

# New child protection laws

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**Family Preservation Sector Forum**

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# Overview

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- In 2022, DCJ worked with key stakeholders to progress recommendations requiring changes to the *Children and Young Persons (Care and Protection) Act 1998* (the Care Act) and other Acts.
- The *Children and Young Persons (Care and Protection) Amendment (Family is Culture) Act 2022* became law on 25 November 2022. Several changes commenced immediately, with the remaining needing to commence at a later time due to practice and systems-level change requirements.
- On 12 October 2023, the Minister for Families and Communities approved for the remaining changes to commence on **15 November 2023**, pending approval by the Executive Council on 8 November 2023.

# What are the changes?

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- Requirements to make Active Efforts to prevent children from entering care, and for children who have been removed, to make active efforts to restore them to their parents, or if that is not possible, place them with family, kin or community
  - Requirements to provide evidence to the Children's Court of the Active Efforts made before bringing a care application, including the reasons the Active Efforts were unsuccessful, what alternatives to a care order were considered and why they were not considered appropriate
  - Ability to assess there is a realistic possibility of restoration in a period longer than 24 months, if there are exceptional circumstances that warrant a longer period
  - Additional requirements for permanency plans for Aboriginal children including showing evidence of compliance with the Aboriginal and Torres Strait Islander Child Placement Principle (s.12A, s.13)
  - Decisions not to authorise a carer are reviewable by NCAT
  - Requirement for the Minister to prepare an annual report on the implementation and impact of the principle of Active Efforts for each of the five financial years following the date of commencement

# About Active Efforts

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## What are 'Active Efforts'?

- Actions or activities by practitioners/services to reduce the risk of removal, to ensure children are able to live with family when they can't live safely at home, and to support restoration.

## Who do they apply to?

- All children and families involved, or at risk of involvement, with the statutory child protection system.

## Who is responsible for using Active Efforts?

- Overall, DCJ is responsible for ensuring active efforts are used with all children and families, and for providing evidence of this in Court proceedings.
- PSP Providers with case management responsibility may also be required to provide evidence of Active Efforts used to support children and families, if required, in care proceedings and restoration matters including s.90 applications.

# What will Active Efforts look like in practice?

- Children's extended family and support networks are involved much earlier – from assessment through to case closure
- Family-led decision-making processes are used to guide assessments, planning and care and restoration decisions
- Families understand their legal rights and are supported to access independent legal advice early and throughout our involvement (during assessment, prior to care proceedings and post-proceedings)
- ADR (incl FGC) is offered to families earlier to help facilitate important discussions and safety planning between families and DCJ
- Service referrals are linked to current child protection concerns and family engagement and progress is supported and monitored. If families aren't benefiting from a service or at risk of disengaging, new referrals or alternative options are arranged without delay
- Alternative options to removal (PRC, PCO, TCA, SO) are considered/used when child protection concerns haven't reduced and before seeking care and protection orders (except ECPOs)
- If a child is not able to live safely at home, the child and their family and support network are involved in decisions about who can provide care. Carer authorisation processes are not unnecessarily delayed. Placement decisions for Aboriginal children are made in accordance with s.12A and s.13
- Timely restoration casework to ensure children don't drift in care. Ensuring restoration and post-restoration support is in place for families
- Better monitoring of family time to ensure children in care are maintaining connection to family, culture and community
- Leaving and After Care planning commences with young people when they turn 15, and include their family and carer. All young people in care will have an approved plan in place by the age of 18

# Impact on Family Preservation services

- The Family Preservation service model, referral processes and eligibility requirements remain the same
- Family Preservation services should continue to:
  - Ensure referrals from DCJ set realistic expectations for families and directly relate to child protection concerns
  - Maintain service intensity with families to help them meet their goals
  - Actively keep families engaged in the program and address any signs of disengagement early
  - Include the child's extended family and support network wherever possible
  - Regularly review progress with families. If something isn't working, consider if there is an alternative way a goal can be achieved
  - If families aren't making progress, be honest about your concerns and develop a plan together to get them back on track
  - Keep updated records in case you are required to submit evidence for Court proceedings

# How will DCJ be accountable?

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- Requirements for DCJ to provide evidence of Active Efforts in Children's Court proceedings
  - Data and reporting – dashboard reporting, district reporting and annual reporting to Parliament on the implementation and impact of Active Efforts
  - Aboriginal Safeguarding Decision Making Panels
  - Peak organisations and community partners
  - Aboriginal Community Controlled Mechanisms
  - Families and communities

# Post 15 November

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- Continued implementation support
- Practice uplift– DCJ, NGOs and Courts
- Review Active Efforts policy and regulations within 12 months

# Supporting the sector

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- Sector communications – factsheets, information sessions
- Sharing relevant practice resources – eLearn, PSP Learning Hub

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