388)	
			353-365	Deals with the reporting of abuse and neglect of children and young people to the director-general, and investigation and appraisal. Any reports must be acted upon by the director-general.
			360	This section sets out the director-general's obligations where a report is made about the abuse and neglect of a child or young person. (1) This section applies if the director-general receives a child concern report about a child or young person. (2) The director-general must: (a) consider the report; and (b) carry out an initial assessment of the matters raised in the report to decide if the child or young person may be in need of care and protection; and (c) take the action that the director-general considers appropriate in relation to the initial assessment. (3) To carry out an initial assessment of the matters raised in the report, the director-general may take reasonable steps to

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				obtain further information about the matters. (4) Without limiting subsection (2)(c), the director-general may do any of the following: (a) give advice to the person who made the child concern report about appropriate assistance that the person may consider to protect the child or young person; (b) seek information from an information sharing entity to decide the most appropriate response to the child concern report; (c) refer a matter raised in the report to the chief police officer if the director-general suspects on reasonable grounds that it relates to a criminal offence; (d) refer the matters raised in the report to a government or community-based service for advice and support services for the child or young person and, if appropriate, the child's or young person's family members; (e) provide or arrange support services for the child or young person and, if appropriate, the child's or young person's family members; (f) arrange a family group conference in relation to the child or young person; (g) assist a family member or a significant person to care for the child or young person;

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				(h) take no action. (5) However, if the director-general suspects on reasonable grounds that the child or young person may be in need of care and protection the director-general must decide that the child concern report is a child protection report.
			366	In the care and protection chapters '**care and protection appraisal**', of a child or young person means an appraisal of the child's or young person's circumstances. Further details of what an appraisal may include are also set out in that provision.
			368	Provides when a care and protection appraisal may be made. (1) This section applies if the director-general decides that a child concern report about a child or young person is a child protection report under section 360 (5)(Director-general to act on child concern report). (2) The director-general may carry out a care and protection appraisal of the child or young person if the director-general suspects on reasonable grounds that the child or young person may be in need of care and protection. (3) However, the director-general may carry out an appraisal only if: (a) an appraisal order in force for the child or young person authorises the carrying out of the appraisal; or

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				(b) the director-general: (i) unless it is not practicable, or not in the best interests of the child or young person, to do so: has taken reasonable steps to obtain the agreement to the appraisal of each parent or each other person with daily care responsibility; and (ii) has obtained the agreement to the appraisal of at least 1 parent or other person with daily care responsibility; or (c) section 370 (Care and protection appraisal: agreement need not be sought if risk etc) applies in relation to the child or young person and the appraisal is an activity mentioned in section 371 only (Visual examination etc without agreement). (4) The agreement of a person under subsection (3)(b) may be given orally. (5) To avoid doubt, if the director-general shares daily care responsibility for the child or young person the agreement of another person who has daily care responsibility is not required for subsection (3)(b). (6) The director-general must keep a written record of an agreement under subsection (3)(b) given orally.
			370(1)	This section applies if the director-general proposes to carry out a care and protection appraisal of a child or young person and the director-general suspects on reasonable grounds that seeking the agreement of a parent or other person who has daily care responsibility for the child or young person would

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				be likely to: (a) put the child or young person at significant risk of abuse or neglect; or (b) jeopardise a criminal investigation.
			372	In the care and protection chapters '**appraisal order**' means an order authorising the director-general to carry out a care and protection appraisal of a child or young person. The things an appraisal order may include the things set out in sub-paragraphs (b) and (c): (i) that a person attend, alone or with someone else, at a stated place at a stated time for the appraisal; (ii) that a person or entity comply with arrangements made by the director-general for the appraisal; (iii) that a person or entity allow entry to a stated place for the appraisal; (iv) that a person or entity give the director-general information about the care, wellbeing or development of a child or young person; (v) that something be produced to the court or given to the director-general or someone else; (vi) that a person not have contact with the child or young person, or not have contact with the child or young person

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				except if a stated person or a person of a stated class is present; and As per sub-paragraph (c), an appraisal order may, but need not, include a temporary parental responsibility provision.
			373	In the care and protection chapters '**temporary parental responsibility provision**' (a) means a provision in an appraisal order for a child or young person that transfers daily care responsibility for the child or young person to the director-general; and (b) may provide for the director-general to enter and search any place the director-general believes on reasonable grounds the child or young person is, to find the child or young person.
			374	A person who contravenes an appraisal order commits an offence.
			375-388	Sets out the procedure for making applications for appraisal orders, including urgent applications, the requirement for applications to set out the grounds, criteria for making the orders, length of the orders and extensions.
			Chapter 12 - Care and protection - voluntary agreements to transfer or share	

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			parental responsibility (ss 389-402)	
			390	This section applies if, in a family group conference agreement reached at a family group conference arranged under section 80 (2)(Family group conferences: criteria), the parties agree that daily care responsibility or long-term care responsibility for a child or young person should be: (a) transferred from a person to someone else (other than the director-general); or (b) shared with a person (other than the director-general) who would not otherwise have that aspect of parental responsibility for the child or young person. The director-general may apply to the Childrens Court to register the family group conference agreement.
			391	(1) This section applies if the director-general applies to the Childrens Court under section 390 (2) to register a family group conference agreement. (2) If the Childrens Court is satisfied that it could make a care and protection order under this Act with the same effect as the family group conference agreement, the Childrens Court must register the agreement. (3) If the Childrens Court is not satisfied that it could make a care and protection order under this Act with the same effect as the family group conference agreement, the Childrens

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				Court must refuse to register the agreement.
			393	A registered family group conference agreement has effect as if it were a care and protection order of the Childrens Court and may be enforced accordingly.
			394-402	Deal with voluntary agreements to share parental responsibility with the director-general (i.e. not complete removal of child from his or her family environment).
			403	For the care and protection chapters, a child or young person is in need of emergency care and protection if the child or young person: (a) is in immediate need of care and protection; or (b) is likely to be in immediate need of care and protection if emergency action is not taken.
			404	For the care and protection chapters, a child or young person is in need of emergency therapeutic protection if: (a) the child or young person meets the criteria for a therapeutic protection order; and (b) the immediate placement of the child or young person in a therapeutic protection place is necessary to ensure the child or young person's safety.
			405	In this Act '**emergency action**', taken by the director-general or a police officer, for a child or young person:

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				(a) means transferring daily care responsibility for the child or young person to the director-general or police officer; and (b) includes arranging for the child's or young person's care and protection by keeping the child or young person at a place or by moving the child or young person from a place to another place.
			406	(1) The director-general or a police officer may take emergency action for a child or young person if the director-general or police officer believes on reasonable grounds that the child or young person is in need of emergency care and protection or emergency therapeutic protection. (2) To remove any doubt, the director-general or police officer may take emergency action for a child or young person if the child or young person is in the care of: (a) a parent of the child or young person; or (b) someone else who has daily care responsibility for the child or young person
			407	The director-general or police officer may use whatever assistance is necessary and reasonable to take emergency action.
			408	Provides requirements for informing relevant persons/entities that emergency action has occurred.

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			409	(1) If the director-general takes emergency action for a child or young person, the director-general has daily care responsibility for the child or young person. (2) If a police officer takes emergency action for a child or young person, the police officer has daily care responsibility for the child or young person until the police officer tells the director-general about the emergency action under section 408. (3) After the police officer tells the director-general about the emergency action, the director-general has daily care responsibility for the child or young person. (4) The director-general may authorise a police officer to exercise daily care responsibility for a child or young person on behalf of the director-general.
			411	If the director-general has daily care responsibility for a child or young person under this division, the director-general may make arrangements for the care and protection of the child or young person including: (a) arranging a care and protection appraisal that includes an examination of the circumstance that led to the taking of the emergency action; and (b) placing the child or young person with a person including: (i) a parent of the child or young person; or

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				(ii) someone else who has daily care responsibility, or long-term care responsibility, for the child or young person; or (iii) a former caregiver of the child or young person.
			410	If the director-general or a police officer takes emergency action for a child or young person, the director-general or police officer may keep daily care responsibility for the child or young person without an order of the Childrens Court: (a) for not longer than 2 working days after the day the emergency action was taken; or (b) if the 2 working days are interrupted by a Saturday, a Sunday and a public holiday: until the matter can be brought before the court on the next sitting day of the court.
			411	If the director-general has daily care responsibility for a child or young person under this division, the director-general may make arrangements for the care and protection of the child or young person including: (a) arranging a care and protection appraisal that includes an examination of the circumstance that led to the taking of the emergency action; and (b) placing the child or young person with a person including: (i) a parent of the child or young person; or

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				(ii) someone else who has daily care responsibility, or long-term care responsibility, for the child or young person; or (iii) a former caregiver of the child or young person.
			414	(1) This section applies if the director-general or a police officer has daily care responsibility for a child or young person under this division. (2) The director-general or police officer stops having daily care responsibility for the child or young person if: (a) the child or young person is returned to someone mentioned in section 415 (2); or (b) the Childrens Court makes an order giving daily care responsibility for the child or young person to someone else.
			422	In this Act '**care and protection order**': (a) means an order about the care and protection of a child or young person; and (b) may contain any of the following provisions: (i) a contact provision (see Part 14.8); (ii) a drug use provision (see Part 14.9); (iii) an enduring parental responsibility provision (see Part

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				14.6); (iv) an ACAT mental health provision (see Part 14.11); (v) a residence provision (see Part 14.7); (vi) a short-term parental responsibility provision (see Part 14.6); (vii) a long-term parental responsibility provision (see Part 14.6); (viii) a specific issues provision (see Part 14.12); (ix) a supervision provision (see Part 14.10). These concepts are defined in various later sections of the Act.
			Part 14.2 - Applications for care and protection orders (ss 424-430)	These sections set out the procedure for making care and protection orders. The director-general may apply to the Childrens Court for a care and protection order for a child or young person if the director-general believes on reasonable grounds that the child or young person is in need of care and protection: s 424. Certain others can apply for care and protection orders, as listed in s 425.
			Part 14.3 - Interim care and	The Court may make interim care and protection orders before deciding the substantive application. The

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			protection matters (ss 431-463)	requirements for these are set out in this Part of the Act, including the making of assessment orders (defined in s 367 - medical, physical, psychological etc evaluations Care plans are also required for care and protection orders and interim protection orders - see Division 14.3.4 These are written plans for meeting the child or young person's care and protection needs. If a plan includes a proposal in relation to a child or young person's living arrangements, it must outline how the director-general proposes to ensure long-term placement in a safe, nurturing and secure environment (termed 'stability proposals'): s 456. Finally, the Part deals with orders under the domestic Violence and Protection Orders Act, which provide another avenue for interim care and protection orders for a child or young person where a care and protection application has been made, and there is domestic and personal violence, or a risk of that, to the child or young person (ss 458-463).
			Part 14.4 - Making care and protection orders (ss 464-465)	Provides for the criteria the Children's Court must consider/be met before care and protection orders can be made. The Court must be satisfied that the provisions of the order sought are necessary for the care and protection, and are in the best interests, of the child or young person.
			Part 14.5 - Extending, amending and revoking care and protection	Provides requirements for extending, amending and revoking care and protection orders.

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			orders (ss 466-473)	
			Part 14.6 - Parental responsibility provisions (ss 474-483)	There is provision for both short-term parental responsibility provision, long-term parental responsibility provision, and enduring parental responsibility provision. These provisions can be made in care and protection orders. The criteria for making these parental responsibility provisions are set out in this Part.
			Part 14.13- Annual review reports - parental responsibility and supervision provisions (ss 493-501)	The director-general must prepare annual review reports for care and protection orders that have been in force for longer than 6 months and including provision for parental responsibility to be given to the director-general or supervision orders. An '**annual review report**', for a reviewable care and protection order, means a report about: (a) the circumstances and living arrangements of the child or young person who is the subject of the care and protection order; and (b) whether the director-general considers the existing arrangements for the care and protection of the child or young person are in the best interests of the child or young person. Further requirements around the annual review report are set out in ss 495 to 501.

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			Chapter 15 - Care and protection - director-general has aspect of parental responsibility (ss 502-529N)	
			503	(1) If the director-general has parental responsibility for a child or young person, the director-general may provide any of the following for the child or young person: (a) placement with an out-of-home carer; (b) financial support; (c) counselling; (d) appropriate education, training and employment opportunities; (e) health care treatment; (f) recreational opportunities; (g) a care plan; (h) an explanation, in a way the child or young person can understand, of the aim of care plans. (2) If the director-general stops having parental

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				responsibility for a child or young person (for any reason), the director-general may arrange for financial or other assistance to be provided to, or for, the child or young person on the conditions the director-general considers appropriate.
			Part 15.2 - Director-general has long-term care responsibility (ss 504-505)	Provides avenues for resolution of disagreements where the director-general shares long term care responsibility for a child or young person, and requires the director-general to have regard to the wishes of any person who previously had the long term care of a child or young person.
			Part 15.3 - Director-general has daily care responsibility (ss 506-507)	Provides for circumstances where the director-general has daily care responsibility for a child or young person and must report certain incidents to the public advocate.
			508	In this Act '**out-of-home carer**', for a child or young person, means: (a) a kinship carer for the child or young person; or (b) a foster carer for the child or young person; or (c) a residential care service for the child or young person.
			509	In this Act '**kinship carer**', for a child or young person, means a person: (a) authorised by the director-general under section 516 (Authorisation of kinship carer: specific parental authority)

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				for the child or young person; and (b) with whom the director-general has placed the child or young person under section 512 (Director-general may place child or young person with out-of-home carer).
			510	In this Act '**foster carer**', for a child or young person, means a person authorised by the director-general under: (a) section 518 (Authorisation of foster carer: specific parental authority); or (b) section 519 (Authorisation of foster carer: general parental authority).
			511	In this Act '**residential care service**', for a child or young **person**, means an entity authorised by the director-general under section 520 (Authorisation of residential care service: general parental authority).
			512	If the director-general has daily care responsibility for a child or young person, the director-general may place the child or young person with an out-of-home carer. If the director-general is placing an Aboriginal or Torres Strait Islander child or young person with an out-of-home carer, the placement must be in accordance with section 513.
			513	(1) If the director-general is placing an Aboriginal or Torres Strait Islander child or young person with an out-of-home carer under section 512, the director-general must place the child or young person with the first of the options mentioned

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				in subsection (2) that: (a) is available; and (b) to which the child or young person does not object; and (c) is consistent with any Aboriginal or Torres Strait Islander cultural plan in force for the child or young person. (2) The director-general may place an Aboriginal or Torres Strait Islander child or young person with any of the following out-of-home carers: (a) a kinship carer; (b) a foster carer who is a member of the child's or young person's Aboriginal or Torres Strait Islander community in a relationship of responsibility for the child or young person according to local custom and practice; (c) a foster carer who is a member of the child's or young person's community; (d) an Aboriginal or Torres Strait Islander foster carer; (e) a non-Aboriginal or Torres Strait Islander foster carer who: (i) the director-general believes on reasonable grounds is sensitive to the child's or young person's needs; and (ii) the director-general believes on reasonable grounds is

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				capable of promoting the child's or young person's ongoing contact with the child's or young person's Aboriginal or Torres Strait Islander family, community and culture; and (iii) if family reunion or continuing contact with the child's or young person's Aboriginal or Torres Strait Islander family, community or culture is a consideration in the placement: lives near the child's or young person's Aboriginal or Torres Strait Islander family or community. (3) In this section '**Aboriginal or Torres Strait Islander cultural plan**', for an Aboriginal or Torres Strait Islander child or young person, means a care plan developed for the child or young person by the director-general under section 455 (What is a *care plan*?) that includes proposals for the preservation and enhancement of the identity of the child or young person as an Aboriginal or Torres Strait Islander person.
			514	A residential care service may, but need not, accommodate a child or young person at a place of care.
			516	This section applies if the director-general has daily care responsibility or long-term care responsibility for a child or young person. The director-general may authorise, orally or in writing, a family member, or significant person, of the child or young person to exercise the daily care or long-term care responsibility for the director-general. However, the director-general may authorise a family

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				member, or significant person, only if satisfied that the family member or significant person is suitable to exercise responsibility and agrees to do so. The family member or significant person must exercise the responsibility subject to any directions of the director-general.
			517	The director-general may authorise an entity to be a foster care service if satisfied that the entity: (a) is a suitable entity to facilitate foster care services; and (b) complies with, and is likely to continue to comply with, the out-of-home care standards.
			518	This section applies if the director-general has daily care responsibility or long-term care responsibility for a child or young person. The director-general may authorise, orally or in writing, a person to exercise the daily care or long-term care responsibility for the director-general. However, the director-general may authorise a person only if satisfied that the person agrees to exercise the responsibility for the director-general. The person must exercise the responsibility subject to any directions of the director-general.

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			519	The director-general may authorise, orally or in writing, a person: (a) to exercise daily care responsibility for any child or young person for whom the director-general has daily care responsibility; or (b) to exercise long-term care responsibility for any child or young person for whom the director-general has long-term care responsibility. However, the director-general may authorise a person only if satisfied that the person: (a) is a suitable entity to exercise the responsibility for any child or young person; and (b) has given the director-general suitability information required by the director-general about each other adult member of the person's household. The person must exercise the responsibility subject to any directions of the director-general.
			520	The director-general may authorise, in writing, an entity to exercise: (a) daily care responsibility for any child or young person for whom the director-general has daily care responsibility; or (b) long-term care responsibility for any child or young person for whom the director-general has long-term care

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				responsibility. This authorisation is subject to usual suitability criteria, and subject to the likelihood of the entity to comply with the relevant out-of-home care standards.
			521-525	These sections deal with procedural issues like providing copies of any authorisation and court orders to the out-of-home carer, and the removal of foster care services", carer's and residential care service's authorisation, as well as approval of places of care.
			526-529	These sections deal with the information and items that must be kept by foster carers and residential care services both during and after a child or young person's placement ends.
			529A	The object of this Part is to promote, strengthen and foster the wellbeing of (a)young people preparing to begin the transition from out-of-home care; and(b)young people and young adults who were previously in out-of-home care.
			529B	A young adult is a person who is under 25, for the purposes of this Part.
			529C	(1) In this Act: '**transition plan**', for a young person or young adult, means a written plan for meeting the young person's or young adult's needs: (a) in preparing to begin the transition from out-of-home

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				care; and (b) after leaving out-of-home care; and (c) into young adulthood. (2) A transition plan may include proposals about the following for the young person or young adult: (a) accommodation; (b) education and training; (c) employment; (d) financial security; (e) social support; (f) life skills support; (g) health care.
			529D	The director-general must prepare a transition plan for a young person who is (a)in out-of-home care; and (b)at least 15 years old. The director-general must take reasonable steps to ensure that the transition plan is implemented.
			529E	The transition plan must be developed in consultation with the young person, and may be developed in consultation with

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				others including an out-of-home carer.
			529F	The transition plan must be reviewed at least once a year, in consultation with the young person.
			529G	Where a transition plan is in place for a young person for whom the director-general does not have parental responsibility, the director-general must take reasonable steps to ask the young person for whom a transition plan is in place, to review the transition plan at least once a year.
			529H	The same review process applies as for s 529G.
			529I	The director-general may provide the services that the director-general considers appropriate to a young person, or young adult, who was previously in out-of-home care. Without limiting subsection (1), the director-general may provide the young person, or young adult, with services to assist the young person, or young adult, with obtaining: (a) information about relevant resources and services; and (b) accommodation; and (c) education and training; and (d) employment; and (e) financial security; and

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				(f) legal advice; and (g) social support; and (h) life skills support; and (i) personal, family and relationship counselling; and (j) access to information and records held during the young person's out-of-home care; and (k) health care.
			529J	The director-general may provide financial assistance to a young person, or young adult, who was previously in out-of-home care. The director-general may provide financial assistance only if satisfied on reasonable grounds that the assistance is: (a) for an appropriate purpose; and (b) reasonably necessary considering the young person's, or young adult's, circumstances. The director-general can impose appropriate conditions.
			529K-529N	Provides for access by young people and young adults to protected information (as defined in s 844) regarding their care.
			Chapter 17 -	This chapter sets out the process that must be followed for

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			Care and protection - interstate transfer of orders and proceedings (ss 636-678)	transferring care and protection orders/child welfare orders between various jurisdictions - this includes appeals from transfer orders etc. As well as transferring child welfare orders out of the ACT, the Chapter also deals with incoming child welfare orders and the registration of those in the ACT.
			636	The object of this chapter is to provide for the transfer of care and protection orders and proceedings between the ACT and a State or between the ACT and New Zealand: (a) so that children and young people who are in need of protection may be protected despite moving from one jurisdiction to another; and (b) to facilitate the timely and expeditious finalisation of court proceedings for the protection of a child or young person; and (c) to recognise the desirability of orders relating to the care and protection of a child or young person having effect, and being enforced, in the jurisdiction where the child or young person lives.
			678	Where a child welfare order or child welfare proceeding for a child or young person is transferred to the ACT from New Zealand, and the child or young person is a Maori child or young person, certain considerations apply. In deciding what finding or order to make in a proceeding for the child or young person under this Act, the Childrens Court must have regard to the principle that, if practicable, the

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				relationship between the child or young person and his or her family, whanau, hapu, iwi, family groups and community group must be maintained and strengthened.
			Chapter 18 - Care and protection - police assistance (ss 679-694)	Provides that the director-general may be assisted by the police in carrying out certain orders made under the Act, including emergency actions and care and protection appraisals and assessments, and care and protection orders. The police's powers in this regard are set out in s 680, and the process for applying for obtaining and executing safe custody warrants are also dealt with in Part 18.2 (which are warrants to enter stated premises to take a child or young person into safe custody).
			Chapter 19 - Care and protection - provisions applying to all proceedings under care and protection chapters (ss 695-727)	Provides procedural provisions which apply to court proceedings under the care and protection chapters - including deeming who are parties to an application made under those chapters, joinder of parties, witnesses and evidence, standard of proof, orders and costs.
			Chapter 23 - Enforcement (ss 812-834)	Provides for enforcement powers, including in the context of care and protection - emergency situations, and where the director-general has aspect of parental responsibility).
			813	Sets out general power for authorised persons under the Act

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				to enter public premises at any reasonable time, private premises at any time with the occupier's consent and in accordance with the terms of any search warrant.
			814	In addition to the powers in s 813, an authorised person or police officer may, at any time, enter premises if: (a) the authorised person or police officer believes on reasonable grounds that a child or young person at the premises is in need of emergency care and protection or emergency therapeutic protection; and (b) the purpose of the entry is for the authorised person or police officer to take emergency action for the child or young person under section 406. The authorised person or police officer may use reasonable and necessary force to enter the premises to safeguard the wellbeing of the child or young person.
			815	In addition to the powers in s 813, an authorised person may, at any reasonable time, enter premises where a child or young person is living if: (a) the director-general has placed the child or young person with an out-of-home carer under section 512; and (b) the purpose of the entry is to ensure that the child or young person is being properly cared for. For this Act, an authorised person may also, at any reasonable time, enter a place operated by a residential care

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				service if: (a) the Minister: (i) is deciding whether to approve the place as a place of care under section 525; and (ii) has asked the residential care service to allow the director-general to inspect the place; and (b) the residential care service has agreed to allow the director-general to inspect the place. In this section '**at any reasonable time**' includes at any time during normal business hours.
			Chapter 24 - Appeals and review (ss 835-840)	Provides for appeals to the Supreme Court in relation to decisions made by the Children's Court (i.e. orders made or orders refused to be made). On such an appeal, the Supreme Court must not make an order or other decision that is not an order or other decision that could have been made by the Childrens Court in the proceeding appealed from.
			Division 24.1.3 - Notification and review of decisions (ss 839-840)	Certain decisions of the director-general made under the Act are reviewable by ACAT.
			Chapter 25 - Information secrecy and	Deals with offences in relation to the disclosure of protected and sensitive information relevant to cases/matters etc about a child or young person arising under the Act, as well as the

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			sharing (ss 841-875)	circumstances in which it is appropriate to share or disclose information, and to whom.
	Domestic Violence and Protection Orders Act 2008	ACT	17	(1) This section applies if: (a) an application is made under the *Children and Young People Act 2008* for a care and protection order; and (b) at least 1 of the grounds mentioned in that Act, section 460 (1)(b) (DVPO final protection orders) is satisfied; and (c) the Childrens Court makes a protection order. (2) The Childrens Court is taken to have exercised jurisdiction under this Act as the Magistrates Court when making the protection order. (3) The protection order may be amended, revoked or appealed from under this Act.
	Evidence Act 2011	ACT	s 19 (and s 18)	Domestic partners, parents or children of defendants who are charged under certain orders, including care and protection orders, made under the *Children and Young People Act 2008* (see above).
	Human Rights Act 2004	ACT	11	Every child has the right to the protection needed by the child because of being a child, without distinction or discrimination of any kind.
	Public Advocate Act	ACT	10	The public advocate has the following functions:

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	2005			(d) acting as advocate for the rights of children and young people and, as part of acting as advocate for those rights, doing the following: (i) fostering the provision of services and facilities for children and young people; (ii) supporting the establishment of organisations that support children and young people; (iii) promoting the protection of children and young people from abuse and exploitation; (e) monitoring the provision of services for the protection of children and young people; (f) dealing, on behalf of people with a disability and children and young people, with entities providing services (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*;