

# child protection a fresh start.

---

The Children and Young People (Safety) Bill 2016 is currently open for community and sector consultation, and will replace the *Children's Protection Act 1993 (SA)*.

The Children and Young People (Safety) Bill 2016 promotes permanence and stability for children and young people who have been removed from their parents or guardians. It encourages decisions and actions to be made in a timely manner and, in the case of young children, as early as possible.

The Bill also contains a number of provisions designed to ensure that the child's voice is heard. Under the Bill, children and young people must participate in decision-making where appropriate, and must have a reasonable opportunity to put their views to the court.

A major change proposed by the Bill is that the guardianship function, currently undertaken by the Minister for Education and Child Development under the *Children's Protection Act 1993*, will instead be undertaken by the Chief Executive of the Department for Child Protection. This will better align South Australia with other jurisdictions with respect to guardianship of children and young people in care.

## More rights for foster and kinship carers

### Decision making

Under the Bill, carers will be more involved in decision-making. Carers will be able to participate in any decision-making process that relates to the health,

safety, wellbeing or welfare of a child or young person in their care. This ensures that carers can impact decisions that are made about a child or young person in their care.

Additionally, a panel in the Department for Child Protection currently conducts an annual review of each child and young person under long term guardianship. Under the Bill, carers will have the right to make submissions to this panel and participate in the review process.

### “Other person guardianship” and delegated powers

Currently carers must wait at least three years to apply for ‘Other Person Guardianship’. The Bill reduces this timeframe to two years (or a shorter timeframe as determined by the Chief Executive), meaning that carers can become long-term legal guardians sooner.

It will also provide carers, children and young people with greater certainty that they will remain together, and allow each party to fully invest in each other and their relationship. The Bill also reverses the onus of proof, so that the biological parent must prove that the carer should not be the child or young person's legal guardian. This removes some of the anxiety that carers may feel when faced with a potentially lengthy court process.



The Bill also provides for delegation of certain powers to carers from the Chief Executive enabling certain areas of the child's life to be actively managed by the carer, rather than having to seek permission from the Department for Child Protection on everyday matters.



### **Court processes**

Under the Bill, the court can allow carers the opportunity to make representations to the court, unless it is not in the child or young person's best interests for them to do so.

This enables carers to provide information to the court about what they believe is best for the child or young person and how a decision might impact them.

### **Access to information**

Carers will be given more information about a child or young person before they accept a placement. This will be a mandatory obligation for the Department for Child Protection, and will give carers more confidence and certainty that they will have the information necessary to provide the best care. This is a more transparent, inclusive and respectful process that aims to reduce the number of placement breakdowns that can lead to feelings of loss and rejection.

In addition, placement agencies must provide carers with further information once the child or young person is placed there. Carers will have all the information they need to provide the child or young

person with the support and care they need. Carers will be able to seek help and be proactive in their care, helping to ensure their safety and the safety of other household members.

Children and young people will also be given advance information about their potential carer and the dynamics of the household. This will give them greater certainty, comfort and control over their situation.

### **Complaints process**

The Bill also establishes a new review process, where certain decisions can be reviewed by the South Australian Civil and Administrative Tribunal. These decisions include the approval of carers, the delegation of powers to carers and the assessment of a carer for long-term guardianship. The Bill further establishes a Contact Arrangements Review Panel which can review decisions made by the chief executive concerning contact arrangements.

### **Biological parents**

#### **Early intervention**

The Bill has a clear focus on early intervention for families in need, and establishes Child and Family Assessment and Referral Networks and Family Group Conferencing. Child and Family Assessment and Referral Networks will coordinate services at a local level and connect children, young people and families with support services suitable to their needs. These services aim to respond to a greater number of children and young people that need help before extreme action is required, such as removal. Family Group Conferences can be used in appropriate matters to provide an opportunity for families to be responsible for decision-making.

#### **Drug and alcohol assessments**

The Bill gives the Chief Executive of the Department for Child Protection the power to direct parents to undertake drug and alcohol assessments, if they reasonably suspect that a child or young person is at risk because of a parent's drug or alcohol abuse.

The Bill also allows the chief executive to obtain a parent's personal information, or to direct a person to answer questions. These actions previously required a court order. This can only be done if it is reasonably required for the purposes of the Bill,



in other words, when a child or young person is at risk and the department needs to investigate the circumstances.

#### **Notifications relating to unborn children**

Reporting child abuse or neglect can currently only occur when a pregnancy reaches 34 weeks. The Bill proposes to remove this restriction, allowing notifications to be made and services to be provided earlier. This may help parents to address issues before birth, potentially preventing their baby from being removed when it is born.

#### **Community visitors scheme**

The Bill includes provisions for a new community visitors scheme. Under the scheme, children and young people in out-of-home care can receive periodic visits to check on their safety and wellbeing. This adds an extra layer of monitoring to children and young people's living and care arrangements, giving them another independent person who they can speak to and who is looking out for them. It means that an independent body will advocate for children and young people in circumstances where they may not be able to, or are not comfortable doing so.

It will also give parents more certainty that their children's circumstances will be monitored and reassurance that people will advocate for the needs of their children.

#### **Time to prepare for court**

When a child or young person is removed from their parents, the court process can move very quickly. Currently parents must appear in court the day after their child has been removed. Under the Bill, a mandatory time period of five days will be implemented between a child or young person's removal and the first court appearance. This allows parents to obtain proper legal advice and representation and to consider the legal and administrative documents provided to them.

This also gives more time for the child or young person to attend the various appointments required, including with their legal representative, so that their views are considered in court.

#### **Have your say**

We are asking for your views on the draft Bill.

Consultation will remain open until **5pm Friday 27 January 2017**.

Provide your feedback via [yourSAy.sa.gov.au](http://yourSAy.sa.gov.au)

If you do not want the public to read your answer, please write 'confidential' on your submission. If someone asks for your answers through the Freedom of Information Act process, and if you have told us your answers are confidential, we will contact you and explain what is happening. However, even if your answers are confidential, we may still have to let someone read them if they ask for them through the Freedom of Information Act process.