

2024

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

CHILDREN AND YOUNG PEOPLE AMENDMENT BILL 2024

**EXPLANATORY STATEMENT
and
HUMAN RIGHTS COMPATIBILITY STATEMENT
(*Human Rights Act 2004, s 37*)**

**Presented by
Rachel Stephen-Smith MLA
Minister for Children, Youth and Family Services
February 2024**

CHILDREN AND YOUNG PEOPLE AMENDMENT BILL 2024

The Bill is **not** a Significant Bill. Significant Bills are bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the *Human Rights Act 2004*.

OVERVIEW OF THE BILL

The Children and Young People Amendment Bill 2024 (the Bill) delays the automatic commencement of the *Children and Young People Amendment Act 2023* (CYPAA) from 31 March 2024 to **1 July 2024**. The CYPAA was passed by the ACT Legislative Assembly in early November 2023.

The policy intent of this Bill is to give services additional time to prepare to implement the changes to the *Children and Young People Act 2008* (ACT) (CYP Act) provided for by the CYPAA. This will promote a seamless transition and successful implementation across affected services.

The CYPAA is one of the Territory's most extensive and complex pieces of legislation, as it responds to recent inquiries, reviews, research and feedback from system users and developments in other jurisdictions. Importantly, the CYPAA's modernising of the CYP Act is a priority action under *Next Steps for Our Kids 2022-2030*, the ACT's strategy for strengthening families and keeping children and young people safe.

The overarching objective of this reform, encompassing both this Bill and the CYPAA, is to provide for the safety, welfare and wellbeing of children and young people in the Territory.

The reform will achieve this objective by, for example, establishing principles and key responsibilities to govern child protection intervention, enabling the child protection system to provide better and earlier support to families at risk, and by starting the process of fully embedding the Aboriginal and Torres Strait Islander Child Placement Principle into legislation, which is a key recommendation of the *Our Booris, Our Way* review.

CONSULTATION

The ACT Government consulted widely on significant reform to the CYP Act through the CYPAA. This consultation included a public consultation YourSay process between 15 June 2023 and 27 July 2023. Stakeholders and members of the public provided feedback through written submissions or an online survey, in response to a discussion paper and a draft Bill. In addition, the ACT Government engaged various stakeholders, including:

- the Public Advocate and Children and Young People Commissioner;
- the Human Rights Commissioner;

- SNAICC;
- the Our Booris, Our Way Implementation Oversight Committee;
- the Aboriginal and Torres Strait Islander Co-Design network;
- the Domestic, Family and Sexual Violence Office within the Community Services Directorate;
- the Children, Youth and Families Division within the Community Services Directorate; and
- ACT Courts and Tribunals.

CONSISTENCY WITH HUMAN RIGHTS

The Children and Young People Amendment Bill 2024 (the Bill) delays the automatic commencement of the *Children and Young People Amendment Act 2023* (CYPAA) from 31 March 2024 to **1 July 2024**. This is a technical amendment only and does not engage or limit rights under the *Human Rights Act 2004* (ACT) (HRA).

The broader reform of the CYP Act introduces several amendments aimed at strengthening the prevention of child maltreatment and enhancing the response systems for vulnerable children and their families.

In doing so, the *Children and Young People Amendment Act 2023* engages with, supports and imposes limitations on several rights under the HRA.

Broadly, the CYPAA engages and supports the following HRA rights:

- Section 8: Recognition and equality before the law;
- Section 11: Protection of the family and children; and
- Section 27: Cultural and other rights of Aboriginal and Torres Strait Islander peoples and other minorities.

The CYPAA also engages and places limitations on the following HRA rights:

- Section 11: Protection of the family and children;
- Section 12: Right to privacy and reputation; and
- Section 14: Freedom of thought, conscience, religion and belief.

These limitations on the above HRA rights are considered reasonable, having regard to the human rights of children to safety, protection and justice.

Please see the [Revised Explanatory Statement](#) for the *Children and Young People Amendment Act 2023* for a detailed human rights analysis.

Children and Young People Amendment Bill 2024

Human Rights Act 2004 - Compatibility Statement

In accordance with section 37 of the *Human Rights Act 2004*, I have examined the **Children and Young People Amendment Bill 2024**. In my opinion, having regard to the Bill and the outline of the policy considerations and justification of any limitations on rights outlined in this explanatory statement, the Bill as presented to the Legislative Assembly is consistent with the *Human Rights Act 2004*.

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Shane Rattenbury MLA
Attorney-General

CLAUSE NOTES

Clause 1 Name of Act

This is a technical clause that names the short title of the Act as the: *Children and Young People Amendment Act 2024*.

Clause 2 Commencement

This clause provides that the Act will commence on the day after its notification day.

Clause 3 Legislation amended

This clause specifies the legislation amended by this Bill. This Bill will amend the *Children and Young People Amendment Act 2023*.

Clause 4 Commencement Section 2 (2)

This clause replaces the automatic commencement date in section 2(2) of 31 March 2024, instead with 1 July 2024.