South Australia

# Children and Young People (Safety and Support) Bill 2024

**Amendment No 1 [Scriven–2]—**

Clause 1, page 12, line 4—

Delete "(Best Interests)" and substitute:

(Safety and Support)

**Amendment No 2 [Scriven–2]—**

Clause 3, page 12, lines 21 and 22 [clause 3(1), definition of ***active efforts***]—

Delete the definition and substitute:

***active efforts***, ***principle of active efforts*** or ***standard of active efforts***—see section 11A;

**Amendment No 3 [Scriven–2]—**

Clause 3, page 13, after line 21 [clause 3(1)]—

Insert:

***Complaints and Feedback Management Guidelines*** means the Complaints and Feedback Management Guidelines published by the Chief Executive under section 27A;

**Amendment No 4 [Scriven–2]—**

Clause 3, page 15, after line 19 [clause 3(1)]—

Insert:

***recognised peak body***, in relation to a particular section of the community, means an entity from time to time recognised as the recognised peak body for that section of the community under section 34A;

**Amendment No 5 [Scriven–2]—**

Clause 3, page 16, after line 11 [clause 3(1)]—

Insert:

***Statement of Commitment to Children and Young People in Contact with Child Protection and Family Support System*** means the Statement of Commitment to Children and Young People in Contact with Child Protection and Family Support System prepared under section 15A, as in force from time to time;

**Amendment No 6 [Scriven–2]—**

Clause 8, page 19, lines 22 and 23 [clause 8(1)]—

Delete ", to the extent that it is consistent with section 10 to do so,"

## Amendment No 7 [Scriven–2]—

Clause 10, page 21, lines 2 to 6—

Delete clause 10 and substitute:

### 10—Safety principle

It is a principle of this Act (the ***safety principle***) that children and young people are to be kept safe and protected from harm (and, despite any other provision of this Act, the safety of the child or young person must always be the priority in determining whether or not to remove a child or young person under section 83(1)).

## Amendment No 8 [Scriven–2]—

Clause 11, page 21, line 7 to page 22, line 22—

Delete clause 11 and substitute:

### 11—Best interests principle

(1) It is a principle of this Act (the ***best interests principle***) that the best interests of each child and young person are to be upheld and effected in all decision making under this Act (and a reference in this Act to a particular decision being in the best interests of a child or young person will be taken to be a reference to the decision being made in accordance with the best interests principle)

(2) In determining whether a decision or action is in the best interests of a child or young person, the need to keep them safe from harm and the risk of harm, to protect their rights and to promote their development (taking into account their age and stage of development) must always be considered.

(3) In addition to subsection (1) and (2), in determining what decision to make or action to take in the best interests of a child or young person, consideration must be given to the following, where they are relevant to the decision or action:

(a) the need to support the child or young person's family to ensure the child or young person's safety and wellbeing within their family and community;

(b) the desirability of the child or young person's family having primary responsibility for the child or young person's upbringing, protection and development;

(c) the emotional, social and psychological needs of the child or young person, including—

(i) the need to be heard and have their views considered; and

(ii) the need for love and attachment; and

(iii) the need for the child or young person to be given the opportunity to achieve their full potential;

(d) the need to strengthen, preserve and promote positive relationships between the child or young person and their parents, family members and other persons significant to them;

(e) if the child or young person is able to form their own views on a matter concerning their care—the need to support them to express those views freely in accordance with the developmental capacity of the child or young person and the circumstances, and for those views to be given due weight;

(f) the effects of cumulative harm on the child or young person's safety and development;

(g) the desirability of continuity and permanency in the child or young person's care;

(h) the desirability of making decisions as expeditiously as possible and the possible harmful effect of delay in making a decision or taking an action;

(i) a child or young person is only to be removed from the care of their parents in accordance with section 83 or an order of the Court;

(j) if the child or young person is removed from the care of a person—the need to place the child or young person in a safe, nurturing, stable and secure environment;

(k) the desirability, when a child or young person is removed from the care of their parent, to assess the reunification of the child or young person with their parent;

(l) contact arrangements between the child or young person and their parents, siblings, family members and other persons significant to them;

(m) in respect of case planning for the child or young person—

(i) the desirability of placing, so far as may be appropriate, the child or young person with the following persons in the following order:

(A) a person who is a member of the child or young person's family (including the child or young person's siblings);

(B) a person with whom the child or young person has an existing relationship;

(C) a person who is willing and able to encourage and support the child or young person to develop and maintain contact with the child or young person's parents, siblings and other family members, and with other people who are significant to the child or young person (subject to any decisions made under this Act in relation to such contact); and

(ii) the desirability of siblings being placed together when they are placed in care; and

(iii) the desirability of connection between the child or young person and their family being maintained;

(n) if the child or young person has been removed from their parents or family—the need to ensure that they have the ability to know, explore and maintain their identity and values, including those relating to their culture, language or religion;

(o) if the child or young person has a disability—the need to ensure that the child or young person is treated in a way that preserves their identity and respects their developing capacity;

(p) if a child or young person with a particular cultural identity is placed in care with a caregiver who is not a member of that cultural community—the desirability of the child or young person retaining a connection with their culture;

(q) the desirability of using family group conferences to make informed decisions as to the arrangements for the care of the child or young person;

(r) the desirability of a child or young person being supported to gain access to appropriate educational services, health services and accommodation and to participate in appropriate social opportunities;

(s) the desirability of allowing the education, training or employment of the child or young person to continue without interruption or disturbance;

(t) any other relevant consideration.

(4) In considering what is in the best interests of a particular Aboriginal or Torres Strait Islander child or young person, regard should also be given to the matters set out in section 48.

## Amendment No 9 [Scriven–2]—

New clause, page 22, after line 22—

Insert:

### 11A—Principle of active efforts and standard of active efforts

(1) Each person or body involved in the operation and administration of this Act must act in accordance with the principle of active efforts in performing functions under this Act.

(2) For the purposes of this Act, the principle set out in this section constitutes the ***principle of active efforts*** (and a reference to a person or body making active efforts will be taken to be a reference to the person or body acting in accordance with that principle).

(3) Under the principle of active efforts, active efforts must—

(a) be timely; and

(b) be practicable, thorough and purposeful; and

(c) address the grounds on which a child or young person is considered to be at risk of harm; and

(d) conducted, to the greatest extent possible, in partnership with the child or young person and the family, kin and community of the child or young person; and

(e) be culturally appropriate; and

(f) comply with any other requirements prescribed by the regulations.

(4) Without limiting a preceding subsection, active efforts include—

(a) assisting with access to support services and other resources; and

(b) if appropriate services or resources do not exist or are not available—considering alternative ways of addressing the relevant needs of the child or young person and their family, kin or community; and

(c) activities directed at finding and contacting the family, kin and community of the child or young person.

(5) The requirements under this section do not limit any other ways in which active efforts can be made when making a decision under this Act.

(6) For the purposes of this Act, a reference to something being done to the ***standard of active efforts*** will be taken to be a reference to it being done in a way that accords with the principle of active efforts.

## Amendment No 10 [Scriven–2]—

Clause 13, page 22, after line 37—

Insert:

(1a) Without otherwise limiting subsection (1), a person or body referred to in that subsection must—

(a) offer the child or young person a reasonable opportunity to present their views in person to the decision maker; and

(b) if the child or young person wishes to present their views in person, take reasonable steps to facilitate that prior to the prescribed decision being made.

## Amendment No 11 [Scriven–2]—

Clause 13, page 23, line 9 [clause 13(4)(a)]—

Delete subclause (4)(a)

## Amendment No 12 [Scriven–2]—

Clause 13, page 23, line 15 [clause 13(6)]—

Delete "do not wish to do so" and substitute:

express a desire to not do so

## Amendment No 13 [Scriven–2]—

Clause 13, page 23, line 20 [clause 13(7), definition of ***prescribed decision***, (b)]—

After "preparation" insert:

or review

**Amendment No 14 [Scriven–2]—**

Clause 14, page 24, line 1 [clause 14(3)]—

After "preparing" insert:

, altering

**Amendment No 15 [Scriven–2]—**

Clause 14, page 24, lines 8 to 11 [clause 14(5)]—

Delete subclause (5) and substitute:

(5) The Minister may, on receiving the Charter for approval and after consultation with the Guardian for Children and Young People, require an alteration to the Charter before approval (however, such an alteration must be consistent with Part 2).

(5a) The Minister must, within 30 days after receiving the Charter, or the Charter as altered, (whichever is the later) approve the Charter.

**Amendment No 16 [Scriven–2]—**

Clause 14, page 24, lines 18 and 19 [clause 14(9)]—

Delete ", to the extent that it is consistent with section 10 to do so in a particular case,"

**Amendment No 17 [Scriven–2]—**

Clause 15, page 24, lines 27 to 36 —

Delete clause 15 and substitute:

### 15—Chief Executive must provide copy of Charter etc to children and young people in care

(1) The Chief Executive must, as soon as is reasonably practicable after a child or young person is placed in the custody, or under the guardianship, of the Chief Executive under this Act, provide to the child or young person—

(a) a copy of the Charter; and

(b) an explanation of the content and effect of the Charter; and

(c) information about, and the contact details of, the Guardian for Children and Young People.

(2) If a child or young person is unlikely to understand the information and documents referred to in subsection (1) (whether by reason of cognitive or physical disabilities, language differences or difficulties, literacy challenges or otherwise), the Chief Executive must make such alternative arrangements as may be necessary to ensure that the information is, if it is reasonably practicable to do so, communicated to the child or young person in a way they are capable of understanding.

(3) However, the Chief Executive need not comply with this section if the Chief Executive is of the opinion that the child or young person is not reasonably capable of understanding the information referred to in subsection (1).

**Amendment No 18 [Scriven–2]—**

New Division, page 24, after line 36—

Insert:

## Division 5A—Statement of Commitment to Children and Young People in Contact with Child Protection and Family Support System

### 15A—Statement of Commitment to Children and Young People in Contact with Child Protection and Family Support System

(1) The Minister must prepare and maintain a *Statement of Commitment to Children and Young People in Contact with Child Protection and Family Support System*.

(2) The Minister must review the Statement at least every 5 years.

(3) In preparing or reviewing the Statement, the Minister must—

(a) invite submissions from, and consult with, the persons or bodies (if any) prescribed by the regulations (and may consult with any other person or body the Minister considers appropriate); and

(b) comply with any other requirements set out in the regulations.

(4) The Minister must cause the Statement to be published on a website determined by the Minister.

(5) The Minister must, within 6 sitting days after approving the Statement, cause a copy of the Statement to be laid before both Houses of Parliament.

(6) Each person or body engaged in the administration, operation or enforcement of this Act (other than the Court or SACAT) must perform their functions so as to give effect to the Statement.

(7) However, the Statement does not create legally enforceable rights or entitlements.

**Amendment No 19 [Scriven–2]—**

Clause 16, page 25, lines 12 and 13 [clause 16(6)]—

Delete ", to the extent that it is consistent with section 10 to do so in a particular case,"

**Amendment No 20 [Scriven–2]—**

Clause 17, page 25, lines 31 and 32 [clause 17(6)]—

Delete ", to the extent that it is consistent with section 10 to do so in a particular case,"

**Amendment No 21 [Scriven–2]—**

Clause 23, page 29, after line 34 [clause 23(1)]—

Insert:

(da) a part setting out, in relation to the reporting year—

(i) the number of family group conferences convened by the Chief Executive under the Act (including information identifying how many of the family group conferences related to Aboriginal and Torres Strait Islander children and young people); and

(ii) any other information required by the regulations;

**Amendment No 22 [Scriven–2]—**

Clause 27, page 32, after line 38 [clause 27(4)(a)]—

After subparagraph (i) insert:

(ia) each recognised peak body; and

**Amendment No 23 [Scriven–2]—**

New Division, page 33, after line 15—

After clause 27 insert:

## Division 3A—Management of complaints and feedback

### 27A—Complaints and Feedback Management Guidelines

(1) The Chief Executive must publish guidelines (the ***Complaints and Feedback Management Guidelines***) relating to the receipt and handling of complaints and feedback relating to the administration of this Act.

(2) The Complaints and Feedback Management Guidelines must set out—

(a) the matters in relation to which the Complaints and Feedback Management Guidelines apply; and

(b) how, and by whom, complaints may be made and feedback may be given; and

(c) the process by which complaints and feedback are to be assessed; and

(d) the actions which may be taken in response to a complaint or feedback; and

(e) the ways in which procedural fairness is to be afforded in relation to a complaint or feedback; and

(f) information about alternative independent complaints and feedback mechanisms and bodies; and

(g) any other information required by the regulations,

and may contain any other provisions the Chief Executive thinks fit.

(3) Subject to the regulations, the Chief Executive must ensure that procedural fairness is provided in the course of any action taken in response to a complaint or feedback.

(4) Before publishing the Complaints and Feedback Management Guidelines, the Chief Executive must—

(a) invite submissions from, and have regard to any submissions made by—

(i) the Commissioner for Children and Young People; and

(ii) the Commissioner for Aboriginal Children and Young People; and

(iii) the Guardian for Children and Young People; and

(iv) each recognised peak body; and

(v) any other peak bodies prescribed by the regulations; and

(vi) Aboriginal and Torres Strait Islander people and organisations; and

(vii) people, including children and young people, who have experiences of being in care under this Act or a repealed Act; and

(viii) any other person or body prescribed by the regulations; and

(b) comply with any other requirements set out in the regulations.

(5) The Chief Executive must cause the Complaints and Feedback Management Guidelines to be published on a website determined by the Chief Executive.

(6) Each officer or employee of the Department involved in the receipt and handling of complaints and feedback to which the Complaints and Feedback Management Guidelines apply must comply with the Complaints and Feedback Management Guidelines.

(7) However—

(a) the Complaints and Feedback Management Guidelines do not create legally enforceable rights or entitlements; and

(b) in the event of an inconsistency between a provision of the Complaints and Feedback Management Guidelines and a provision of this Act, the provision of the Complaints and Feedback Management Guidelines is, to the extent of the inconsistency, void and of no effect.

**Amendment No 24 [Scriven–2]—**

New Division, page 38, after line 20—

Insert:

## Division 5A—Recognised peak bodies

### 34A—Minister to recognise peak bodies

(1) The Minister may, by notice in writing, recognise an entity as the ***recognised peak body*** for a particular section of the community for the purposes of this Act if satisfied that the entity—

(a) represents the interests of that section of the community; and

(b) agrees to be the recognised peak body for that section of the community.

(2) Without limiting subsection (1), the Minister must recognise an entity as the recognised peak body for the following sections of the community:

(a) children and young people and their families;

(b) Aboriginal and Torres Strait Islander children and young people and their families;

(c) carers under this Act.

(3) The recognition of an entity as a recognised peak body—

(a) may be conditional or unconditional; and

(b) has effect for the period specified in the notice; and

(c) must comply with any other requirements set out in the regulations.

(4) The Minister may, by notice in writing and in accordance with any requirements set out in the regulations, vary or revoke the recognition of an entity as the recognised peak body for a particular section of the community.

**Amendment No 25 [Scriven–2]—**

Clause 41, page 41, lines 38 and 39 [clause 41(1)]—

Delete "(and, in particular, nothing in this Part can be taken to displace section 10)"

**Amendment No 26 [Scriven–2]—**

Clause 41, page 42, line 4 [clause 41(2)(a)]—

Delete "except where to do so would be inconsistent with section 10,"

**Amendment No 27 [Scriven–2]—**

New clause, page 42, after line 11—

Insert:

**41A—Right to cultural support in certain proceedings and meetings**

(1) The Governor may, by regulation, establish a scheme providing for cultural support to be provided to Aboriginal or Torres Strait Islander children and young people for the purposes set out in the regulations.

(2) Without limiting the generality of subsection (1), the regulations may provide for—

(a) the appointment of cultural support persons (including by limiting who can be a cultural support person); and

(b) the right of a cultural support person to be present at specified proceedings or other interactions under this Act.

(3) This section is in addition to, and does not derogate from, any other provision of this Act.

**Amendment No 28 [Scriven–2]—**

Clause 44, page 45, lines 16 and 17 [clause 44(6)]—

Delete subclause (6)

**Amendment No 29 [Scriven–2]—**

Clause 45, page 45, lines 18 to 31—

This clause will be opposed

**Amendment No 30 [Scriven–2]—**

Clause 46, page 45, lines 39 and 40 [clause 46(b)]—

Delete "it is unlikely that the child or young person and their parents will be able to be reunified" and substitute:

reunification of the child or young person and their parents is not viable

**Amendment No 31 [Scriven–2]—**

Clause 47, page 46, lines 32 to 34 [clause 47(3)]—

Delete subclause (3)

**Amendment No 32 [Scriven–2]—**

Clause 53, page 51, lines 5 and 6 [heading to clause 53]—

Delete "Chief Executive to offer and convene family group conference in certain circumstances" and substitute:

Family group conference to be convened

**Amendment No 33 [Scriven–2]—**

Clause 53, page 51, lines 16 to 18 [clause 53(1)]—

Delete "in accordance with any requirements set out in the regulations, offer to convene a family group conference under section 94 in respect of the child or young person" and substitute:

as soon as is reasonably practicable and in accordance with any requirements set out in the regulations, cause a family group conference under section 94 to be convened in respect of the child or young person

**Amendment No 34 [Scriven–2]—**

Clause 53, page 51, lines 19 to 22 [clause 53(2)]—

Delete subclause (2)

**Amendment No 35 [Scriven–2]—**

Clause 53, page 51, lines 34 to 36 [clause 53(4)]—

Delete subclause (4)

**Amendment No 36 [Scriven–2]—**

Clause 56, page 53, lines 17 and 18 [clause 56(4)]—

Delete subclause (4)

**Amendment No 37 [Scriven–2]—**

Clause 57, page 53, line 21 [heading to clause 57]—

Delete "offered" and substitute:

convened

**Amendment No 38 [Scriven–2]—**

Clause 57, page 53, lines 25 to 28 [clause 57(1)]—

Delete "offered in relation to the child or young person and either—

(a) the offer to convene a family group conference was not accepted; or

(b) a family group conference is convened in relation to the child or young person." and substitute:

convened in respect of the child or young person.

**Amendment No 39 [Scriven–2]—**

Clause 83, page 69, after line 19—

Insert:

(1a) Despite any other provision of this Act, a child protection officer must, in determining whether to remove a child or young person under subsection (1), always prioritise the safety of the child or young person.

**Note—**

See section 10.

**Amendment No 40 [Scriven–2]—**

Clause 96, page 76, lines 13 and 14 [clause 96(1)]—

Delete ", to the extent that it is consistent with section 10 to do so,"

**Amendment No 41 [Scriven–2]—**

Clause 99, page 79, lines 4 and 5 [clause 99(5)]—

Delete "likelihood of reunification occurring and, if reunification is likely," and substitute:

viability of reunification and, if reunification is viable,

**Amendment No 42 [Scriven–2]—**

Clause 106, page 81, after line 4 [clause 106(1)]—

Before paragraph (a) insert:

(aa) the legal practitioner must, in the case of a child or young person who is 10 or more years of age, take reasonable steps to meet with the child or young person;

**Amendment No 43 [Scriven–2]—**

Clause 106, page 81, after line 15 [clause 106(1)]—

Insert:

(ca) the legal practitioner must, in a manner appropriate to the capacity of the child or young person to understand, explain to the child or young person the contents and effect of any documents given to, or orders relating to, the child or young person under this Act;

**Amendment No 44 [Scriven–2]—**

Clause 107, page 81, after line 28 [clause 107(2)]—

Insert:

or

(c) the child or young person has expressed a desire to not do so.

**Amendment No 45 [Scriven–2]—**

Clause 129, page 90, after line 35—

Insert:

(3a) A case plan (including the reunification plan under subsection (4)(g)) for a child or young person must be prepared as soon as is reasonably practicable (and in any case not later than 6 months) after they become a child or young person to whom this section applies.

**Amendment No 46 [Scriven–2]—**

Clause 130, page 91, line 31 [clause 130(1)]—

Delete ", to the extent that it is consistent with section 10 to do so,"

**Amendment No 47 [Scriven–2]—**

Clause 139, page 95, line 26 [clause 139(3)(a)]—

Delete "likely" and substitute:

viable

**Amendment No 48 [Scriven–2]—**

Clause 139, page 95, lines 30 and 31 [clause 139(3)(b)]—

Delete "is not satisfied that a reunification is likely, or is satisfied that a reunification is unlikely" and substitute:

is satisfied that a reunification is not viable

**Amendment No 49 [Scriven–2]—**

Clause 143, page 100, line 17 [clause 143(2)]—

Delete "25" and substitute:

26

**Amendment No 50 [Scriven–2]—**

Clause 170, page 114, line 10 [clause 170(6), definition of ***eligible care leaver***, (a)]—

Delete "25" and substitute:

26

**Amendment No 51 [Scriven–2]—**

Clause 198, page 127, after line 5—

Insert:

(3a) An internal review on an application under subsection (1) must be completed within 60 days after the application is made (and, if the internal review is not completed within that period, the decision will be taken to have been affirmed).

**Amendment No 52 [Scriven–2]—**

Clause 220, page 139, after line 21—

Insert:

(1a) The Minister must, in the course of the review, consult with the recognised peak bodies.

**Amendment No 53 [Scriven–2]—**

Schedule 2, page 147, after line 32 [Schedule 2 Part 17]—

Insert:

### 31A—Amendment of section 12C—Time within which complaints may be made

Section 12C—after subsection (1) insert:

(1a) Despite subsection (1), the Ombudsman may entertain a complaint under this Act of the following kinds if the complaint is made within 2 years from the day on which the complainant first had notice of the matters alleged in the complaint:

(a) a prescribed child protection complaint (within the meaning of section 28A of the *Health and Community Services Complaints Act 2004*);

(b) a complaint, or complaint of a class, prescribed by the regulations (being a complaint relating to the performance of functions by or on behalf of the Department under the *Children and Young People (Safety and Support) Act 2025*).

(1b) To avoid doubt, subsection (1a)(a) applies whether the prescribed child protection complaint—

(a) is made by the Commissioner for Children and Young People, the Commissioner for Aboriginal Children and Young People or the Guardian for Children and Young People under the *Children and Young People (Oversight and Advocacy Bodies) Act 2016*; or

(b) is referred to the Ombudsman by the Commissioner under section 28A of the *Health and Community Services Complaints Act 2004*; or

(c) is made under this Act.