

# **Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2024**

## **Explanatory Notes**

### **For**

### **Amendments to be moved during Consideration in Detail by the Honourable Yvette D’Ath MP, Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence**

#### **Title of the Bill**

The short title of the Bill is the Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2024.

#### **Policy objectives of the amendments and the reasons for them**

On 12 June 2024, the Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2024 (the Bill) was introduced into Parliament. The Bill was referred to the Education, Employment, Training and Skills Committee (the Committee) for consideration.

On 2 August 2024, the Committee tabled its Report, *Report No. 8, 57<sup>th</sup> Parliament – Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2024* (the Report). The Report contained two recommendations: that the Bill be passed; and that the Bill be amended to remove the requirement that adult household members of kinship carers hold a blue card.

The Queensland Government response to the Committee Report notes recommendation 1 and supports recommendation 2, to progress amendments to remove the requirements for adult household members of kinship carers to hold a blue card. Removing this requirement will avoid any unintended consequences of the broader reforms to establish a more nuanced scheme for the screening of kinship carers in a way that is culturally safe and responds to the unique needs of Aboriginal and Torres Strait Islander families caring for kin.

## **Achievement of policy objectives**

The policy objective is achieved by making amendments to the *Working with Children (Risk Management and Screening) Act 2000* (Working with Children Act) and the *Child Protection Act 1999* (Child Protection Act) to remove the requirement for adult household members of kinship carers to hold a blue card.

Consistent with the reforms already in the Bill relating to kinship carers, the amendments relating to adult household members will commence on a date to be fixed by proclamation and automatic commencement under the *Acts Interpretation Act 1954* will not apply. This is to provide sufficient time for the Queensland Government to consult with stakeholders on the development of a new, fit for purpose and culturally safe screening framework for kinship carers and adult household members of kinship carers.

## **Alternative ways of achieving policy objectives**

As the requirement for adult household members of kinship carers to obtain a blue card is prescribed in the legislation, there are no alternative ways of achieving the policy objective.

## **Estimated cost for government implementation**

As the amendments are deregulatory in nature, there are no anticipated costs for government implementation.

Financial impacts associated with a new, fit-for-purpose screening framework for kinship carers and their adult household members will be considered during development of the framework.

## **Consistency with fundamental legislative principles**

The Bill has been drafted having regard to the fundamental legislative principles in the *Legislative Standards Act 1992* (Legislative Standards Act) and is generally consistent with fundamental legislative principles. Potential breaches of fundamental legislative principles are considered justified and are addressed below.

### **Legislation has sufficient regard to the institution of Parliament – *Legislative Standards Act 1992, section 4(4) – sufficient regard to the institution of Parliament***

Removing the application of the automatic commencement provisions under the *Acts Interpretation Act 1954* to delay commencement of the provisions to remove blue card requirements for adult household members of kinship carers may be inconsistent with the principles set out in section 4 of the Legislative Standards Act. For example, this approach to commencement could be considered ambiguous and insufficiently clear given that there is no certainty regarding commencement (section 4(3)(k) of the Legislative Standards Act).

Consistent with the approach taken in the Bill in relation to screening requirements for kinship carers, it is not intended the removal of the requirements for adult household members of kinship carers would commence until a new screening framework is developed and ready for implementation.

Delaying commencement in this way provides time for consultation and engagement with key stakeholders to ensure that any new framework is fit for purpose and has sufficient safeguards.

This approach will provide time to ensure sufficient regard is given to Aboriginal tradition and Torres Strait Island custom to ensure that a new framework is culturally appropriate.

## **Consultation**

The Bill was referred to the Committee for inquiry. As part of its inquiry, the Committee undertook a public hearing and received public submissions in relation to the Bill. Submitters to the Committee indicated significant support for the amendment to remove adult household members of kinship carers from the scope of the blue card system.

## **Consistency with legislation of other jurisdictions**

Working with children check requirements for adult household members of kinship carers vary across jurisdictions.

## Notes on provisions

*Amendment 1* amends clause 4 of the Bill to remove section 135(1)(b)(iv) of the Child Protection Act, which removes the requirement for the chief executive to be satisfied that each kinship carer and their adult household members have a working with children authority (blue card) before granting an application for, or renewing, a kinship carer certificate.

*Amendment 2* inserts new clause 4A into the Bill to include a new amendment to section 136(2)(c) of the Child Protection Act to remove a reference to section 135(1)(b)(iv). This is a consequential amendment reflecting the removal of section 135(1)(b)(iv) by amendment 1.

*Amendment 3* amends clause 5 of the Bill to replace clause 5(1)(b) and (c). New subsection 5(1)(b) removes the discretion for the chief executive to suspend or cancel a kinship carer certificate under the Child Protection Act if the holder of the kinship carer certificate or their adult household member does not hold a blue card.

*Amendment 4* amends clause 6 of the Bill to remove adult household members of an approved kinship carer from the definition of *relevant person* in section 140AB of the Child Protection Act.

*Amendment 5* amends clause 7 of the Bill to amend section 140AC(1)(a) of the Child Protection Act so that it only applies to approved foster carers, or a member of an approved foster carer's household and not to approved kinship carers and their adult household members. The chief executive will not be required to suspend an approved kinship carer's certificate of approval as a result of becoming aware of a prohibiting event defined under section 140AB of the Child Protection Act.

*Amendment 6* amends clause 7(3) of the Bill to renumber it as clause 7(2). This is a consequential amendment as a result of amendment 5.

*Amendment 7* amends clause 7 of the Bill to remove the reference to 'approved kinship carer's'. As a result of the change, the chief executive will be required to suspend only the certificate of approval of an approved foster carer on becoming aware of a prohibiting event defined under section 140AB of the Child Protection Act.

*Amendment 8* amends clause 9(3) of the Bill by removing references to 'approved kinship carer's' in section 140AG(3), (4) and (5) of the Child Protection Act.

Section 140AG(3) of the Child Protection Act as amended removes the discretion for the chief executive to cancel an approved kinship carer's certificate of approval if an adult household member of the holder of the certificate is issued with a negative notice, whether or not the certificate has been suspended under subdivision 3.

Section 140AG(4) of the Child Protection Act as amended removes the discretion for the chief executive to cancel an approved kinship carer's certificate of approval if the certificate was suspended under subdivision 3 and the adult household member of the certificate holder is issued with a negative notice other than under a prescribed provision.

Section 140AG(5) of the Child Protection Act as amended provides that the chief executive must not cancel a certificate of approval under subsection (3) or (4) if satisfied the relevant

person (an adult household member of an approved foster carer) is no longer a member of the approved foster carer's household.

*Amendment 9* inserts new clause 10A which makes a consequential amendment to Schedule 2, item 10, column 1 of the Child Protection Act to reflect the removal of section 135(1)(b)(iv) by amendment 1.

*Amendment 10* amends clause 131 of the Bill to remove the requirement in Schedule 1, Part 1, section 14(2) of the Working with Children Act for adult members of an approved kinship carer's household to obtain a blue card. Section 14(2) will continue to require adult members of an approved foster carer's household to obtain a blue card.

*Amendment 11* amends clause 131 of the Bill to insert new subsection (4) in Schedule 1, Part 1, section 14 of the Working with Children Act to provide a definition of *approved kinship carer*.