



Children and Community Services Amendment Act 2021

The Western Australian Parliament passed legislation on 14 October 2021 to strengthen WA's child protection laws and responses to children who are in out-of-home care.

To download a copy of the [Children and Community Services Amendment Act 2021](#) visit the WA Legislation website.

Most of the new laws will commence operation from 1 May 2022.

Important changes will include:

Aboriginal and Torres Strait Islander child placement principle (‘placement’ means who the child lives with, also called a care arrangement.)

Now

If placement with:

- 1 the child's family; or
- 2 an Aboriginal person in the child's community;



is not possible, the following placement order is sought:

- 3 with an Aboriginal person (who can be anywhere in WA);
- 4 with a non-Aboriginal person (who can be anywhere in WA).

What will change?

If placement with:

- 1 the child's family; or
- 2 an Aboriginal person in the child's community;



is not possible, the following placement order is sought:

- 3 with an Aboriginal person who lives in close proximity to the child's community;
- 4 with an Aboriginal person (who could be anywhere in WA) or a non-Aboriginal person who lives in close proximity to the child's community;
- 5 with a non-Aboriginal person (who could be anywhere in the WA).

Placements with non-Aboriginal carers must be with people who can support and encourage the child's family, cultural and community connections.

This reinforces the importance of connection to family, culture and Country.



Changes to special guardianship orders (SGO)

Now

The Court can make an SGO for an Aboriginal child with a single or joint non-Aboriginal carer/s without a report from an Aboriginal agency or person, and an SGO may include conditions about contact only.



What will change?

Before making an SGO for an Aboriginal child with only non-Aboriginal carers the Court must consider a report from certain Aboriginal agencies or persons about whether the SGO should be made.

Communities' court report must say how the child's relationship with family will be supported, and an SGO may include cultural support conditions.

A child's name may only be changed in exceptional circumstances and only with Court permission.



Placement arrangements

Now

When deciding who an Aboriginal child in care should live with the Department of Communities (Communities) **must consult with at least one** of the following:

- an Aboriginal officer of Communities;
- an Aboriginal person with relevant knowledge of the child, the child's family or child's community; and
- an Aboriginal agency with relevant knowledge of the child, the child's family or child's community.



What will change?

Communities **must consult each** of the following:

- Aboriginal members of the child's family;
- an Aboriginal representative organisation approved by the CEO in accordance with regulations; and
- an Aboriginal officer of Communities with relevant knowledge of the child, the child's family or child's community.



Connection to culture

Now

Cultural support plans are **not required** by the Act, even though in practice they form part of a child's care plan.



What will change?

Cultural support plans will be **required** by the Act and an Aboriginal representative organisation must have the opportunity to participate in their preparation and annual review. Cultural support plans must also be included in Communities' reports to the Court.

Aboriginal representative organisations

The CEO will be able to approve an organisation as an Aboriginal or Torres Strait Islander representative organisation for the purposes of the consultation and cultural support planning referred to above.

Communities is working in partnership with Aboriginal stakeholders to determine how Aboriginal representative organisations will operate across WA. This includes piloting place-based and culturally appropriate service models in one regional and one metropolitan location to inform statewide implementation.

Part of the consultation process will involve developing criteria in regulations, which will define what constitutes an approved Aboriginal representative organisation.

The amendments relating to Aboriginal representative organisations will come into effect at a later date to allow sufficient time for Communities and potential Aboriginal representative organisations to build the capacity needed to implement the delivery of these services statewide.



Family participation

Communities supports family participation in decision-making in a number of ways. This includes through Signs of Safety family meetings where families can nominate who they want to attend.

A pilot of Aboriginal Family-Led Decision Making (AFLDM) is also running. AFLDM is a process which supports the right to self-determination of Aboriginal (and Torres Strait Islander) families to make decisions on how to keep their children safe and connected to their community.

More information about AFLDM can be found at: www.communities.wa.gov.au/afldm

