CHILDREN AND COMMUNITY SERVICES AMENDMENT BILL 2019

Second Reading

Resumed from 28 November 2019.

MR S.K. L'ESTRANGE (Churchlands) [12.26 pm]: I rise today to speak on the Children and Community Services Amendment Bill 2019. I am the lead speaker for the opposition, representing Hon Nick Goiran, who is the shadow Minister for Child Protection in the other place. The Minister for Child Protection will have to bear with me as I work through quite a number of my own notes, which I had to read in advance of giving this speech on what is a very serious topic for the children, families and people of Western Australia.

The first thing I want to look at is the legislation's background and purpose. It mostly implements recommendations of the 2017 statutory review of the Children and Community Services Act 2004 and the 2017 Royal Commission into Institutional Responses to Child Sexual Abuse. A requirement was for the public service to prioritise a request from the CEO to provide assistance to a child in care, special guardianship or a care leaver. It will make persons in the religious ministry mandated reporters of child sexual abuse, and it will implement the Aboriginal and Torres Strait Islander child placement principle by putting greater emphasis on placing Aboriginal children with their family within their community or nearby. The CEO will be required to consult with an approved Aboriginal representative organisation before making placements or cultural support plans for an Aboriginal child. The bill also looks at care leavers, legislating that case planning will start from age 15 to transition to assisted living. That will affect people who are moving out of care in how they get catered for and how they make the transition. Principles of the legislation regarding out-of-home care include emphasis on the child's participation and wishes, birth family contact, placement with siblings and interpreters, if needed. A care plan review panel will now be able to splinter to investigate multiple applications. The approval process for secure care provisions will be more expedient, allowing temporary removal of the child, and special guardianship restrictions exist. There is also a provision that a victim of family violence cannot be prosecuted for exposing a child to it, and there are minor changes for transgender and intersex youth to address alleged inconsistency with the commonwealth Sex Discrimination Act 1984. The power to investigate suspected offences under the act is also addressed in this bill. There is a fair bit in it.

The strengths that I have identified and been briefed on with regard to the prioritisation of children in care by public authorities, particularly under clause 14, "Section 22 amended", prescribed by the regulations are that they must prioritise a request from the CEO for a child in care, a care leaver or a child under a special guardianship order, unless the request is inconsistent with this function and would unduly prejudice performance. If the public authority cannot comply, it must provide written reasons as to why—for example, if the CEO requests it. A second strength is that it provides support for care leavers, legislating the planning and requirements to prepare a child for leaving care, including linking them with relevant social services and informing the child of their entitlement to receive that support up to the age of 25 years, should they seek it. That is covered under clause 37, "Section 89 amended". A leaving care plan must be prepared once a child reaches 15 years, including the social services to be provided to assist them, which relates to proposed section 89B under clause 38. Support for carers also covers children leaving care receiving written information on entitlements to post care, and that is covered in clause 43, "Section 98 amended". The third strength is that a more efficient care plan review panel will exist, and every child in care will require a care plan that has to be updated every 12 months. Those are the strengths of the plan, as we see it and as I see it, and no doubt Hon Nick Goiran in the upper house will also see it.

I will move to mandatory reporting and go through that. Clause 51 deals with mandatory reporting, which was one of the key aspects of the statutory review and of the royal commission. Currently, mandatory reporting laws exist for doctors, nurses, midwives, police officers, teachers and boarding supervisors to report child sexual abuse if they believe that a child has been abused. The bill now introduces mandatory reporting for ministers of religion, in accordance with the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse. The issue that I identified regarding mandatory reporting—no doubt Mr Goiran in the other place will as well—is that the bill fails to introduce the other recommended reporting groups. I will go through them. The recent royal commission came to an unambiguous conclusion. It identified a moral and professional imperative behind mandatory reporting. Recommendation 7.3 of the royal commission states —

> State and territory governments should amend laws concerning mandatory reporting to child protection authorities to achieve national consistency in reporter groups. At a minimum, state and territory governments should also include the following groups of individuals as mandatory reporters in every jurisdiction:
>
> a. out-of-home care workers (excluding foster and kinship … carers)
>
> b. youth justice workers
>
> c. early childhood workers

d. registered psychologists and school counsellors

e. people in religious ministry.

It then observed that one of the benefits of this recommendation is that more individuals who work closely with children, and who therefore have a moral and professional imperative to report known or suspected child abuse and neglect to an external government authority, will be obliged to report and are also protected when making a report to child protection. If we compare the addition of mandatory reporting for ministers of religion with the groups that have been omitted, we might ask with what frequency a child might come into contact with a minister of religion compared with the consistency of a child coming into contact with an early childhood worker. We could argue that a child would obviously see early childhood workers a lot more often than they would see a minister of religion. Maybe the minister could explain why those groups have been omitted. I cannot understand why ministers of religion are in but those other ones who have a higher contact frequency are out.

Ms C.M. Rowe: The results of the royal commission is why they're included.

Mr S.K. L'ESTRANGE: But they have not been included in this bill.

Ms C.M. Rowe: The ministers of religion?

Mr S.K. L'ESTRANGE: Correct, but the same royal commission also referred to out-of-home care workers, youth justice workers, early childhood workers, registered psychologists, school counsellors and people in religious ministries. Yes, religious ministers are included, but all the others that were recommended by the royal commission have not been included in the bill. Maybe the member for Belmont can take that up with the minister. That is something that I would like some clarification on.

The minister also indicated in the second reading speech that consultation with the additional groups will occur in 2020. Maybe she can answer these questions when she replies to the second reading debate. Who has she been consulting in 2020? Why were these stakeholder groups not consulted prior to November 2019 when the bill was first introduced to this place? Is there a reason those groups are not included in the bill? A point to note is that the government has had three years to prepare and consult since the royal commission's final report was released in December 2017. There is some concern from the opposition about how that consulting occurred and whether it occurred effectively. Maybe the minister can address that aspect of consultation.

I move to some commentary on clause 71, which deals with investigative powers. I believe the "Statutory Review of the Children and Community Services Act 2004" was one of the driving reasons for the changes. I could not find in the statutory review a recommendation to change the investigative powers. Maybe the minister can highlight to this place the reason for those changes to investigative powers, if they are not a recommendation from the statutory review. The bill introduces special investigative powers for the Department of Communities. This provision is of particular concern to some people in the community, and, no doubt, the other place will look into it in a fair bit of detail. It centres around the powers that are given to an authorised officer or industrial inspector, and the authorised officer is defined in the Parental Support and Responsibility Act 2008. It states —

> The CEO (Child Protection), the CEO (Education), the CEO (Corrective Services) or the chief executive officer of the department principally assisting in the administration of this Act may designate a public service officer of his or her department as an authorised officer for the purposes of the provision or provisions of this Act specified in the designation.

A number of people can fulfil the role. This clause of the bill replaces the limited investigative powers contained in the act that were used by industrial officers to investigate the employment of children. An example of this includes when an industrial inspector may need to visit a child's prospective place of employment to inspect the facility before the child begins work. Within this bill, the powers are expanded, allowing authorised officers and industrial inspectors to have a number of additional powers, including, but not limited to, entering a place with consent or with a warrant; requiring the provision of information; measuring, testing, photographing or filming any part of the place or anything at the place; making a copy of any record or document at the place; and the use of force that is reasonably necessary in the circumstances. The bill allows these powers to be exercised only when an authorised officer is investigating a suspected offence, which makes sense. But I am interested to know the criteria within the bill that define what information is enough to justify a suspected offence. It also proposes that the powers conferred by this part may be exercised in relation to a suspected offence under this legislation or other conduct, whether occurring before or after the commencement of this provision. I suppose the question then to be asked is: if it occurs before or after the commencement of this provision, how will that legally apply? We would like some clarification of that issue regarding investigative powers.

I now turn to clause 11, which is about placing children in care. According to section 12 of the act, currently, an Aboriginal child is placed into care in the following order of priority —

(a) placement with a member of the child's family;

(b) placement with a person who is an Aboriginal person or a Torres Strait Islander in the child's community in accordance with local customary practice;

(c) placement with a person who is an Aboriginal person or a Torres Strait Islander;

(d) placement with a person who is not an Aboriginal person or a Torres Strait Islander but who, in the opinion of the CEO, is sensitive to the needs of the child and capable of promoting the child's ongoing affiliation with the child's culture, and where possible, the child's family.

Clause 11 enacts recommendation 7 of the "Statutory Review of the Children and Community Services Act 2004" and realigns the priorities. The review, however, recommended that section 12 be amended to provide —

(1) In performing a function under the Act about the placement of an Aboriginal child under a placement arrangement, a person, court or tribunal is to observe the principle that any placement for an Aboriginal child must, so far as is consistent with the child's best interests, accord with the following order of priority and all reasonable efforts should be made to comply with the order:

(a) placement with a member of the child's family;

(b) placement with an Aboriginal person in the child's community in accordance with local customary practice;

(c) placement with an Aboriginal person in close proximity to the child's community;

(d) placement with a non-Aboriginal person in close proximity to the child's community;

(e) placement with an Aboriginal person;

(f) placement with a non-Aboriginal person.

Obviously, the minister will have consulted Aboriginal groups in and around how that will work—if she did not, I am sure she will explain why—so perhaps she can explain how those interactions went. I am also interested to know, because I am certainly in no way an expert in this matter, how a placement will work when an Aboriginal child from one community is placed with an Aboriginal person from a vastly different community. Has there been any research, for example, on what happens when an Aboriginal child from the Martu region is placed with a family in the Noongar region? Do any special circumstances need to be taken into account in that case, or would a non-Aboriginal person be more effective? I do not know. I am basically asking whether those cultural differences would create more friction than they would if a child was placed with a non-Aboriginal person, if they had to be moved down to the south west, for example. I think the minister might want to explore or give some feedback on that. The motive of this bill is no different from the motive of the original bill, which is to ensure that children are closer to country and remain with cultural touchstones as much as possible.

The next area I want to look at is how these changes will be implemented in practice. I assume the minister has received feedback from people who work in the sector on the likely extra resources and supports that care leavers will need to access under this legislation. For example, what departmental changes will need to be made to cater for that type of support? Also, what extra components will be required in care plans? We all know that it is a legislative requirement that every child in care has a care plan, but I am led to believe that almost one in five, or 18 per cent, do not have a care plan. Maybe the minister would like to comment on that, because if one in five children in care do not have a care plan, how will that be addressed given the increased requirements under this bill?

Clause 8 inserts as a component in determining "what is in the best interests of a child" the need to develop and maintain contact with the child's family and significant people. That, obviously, will require some resource burden. How will that resource burden be addressed to enable the bill to work?

Previously, only 34 per cent of care leavers accessed supports, so will additional resources be available if there is a significant increase in care leavers who seek to access supports; and, for Aboriginal children, how will Aboriginal representative organisations that are yet to be approved by the CEO, and their specifics, be developed in the regulations? Obviously, the bill sets out to do one thing, and it has been suggested that that will occur by regulation. Maybe the minister can explain how that will occur. In summary, I would like the minister to explain how the changes that are being made to the resourcing of the department will enable this bill to operate effectively.

I turn now to the recommendations of the "Statutory Review of the Children and Community Services Act 2004", dated November 2017, which I presume the minister has read. The bill itself implements the recommendations from four out of five of the statutory review's terms of reference. I note that it does not implement 29 of the recommendations. Some of those may fall within the remit of court jurisdictions, and I will get to that in a moment. However, I do have questions around why some of those were omitted, and the minister might want to help us with those. I will start by reading the introduction of chapter 1 of the "Statutory Review of the Children and Community Services Act 2004", which states —

> The Act provides for the protection and care of children in certain circumstances, the provision of social services, financial and other assistance and for other matters concerning the wellbeing of children, other individuals, families and communities in Western Australia. The Department of Communities (the Department) is the agency principally assisting the Minister for Child Protection … in the administration of the Act.

I then go to the list of recommendations and those recommendations that have been omitted from the bill. I was able to work out which recommendations were omitted by reading a ministerial briefing that the minister's office provided to me and Hon Nick Goiran a little while ago now, back in March. We were provided with a document titled "Children and Community Services Amendment Bill 2019: Implementation of Review Recommendations", which listed the recommendations of the statutory review and where they have been addressed in the bill. I thank the minister's office for providing that document. It was most helpful. The questions I have relate to the recommendations that have not been addressed in the bill. Recommendation 1, which has been omitted from the bill, states —

> There should be increased Aboriginal representation on the Cross Sector Foster Carer Panel …

The second recommendation dealt with —

> … non-legislative measures for promoting consistently high cross-sector foster carer standards should be pursued before any further consideration is given to establishing in legislation a single decision-maker for the approval and revocation of foster carers:
>
> (a) cross-sector development of a carer assessment framework;
>
> (b) an accreditation and training requirement for foster carer assessors;
>
> (c) a strengthened Foster Carer Directory following a review of its role and operation.

Recommendation 3, which is not addressed in the bill, states —

> Consideration should be given to the external oversight of compliance with standards of carer assessment, review and revocation by the Department and community sector organisations.

Recommendation 4 states —

> The contractual requirements for community sector organisations should be aligned with the requirements of the carer assessment and revocation standards in regulation 4 of the Children and Community Services Regulations 2006.

Recommendation 5 states —

> Regulation 4 of the Children and Community Services Regulations 2006 should be amended to introduce an additional assessment criterion which requires that prospective carers must be able to promote children's cultural needs and identity.

Maybe the minister in reply can explain why those recommendations were not addressed in the bill.

I will move to the next recommendation that was not addressed, which was recommendation 17. It states —

> Strategies should be implemented, in partnership with Aboriginal community controlled organisations, to support capacity building which enhances the role of Aboriginal community controlled organisations in delivering child protection and family support services to Aboriginal families and communities.

The terms of reference for a number of those recommendations to do with secure care provisions were missing. Recommendation 19 states —

> The maximum timeframes in which a child may be placed in secure care under a secure care arrangement or an extension of a secure care arrangement should remain the same. Any amendments should be informed by an evaluation of secure care.

Recommendation 20 states —

> The Department should examine the current barriers to transitioning children effectively and safely from secure care and ways these barriers can be addressed.

Recommendation 21 states —

> The target age-range for admission to secure care should continue to be children aged from 12 to 17 years and the admission of younger children should be avoided wherever possible.

Recommendation 22 states —

> Work is urgently required to examine alternative means for addressing the complex needs of a small but increasing number of children aged younger than 12 years who, in the absence of suitable alternatives, are being admitted to secure care.

Recommendation 23 states —

> Rather than the assessor model in section 125A of the Act, under which the CEO is responsible for the appointment of assessors, oversight of the Department's secure care facility should:
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> (a) be undertaken by an independent body with sufficiently broad oversight powers;
>
> (b) involve a minimum number of annual visits including unannounced visits; and
>
> (c) include Aboriginal people to assess and determine whether the specific needs of Aboriginal children in secure care are being met.

Recommendation 24 states —

> An evaluation of the role and effectiveness of secure care as a protective intervention for children should be undertaken as soon as possible to inform secure care practice and legislative policy into the future, including informing the optimal time frames required for stabilising and assessing the needs of children admitted to secure care.

Term of reference 5, "Intersection between child protection and Family Court proceedings", was pretty much all omitted. I will not read all those out. Maybe the minister can explain—because I know it is dealing with these two court proceedings—why recommendations 27, 28, 29, 30, 31, 32, 33 and 34 are missing and are not addressed in the bill.

Recommendation 35, under the heading "Promoting stability and continuity for children in care through permanency planning", was also omitted. It states —

> Safety, stability, continuity of care and relationships and a sense of identity and belonging for children in the CEO's care should continue to be promoted through implementation of the Department's permanency planning policy, and the policy should continue to be monitored and evaluated on an ongoing basis to determine its effectiveness in contributing to timely decision-making that achieves these outcomes.

Recommendations 53 and 54, under the heading "Children in the CEO's care—advocacy and care planning", were not addressed in the bill. Recommendation 53 reads —

> In collaboration with partner agencies, the Department should strengthen and further develop child-friendly complaints processes for all children in care which:
>
> (a) are targeted to the needs of different groups, taking into account children's age and type of care arrangement;
>
> (b) provide children with a range of options to speak out about their concerns;
>
> (c) link-in with children's existing safety networks;
>
> (d) are promoted through age-appropriate materials and platforms; and
>
> (e) are understood, and promoted with children and their safety networks, by child protection workers and residential care workers.

Recommendation 54 states —

> The model of independent child advocacy services most appropriate for children in the CEO's care should be explored, taking into account the number of children in care across the State, their type of care arrangement and the high proportion of Aboriginal children in care.

Recommendation 59 states —

> The *Children and Community Services Regulations 2006* should be amended pursuant to section 97(1)(e) of the Act to prescribe other documents or material that a child is entitled to when leaving the CEO's care.

Recommendation 63 states —

> The State Government should give consideration to providing opt-in, ongoing support to care leavers up to the age of 21 years, including through the continued support of their placement arrangements or alternative accommodation assistance and a dedicated youth worker/mentor to support a person's access to leaving care entitlements in accordance with sections 96 to 100, and ways of achieving this should be explored. The leaving care assistance currently available to young people who qualify under section 96 of the Act should continue to be provided up to the age of 25 years.

I know some of that is mentioned in the bill but the minister's office is saying that recommendation 63 is not being addressed.

Under the heading "Protection proceedings" are recommendations 66 to 68. Recommendation 66 reads —

> The Act should be amended to provide that decisions of a Children's Court magistrate under the Act are reviewable at first instance by the President of the Children's Court, with any subsequent appeal to the Court of Appeal of the Supreme Court.

Recommendation 67 states —

> The benefits of undertaking a 24-month pilot in the Children's Court of a specialist list for protection matters involving Aboriginal families should be explored, informed by similar approaches in other jurisdictions such as the Koori Family Hearing Day (also known as the Koori List or Marram-Ngala Ganbu) being piloted in Victoria.

Recommendation 68 states —

> An Aboriginal Liaison Officer/Consultant should be located at the Children's Court to facilitate the participation and engagement of Aboriginal families in protection proceedings to improve outcomes for Aboriginal children.

The last section that was omitted from the bill us under the heading "Miscellaneous". Recommendation 69 states —

> The Department should develop a charter of rights for families who come in contact with the Department as a result of concerns about the wellbeing of their children.

They are all the recommendations from the statutory review that the minister's office said are not addressed in the bill. The opposition seeks some feedback about why they have been omitted.

I will now look at how the department is going to cope. I started to talk about that a little earlier. The minister would be aware of an article of 12 August 2019 by Daile Cross that appears in WAtoday titled "Little lives: WA foster carers demand investigation into 'toxic' government department". I am not trying to have a go at the department; I am merely highlighting an article and the concerns that key people mentioned in the article. I am doing this to draw attention to the fact that if we are trying to significantly increase the services to be provided to families for the benefit of children, we need to make sure that departments are resourced effectively and they are prepared and ready to perform their duties. The article states —

> A highly respected foster carer who was awarded an Order of Australia Medal for a lifetime spent caring for vulnerable children has demanded an investigation into the operations of the department charged with protecting them.
>
> Gay Pritchard and her husband Gary became members of the Order of Australia in 2017, honoured for fostering more than 200 children over nearly 30 years.
>
> Mrs Pritchard, founder of advocacy group Foster Families South West, and current chairperson Kelly O'Connor have joined other foster carers and the Perth-based advocacy agency Foster Care Association of WA to speak out against the Department of Child Protection's management of the foster system and the breakdown in relations between case workers and carers.
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> Both Mrs Pritchard and Ms O'Connor said the culture within the department was now "toxic".
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> …
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> Mrs Pritchard and Ms O'Connor said the culture within the department saw case workers bullying carers, threats of taking children and an apparent lack of a 'child first focus'.
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> …
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> "The department has in place good policies and procedures; however, these are rarely kept to and if questioned, are brushed aside with statements such as 'that is just a guideline'."
>
> Mrs Pritchard warned children often lingered in the system with no prospect of permanency in the near future, and the case management of children by the department was not good enough.

Mrs Pritchard was quoted as saying —

> "The department it seems is a law unto itself. Who are they accountable to?," …

Obviously that would have raised a fair bit of concern in the minister's office at the time, in August last year. I bring it back to the minister's attention with reference to how she is going to resource and effectively oversee the department to ensure that the changes being recommended in this bill can actually demonstrate an improvement on top of what existed before.

Another area I want to look at deals with the consultation that I began with in my contribution today. I refer to a letter—I think I might have just seen the Minister for Aboriginal Affairs hand or show the letter to the minister

while I was speaking—addressed to Hon Nick Goiran and signed by Richard Weston, CEO of Secretariat of National Aboriginal and Islander Child Care — National Voice for our Children. The organisation calls itself SNAICC. I will read some key parts of that letter to the minister. The opening paragraph is pretty clear. It states —

> **Re: Children and Community Services Amendment Bill 2019**
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> I am writing on behalf of *SNAICC — National Voice for our Children* for your support in our request to Minister McGurk for the proposed *Children and Community Services Amendment Bill 2019* to be referred to the Standing Committee on Legislation to enable further dialogue and negotiation with Aboriginal and Torres Strait Islander stakeholders in Western Australia (WA).

This is dated 28 April, 2020. Mr Weston wrote —

> As you are aware, Western Australia has the second highest rate of over-representation of Aboriginal and Torres Strait Islander children in out-of-home care in Australia. This crisis is of grave importance to our families and communities in WA, so the legislative reform process must be developed in collaboration with Aboriginal people.
>
> …
>
> As the peak body for Aboriginal and Torres Strait Islander children, SNAICC is deeply concerned that the proposed legislative amendments will not be adequate to protect our children's safety and wellbeing.

Point of Order

Ms S.F. McGURK: This is not an objection, but I do not have a copy of that letter, so if it can be tabled I can better address some of the issues.

Mr S.K. L'ESTRANGE: I can get the minister a copy of it.

The ACTING SPEAKER (Ms M.M. Quirk): Only a minister can table a document, but the minister can enter into negotiations with the member.

Debate Resumed

Mr S.K. L'ESTRANGE: The letter continues —

> The Noongar Family Safety and Wellbeing Council have raised a number of concerns in relation to the bill, including that it does not adequately reflect the fundamental principle of self-determination for Aboriginal people, and that substantial involvement of Aboriginal and Torres Strait Islander organisations in the design of the legislation is sadly lacking. Proceeding with a bill that fails to address these community concerns will be a missed opportunity that could ultimately see the intent of the bill fail.

Further along, the letter states —

> Many of the recommended provisions are reflected within child protection legislation in other jurisdictions and were put forward during the legislative review process in Western Australia in 2017. They are not, however, reflected within the current proposed bill.

I will talk to Hon Nick Goiran, because the letter was addressed to him, and I will see whether he can get the minister a copy of it. Suffice it to say that the statutory review recommendations, which the minister's office showed us are not dealt with in the bill, are probably the recommendations—I am guessing—that Mr Weston referred to in his letter.

The final thing I want to look at is the government's five proposed amendments. I understand that these five amendments came through in February this year—is that right?

Ms S.F. McGurk: Later, I think.

Mr S.K. L'ESTRANGE: Later? Okay. In any case, the government proposes five amendments to its own bill, so clearly those amendments will have to be dealt with during consideration in detail. The first of those deal with clauses 11, 14 and 71. They seem pretty straightforward, but the opposition will be very keen to hear an explanation from the minister with regard to each of these three clauses, and an indication of how the explanatory memorandum should be read in light of those amendments. I think there was one explanatory memorandum change, but were these five amendments addressed in the second explanatory memorandum?

Ms S.F. McGurk: I don't have it in front of me. There are one or two of substance and others are procedural.

Mr S.K. L'ESTRANGE: Okay. So it might be worthwhile considering a third explanatory memorandum that considers these amendments so that members in the other place—particularly Hon Nick Goiran, who is the shadow minister for this portfolio—can get a better understanding of it.

The first amendment deals with clauses 11, 14 and 71. The next amendment deals with clause 59. We want to know what the catalyst was for its deletion, because I think all of clause 59 was deleted—is that right? I will have to get the bill out; it is on my desk. In any case, maybe the minister can explain to us why there was a complete deletion and whether there was any stakeholder input in its deletion. The third amendment deals with changes to clause 30. A question that has been put to me to ask on that is: if a child is the subject of a special guardianship order and the special guardian dies, why would they automatically be on a temporary order as opposed to an until-18 order? It is really a clarification as to why they stay on a temporary order and do not move to an under-18 order. That covers the amendments.

That pretty much wraps up the aspects of the bill that the opposition is interested in getting the minister's feedback on. We have given an indication to the minister of where the other place is probably going to go on this bill. Given that the external stakeholder correspondence I alerted the minister to sought referral of this bill to a parliamentary committee, I will be very surprised if that is not supported in the other place. The details of how this bill will work and making sure that all stakeholders are confident that what the minister is trying to achieve can be achieved are important aspects of legislative development.

In light of that, I will wrap up by saying that the opposition obviously supports the Children and Community Services Amendment Bill 2019 because its intent is to make the lives of children safer. I have highlighted to the minister the opposition's position and concerns around things that came out of the statutory review that were omitted or not addressed, and I hope the minister will be able to address them in some way today for us. I commend the bill to the house.

MR R.S. LOVE (Moore — Deputy Leader of the Nationals WA) [1.09 pm]: On behalf of the Nationals I would like to speak to the Children and Community Services Amendment Bill 2019. As we know, this bill will implement 41 recommendations of the 2017 "Statutory Review of the Children and Community Services Act 2004" and will touch on some of the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse. Children are the future of our community. They are, indeed, our most precious resource. Despite the fact that most children are cherished and loved and raised securely and have a range of opportunities that loving parents can provide, that, unfortunately, is not the universal truth for everyone in society. Indeed, the figure I was given was that as of 30 June 2019, 5 379 children had come to the attention of authorities and been taken into care. We all should have deep regard and a deep sense of concern for those children to ensure that not only their immediate surroundings are safe, but also they are cared for in a way that is appropriate to their culture and provides them with a range of opportunities that we would all like to think our children deserve. Of course, it is most important that those children need to be kept safe. Anyone who has followed the Royal Commission into Institutional Responses to Child Sexual Abuse will know that it provided a watershed report containing details of a range of systemic failures of many organisations, including churches and faith-based organisations—organisations that had promised to look after children and ensure that the children they were in charge of received the best care. We know that through a range of systemic failures, they failed to do that. The final report of the royal commission made 310 recommendations and part of this bill seeks to deal specifically with mandatory reporting by ministers of religion, who will join doctors, nurses, midwives police officers, teachers and boarding supervisors in being required to report to the CEO if they form a reasonable belief that a child is being or has been sexually abused.

Ministers of religion are persons recognised in accordance with the practice of a religious faith who are authorised to conduct services or ceremonies in accordance with the tenets of that faith or religion, regardless of how their position or title is described, whether they are called a priest, a minister, an imam, rabbi, pastor or any other description. There will be no excuse for failing to make a mandatory report because a minister's belief was based on information disclosed to the minister during a religious confession or because making the report would be contrary to the tenets of the minister's faith or religion. A religious confession is a confession made by a person to a minister of religion in the minister's capacity as a minister of religion in accordance with the tenets of the minister's faith or religion.

I was raised in the Catholic tradition and I remember at the age of seven receiving the sacrament of reconciliation and trying to think of some sins that I could report to the priest. I duly reported a range of grievous wrongs that I had undertaken at the age of seven, and I duly continued to report over the next few years. It was drummed into us that everything said in the confessional was under a sacred seal and would not be revealed to anyone. I therefore understand that this is a matter of some concern to members of the clergy in the Catholic religion. I also understand that the royal commission has made it clear that the requirements to ensure that children are kept safe are paramount. Members of my party and I support this change and are pleased to see that the recommendations are being put into action.

Another key area the bill deals with is the placement of Aboriginal children. I understand 55 per cent of those 5 379 children whom I spoke about and who were in care in 2019 were Aboriginal, despite the fact that only 6.7 per cent of the population of children are in fact Aboriginal. Therefore, a greatly disproportionate number of Aboriginal children are placed into care in this state, as we know from the experience of the stolen generation and of First Nation people around the world. Last year, I had the opportunity to travel on the parliamentary exchange to Saskatchewan where we spoke to members of the First Nation community. Saskatchewan has a system that

basically paraphrases as "residential schools", which is a system similar to what we have recognised with the stolen generation, whereby children were taken from First Nation families and put into institutions supposedly to ensure that they were cared for. However, we know that it is very important for First Nation people to have connection to their kin, their culture and their communities. A range of other factors need to be taken into account in determining whether an assessment is suitable.

This bill sets out the principles for Aboriginal child placement and cultural support planning. It sets out an order of priority for the placement of an Aboriginal child in care. The broad intent of the principle is to enhance and preserve connection to family and culture for children in care. Placement with the child's family of an Aboriginal person in the child's community or another Aboriginal person anywhere in WA is currently prioritised over placement with non-Aboriginal persons. This bill prioritises placement with a non-Aboriginal person in close proximity to a child's community over placement with an Aboriginal person who may live anywhere in Western Australia, recognising that connection to country and the nearby community is very, very necessary. If placement with someone from the child's family or, failing that, a placement with an Aboriginal person in the child's community cannot be achieved, the order of priority is, going down the list: placement with an Aboriginal person who lives in close proximity to the child's community; placement with a non-Aboriginal person who lives in close proximity to the child's community; placement with an Aboriginal person who may be anywhere in the state; and placement with a non-Aboriginal person. Placement with a non-Aboriginal carer must be with someone who is responsive to the child's cultural needs and is willing and able to encourage and support the child to develop and maintain connection with culture and traditions of the child's family or community.

Before making a placement, the CEO must consult with an Aboriginal member of the child's family, an Aboriginal representative organisation approved by the CEO in accordance with the regulations, an approved Aboriginal representative organisation and an Aboriginal officer of the department with relevant knowledge of the child, the child's family or the child's community. Subject to the regulations, an approved ARO must also be given an opportunity to participate in the development of an Aboriginal child's cultural support plan, which will include participation and reviews of the plan. It is envisaged that these approved AROs may well be the existing native title groups and bodies that have become resourced and established throughout the state and are recognised by the local community who have knowledge of the child or the child's family and community. If an application for the review of a child care planning decision concerns an Aboriginal child, the constitution of the care plan review panel dealing with the application must include an Aboriginal person.

The bill has a range of other measures, such as the development of care plans for 15-year-old children leaving state care that detail the appropriate social services to be encouraged for safe and successful independent living. Also, a range of measures are involved in investigating the appointment of children to make sure that children are not being exploited and requirements are to be included in written proposals for the wellbeing of a child. Under section 143, the CEO of the department must provide the Children's Court with a report when it makes a proposed protection order arrangement for the wellbeing of the child. The bill will require those reports to outline the proposed arrangements for safeguarding and promoting the wellbeing of the child, including proposed arrangements for promoting, where appropriate, the child's relationship with family or other people significant to the child. The proposed arrangements for placement of an Aboriginal child or a culturally and linguistically diverse child must be in accordance with the child placement principles or court guidelines, and have a cultural support plan. The proposal for an Aboriginal child must outline that consultation will be undertaken as required.

We know that this bill contains a range of measures. It is quite a detailed bill and indeed the act is quite a detailed act, and so we will be watching with some interest as this bill goes through the consideration in detail stage, and no doubt through all those other detailed matters. I will not go into them now because I know we will deal with them over the coming days. Suffice it to say the Nationals WA is aware that changes need to be made to the treatment of children. We support the bill. We know that all these matters are very sensitive. There are no black-and-white solutions. There is no best way forward, but there is often a better way forward, and so if this bill is trying to find a better way forward, we are keen to support that.

MR B.S. WYATT (Victoria Park — Treasurer) [1.21 pm]: I want to make some comments on the Children and Community Services Amendment Bill 2019 to get my views on the record. I note that the work of the Minister for Child Protection in bringing this forward needs to be commended. I make this point because amendments to legislation such as the Children and Community Services Amendment Bill are often very, very difficult because it is always contentious; it requires a lot of consultation; and it is therefore often very difficult to find its time in the parliamentary sunshine, shall I say. Therefore, I am really delighted that we have the opportunity now to bring this into the Parliament. The member for Moore just made the point, I think, that it is a better way forward, and there will no doubt be many, many views expressed in the community about what people would prefer to see, but there is no doubt that this will dramatically improve the current legislation.

I acknowledge the minister for getting this work done and the effort and consultation required with those organisations that deal in an area that is fractious, emotional and very difficult. Of course, the Aboriginal community is watching

this matter closely and has been closely involved simply because of the percentage of Aboriginal children in care; I think other members have already commented on that today. We should support endeavours to move forward and get a better arrangement. We have to be careful about simply demanding more and requesting that the Parliament reject an improvement on the basis that it has not given all that people want. As has been pointed out, this bill amends the Children and Community Services Act 2004, which is WA's legislative framework for the protection of children, and matters concerning the welfare of children and their families.

The minister made a point in her second reading speech in November last year about the lengthy process of review and consultation that has led to this bill and the technical detail that this bill contains. These sorts of legislative amendments are technical and require that lengthy process of review outlined by the minister. Of fundamental importance, the bill implements the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse relevant to Western Australia and the 2017 "Statutory Review of the Children and Community Services Act 2004". I want to emphasise for Aboriginal people who may be watching or listening and closely following this debate—there will be many—that this bill amends the current act to build stronger connections to family, culture and country for Aboriginal and Torres Strait Islander children, through working more closely with Aboriginal community–controlled organisations to better implement the Aboriginal child placement principle. I want to comment on this critical aspect of the bill.

I think every member and every person in Western Australia wants to see these changes address the unacceptably high number of Aboriginal children in care. That is what we are keen to deal with. In March this year, 5 497 Western Australian children were in care, of which 55.7 per cent were Aboriginal. We have become so familiar with that statistic that it is almost losing its impact. But 55.7 per cent of children in care were Aboriginal, as at March this year. Clearly that is an appalling and disturbing statistical reality, and that is what we are trying to address. In my view and the government's view and I think that of all members, this bill is a big step forward in that regard. I want to make the point, of course, that laws and the power of state intervention are not the only solution. We know that from historical experience. What works is a legislative framework that supports partnerships with Aboriginal communities and families. This minister has certainly been trying to achieve such partnerships, and that has been characteristic of her time as the Minister for Child Protection. She has entered into partnerships with Aboriginal communities and organisations, and this bill embraces their recognition.

The amendments build stronger connection to family, culture and country for Aboriginal children in care. They strengthen the requirements to consult Aboriginal communities and families about placement, cultural connections and care planning. They provide for greater consultation with, and participation of, Aboriginal families and organisations, and increased accountability in applying the Aboriginal child placement principle. They mandate cultural support plans for Aboriginal children in care to support children's connection to family, culture and country, which is fundamental to improving outcomes for Aboriginal children. Pretty much every Aboriginal organisation involved in childcare has demanded that those four key amendments, which I have just outlined, be taken up, and this legislation does that. The amendments to the Aboriginal child placement principle will prioritise placements in close proximity to a child's community. The member for Moore outlined that in his comments just a few minutes ago. Although this provides for the option of a child to be placed in their local community with a non-Aboriginal family, a report by an Aboriginal representative organisation will be required for this to occur—again, bringing in that Aboriginal view and perspective on that placement decision. This is particularly important in WA, given the vast geographical size and cultural diversity of Aboriginal Western Australia.

The bill also promotes stability and continuity for children in care by prioritising the child's significant relationships and stability of their placement. Again, by way of an aside, I think we have all read a range of different reports over the years around the importance of stability when a child is placed in care. Changes to the principles in the act, which I referred to just a minute ago, reflect the importance of stability in the child's life. For Aboriginal children, connection to community and their culture is essential to stability in their placements and their wellbeing. That fundamental recognition that organisations have been demanding of the government for a long time is enhanced by these amendments. These amendments make that better, and people and organisations need to understand that. This bill also introduces amendments that strengthen and clarifies provisions for children who have left care, including entitlements in early-care planning prior to leaving care. The bill strengthens provisions for shared responsibility of government agencies to prioritise the needs of children who are, or were, in care.

There has been some confusion—I hope it is confusion as opposed to deliberate misinformation—within I think only small parts of the Aboriginal community about proposed section 81 of the bill, which relates to consultation before the placement of an Aboriginal or Torres Strait Islander child. Proposed section 81 is about the consultation that must occur before the department makes a placement decision for Aboriginal children and is not about consultation prior to removing a child. Section 81 of the act currently states that before a placement arrangement is made, the department must consult with at least one of the following: an officer who is an Aboriginal or Torres Strait Islander person; an Aboriginal or Torres Strait Islander person who has relevant knowledge of the child, the child's family or the child's community; and/or an Aboriginal or Torres Strait Islander agency that has relevant knowledge of the child, the child's family or the child's community. This bill proposes to amend

that section, again based on the recommendations from the review of the act that many Aboriginal organisations have been pressuring, cajoling and encouraging the government to take up, so that before a placement arrangement is made, the department must consult with all of the following: an Aboriginal or Torres Strait Islander person who is a member of the child's family—I think it is important to prioritise feedback from a member of the child's family—plus an approved Aboriginal representative organisation, plus an officer who is an Aboriginal or Torres Strait Islander person who has relevant knowledge of the child, the child's family or the child's community. It is clear that regardless of one's view of this legislation—my understanding is that most people support it—what is beyond dispute is that this bill will significantly strengthen the provisions in the act to provide that the department must consult with all three groups that I have outlined. We have included family as one of those options, which is incredibly important. That is not in the current act. Furthermore, these provisions will act only as a minimum. In practice, consultation will occur with multiple members of a child's family. That is the reality. Ultimately, legislation sets out a minimum requirement. In this case, the minimum is being raised considerably higher than the minimum currently in the act. Of course, it will always be in the interests of the department of the day, regardless of who is in government, to be honest, to consult with more than the bare minimum.

A combined statement was put out by the Noongar Family Safety and Wellbeing Council and the Secretariat of National Aboriginal and Islander Child Care, or SNAICC–National Voice for our Children. To be honest, the statement is disappointing because the public comments it sets out, I think from Hannah McGlade, are simply wrong. I know Hannah, as I think most people do. She is a smart, articulate person who has been in this space for a long time. This is a fractious debate. These two organisations are now calling on the Parliament to reject this bill because it does not have everything that they want. Importantly, they are calling upon us to reject this bill based on something that is incorrect. I want to get this on the record. Statements that have been made, both in that statement and by Hannah McGlade on NITV—I will come to those comments in a minute—are wrong. This bill implements recommendations from the review of the act that those organisations, and particularly SNAICC, have been calling on the government to implement. The government is now implementing them. I daresay there would be very few ministers who have held this portfolio over the last decade who would have had the capacity to get this bill into the Parliament, yet here we are. This government has made a commitment to progress these amendments to ensure that positive changes are progressed to child safety in cultural connections. Organisations like SNAICC have called on the government to implement these recommendations as a matter of priority; they have been demanding this from the government. I will just quote from SNAICC's submission, titled "Reviewing Implementation of the Aboriginal and Torres Strait Islander Child Placement Principle: Western Australia 2019". It states —

> Cultural support plans are not currently required by legislation and ACCO participation in their development, implementation and monitoring remains limited. It is noted that the recommendations of the statutory review include new requirements regarding cultural support planning and ACCO participation.

This bill is doing exactly what SNAICC called for in its submission; it implements the legislative requirement for cultural support plans and the involvement of Aboriginal community–controlled organisations in these plans. Why SNAICC is now calling on the Parliament to reject this bill is beyond me. I think it has perhaps overstated its position and hopefully will resile from that after giving it some consideration. In that same submission, SNAICC also stated that the government had yet to act on the recommendation in the review for a child placement hierarchy. This bill implements the recommended changes to this hierarchy.

We are doing nearly everything that SNAICC has demanded from the government. Where there is a point of difference is that SNAICC and the Noongar Family Safety and Wellbeing Council have demanded that the government enshrine family-led decision-making within the bill. We recognise that family-led decision-making is important, but legislation is not needed for us to begin implementing it in the Western Australian context. Family-led decision-making was not one of the review's recommendations, which SNAICC has demanded that the government implement. I do not think it is particularly feasible to add these changes at the last minute, and I think if we did, it would see the end of this bill, bearing in mind where we are in the parliamentary cycle. I say to SNAICC and the Noongar Family Safety and Wellbeing Council that their demand for what they consider to be perfection may see them lose the opportunity for a much better system that deals with most of the demands that they have been making to the state government. In fact, the Department of Communities and Minister McGurk are exploring a pilot to progress work around family-led decision-making and build the capacity of the sector as we move towards that type of practice. To put that in the bill now would simply require the bill to be pulled, and I daresay it would not appear again this side of the state election next year.

I get that some Aboriginal advocates, Hannah McGlade being one, consider that this bill does not go far enough in enabling Aboriginal decision-making about Aboriginal children in care. I do need to address this, because Ms McGlade has been quoted as saying that this bill —

> … is whittling away, of the provision of self-determination and we're seeing quite a retrograde legislation in West Australia," …

That is fundamentally wrong. I think it is also unfair to the efforts to which the government and minister have gone to ensure that we are now able to debate the introduction of a much better system that actually meets SNAICC's demand for the government to implement the recommendations of the review. I do not think these groups actually mean that they want the bill to be rejected if the Parliament does not introduce amendments to legislatively recognise family-led decision-making. I think even they know that that would be a retrograde step. Hannah is threatening what will be a much better system by demanding what she considers to be perfection. I think everybody wants a much better system that brings Aboriginal people into these key decisions around placements, which at the moment are very minimal under the legislation, and requires a much higher minimum standard that the department will, when it can, go above and beyond. This is an incredibly important amendment to the act. I know that, by and large, the Aboriginal community supports the passage of this legislation.

MS C.M. ROWE (Belmont) [1.38 pm]: I rise today to commend to the house this landmark Children and Community Services Amendment Bill 2019. I would like to begin by acknowledging and congratulating Minister McGurk and all the departmental staff who have produced a bill that will no doubt go a long way towards protecting vulnerable Western Australian children.

In 1979, John Pirona was a 13-year-old student at St Pius X High School in Adamstown, New South Wales. Mr Pirona should have been enjoying school and enjoying his childhood. He had his whole life ahead of him and he should have been afforded a carefree adolescence, like so many of us have experienced. Instead, Mr Pirona was sexually abused by notorious Catholic priest and teacher John Denham. In 2018, Denham was found guilty of abusing his fifty-eighth victim between 1968 and 1986—58 children whose childhoods were destroyed by the same man. Fifty-eight victims—two classrooms of utter destruction left in the wake of a man whose depravity and evil should have no place on this earth. Denham was protected by St Pius X High School principal and priest Tom Brennan, who was acknowledged by the church as a child sex abuser.

Mr Pirona did not tell his wife or other family members of the abuse until 2008. By that time, the abuse that he had suffered had led to an intermittent struggle with alcohol and drugs, as so many victims face. In 2012, Mr Pirona died by suicide. He was found with a note that read "too much pain". The years of pain and substance abuse issues stemming from abuse as a child drove Mr Pirona to take his own life. It left a gaping hole in the lives of his parents, wife and two young children, and sparked a national cry for action. It proved to be the catalyst for a royal commission, announced by then Prime Minister Julia Gillard in late 2012, so his life was not taken in vain.

The Royal Commission into Institutional Responses to Child Sexual Abuse was as damning as it was disgusting. The sheer scale of institutionalised abuse is difficult to comprehend and perhaps is why definitive action has been hard to come by. When the damage is so vast and so prevalent, what can possibly provide adequate compensation, reconciliation and atonement? The commission was contacted by 16 953 people who were within its terms of reference. The commissioners listened to the personal stories of over 7 981 survivors and read 1 344 written accounts. Sadly, Western Australia was at the forefront of this investigation. Three of the top four church institutions reported for incidents of child sexual abuse between 1980 and 2015 were here in Western Australia.

The Children and Community Services Amendment Bill 2019 continues the McGowan government's commitment to bringing Western Australia in line with the 310 recommendations made by the Royal Commission into Institutional Responses to Child Sexual Abuse. One of these recommendations relates to the reporting of suspected child sexual abuse. This government will make it mandatory under the law for a religious minister to report reasonable belief that a child has been, or is being, sexually abused. The abuse that survivors are subject to as children has long-lasting, debilitating and often irreversible effects. Studies have shown time and again that trauma of this kind experienced in childhood leads to a greater risk of mental health and substance abuse issues later in life.

Associate Professor Judith Cashmore and Dr Rita Shackel acknowledge in their paper, "The Long-term Effects of Child Sexual Abuse", that aspects of abuse are significant factors in the mental wellbeing of victims. One of those factors is the relationship with the perpetrator and the betrayal of trust. This is particularly pertinent for the reform that we are considering today. A minister of religion should never ignore suspected child abuse for the protection of their colleagues nor that of institutional reputation. Religious institutions, and those who lead them, should welcome these reforms that are designed to protect children. Instead, I was shocked and affronted when Perth's Catholic Archbishop, Timothy Costelloe, criticised these long overdue reforms in *The West Australian* last May. The archbishop was quoted as saying that he saw these reforms as "interfering with the free practice of the Catholic faith". Let us be very clear: this legislation will not allow for the broadcast of every utterance made in confession. It is targeting the most heinous and evil of confessions that may be heard by priests—that of child abuse. When reflecting on the intention of those coming to confession, the archbishop was quoted again in *The West Australian* in May 2019 —

> You don't come to confession unless you have recognised the sinful nature of your behaviour, are filled with sorrow and shame of it and determined never to commit such sins again.

Is sorrow and a commitment not to reoffend in any way adequate?

This, of course, is the great conceit of confession when considered against our modern and ever-evolving legal system and the expectations of the community. Although the sinner can wipe clean their conscience and maintain to never return to their sins, effectively absolving themselves of these crimes in the eyes of the church, this provides very little or no comfort for the victims, let alone any justice in the eyes of the law. Confession is a matter of absolving sins, not of righting wrongs. The archbishop and the Catholic Church need to ask themselves whether holding on to the secrecy of confession, in the most egregious and extreme circumstances, is more important than the protection of children from further abuse.

The stories of child sexual abuse that have come to light in the past decade have been absolutely gut-wrenching to read. The covering up of these crimes is despicable and totally cowardly. Any individual who chooses not to report a reasonable belief that a child has been, or is being, sexually abused needs to be held responsible for the consequences of their inaction. As a mother, I cannot even begin to fathom the devastating effects that the sexual abuse of a child has on the victim and the victim's family. Knowing that a trusted local figure had prior knowledge of the abuse and chose not to report it would only intensify the agony for the victim and their family. There is no excuse not to report suspected child abuse. It flies in the face of our principles of decency and justice. The damage that this non-disclosure can cause is totally devastating, long-lasting and, in many cases, fatal. We owe it to every victim who has taken their life, to every victim who never got to see justice served and to every survivor who has suffered in silence when a mandatory report could have seen them receive the help they desperately needed to heal from the trauma they experienced.

As a Parliament, we have an undeniable obligation to protect the most vulnerable in society. Mandatory reporting of suspected child sexual abuse will result in earlier identification of child sexual abuse cases. In these cases, support will be able to be provided to the victim earlier than has previously been the case. This will hopefully mitigate some of the damaging mental health and substance abuse effects that child sexual abuse is known to have on victims, often for the rest of their lives. Mandatory reporting will ensure that child sex offenders are apprehended and brought to justice earlier than in the past. This will stop repeat offenders before they can traumatise children to the extent that John Denham did over 18 years.

Other amendments in the bill align with the royal commission's recommendation 12.20 regarding full implementation of the Aboriginal and Torres Strait Islander child placement principle, and recommendation 12.22 for strengthened supports to assist care leavers to safely and successfully transition to independent living.

The Children and Community Services Amendment Bill 2019 will also implement recommendations of the "Statutory Review of the Children and Community Services Act 2004". The act was reviewed in 2017 by the then Department for Child Protection and Family Support, on behalf of the minister. It established five terms of reference. This bill implements recommendations concerning four of those five terms of reference. The fifth term of reference needs to be considered within the context of broader reforms underway in the family law and Children's Court jurisdictions at a commonwealth and state level, and is therefore not included in the bill.

The amendments to the principles in part 2 of the act are crucial in the promotion of long-term stability for a child in care, which the Treasurer just touched on, with consideration of whether it is appropriate to work towards reunification with their parents. These principles will guide the planning conducted by the Department of Communities for children under the care of the chief executive officer, which will aim to provide the best possible outcome for this group of vulnerable young Western Australians. The objectives of this planning include achieving continuity and stability in living arrangements; enhancing the child's relationships with family, subject to protecting the child from harm and meeting the child's needs; and for an Aboriginal child or a child from a culturally and linguistically diverse background, enhancing connections to culture and family traditions. For a placement arrangement, they include placing the child with family, placing the child with siblings, and placing the child with people who are prepared to encourage and support the child's contact with family, subject to decisions under the act about that contact. These principles strongly set out a long-term plan for children in care, taking into account the very different situations each of them face, and the importance of cultural considerations in their continued wellbeing.

As was just mentioned by our Treasurer, connection to family, culture and country for Aboriginal and Torres Strait Islander people is critical to their emotional, social and physical health. The amendments in this bill have a strong focus on preserving these principles for Aboriginal and Torres Strait Islander children in care. This aligns with recommendation 12.20 of the Royal Commission into Institutional Responses to Child Sexual Abuse—that governments work towards full implementation of the Aboriginal child placement principle and a greater understanding of its intent, which is to enhance and preserve Aboriginal children's connection to family and community, as well as a sense of identity and culture. The amendments achieve this by illustrating an order of priority for the placement of an Aboriginal child. This order has been devised with the principle of connection to family, culture and country in mind. It acknowledges that if the optimal placement of an Aboriginal child with family is not possible, there are placements that better preserve the aforementioned principles than others. The

amendments also provide for greater participation in the placement process by Aboriginal members of the child's family and Aboriginal representatives. This approach will solidify the emphasis placed on connection to family, culture and country by ensuring that decisions are made in collaboration only with representatives who have a strong knowledge of each child's heritage and community.

This bill is a vital compilation of amendments that will strengthen legislation regarding some of the most vulnerable Western Australians in our state. These changes will have a real impact. The expansion of mandatory reporting of child sexual abuse to include ministers of religion will result in earlier identification of child sexual abuse victims, helping to stop repeat offenders and providing assistance to victims who may otherwise not be identified. The updated principles for child care placement will provide a more conclusive set of guidelines to ensure that children in care have long-term stability, with culturally appropriate plans in place. Overall, this bill provides at-risk Western Australians with greater protections under the law, a long-term focus on child care placements, culturally sensitive care, and assistance that does not cease once a child has left care.

I am incredibly proud to be a part of the McGowan Labor government that is implementing such important reform for children in community services. I once again congratulate the minister, who has worked tirelessly to produce these amendments in line with the royal commission and the act's review. Finally, I would like to express my deepest and most sincere condolences to all victims of child sexual abuse and their families, as well as those children who have had detrimental experiences in care in Western Australia. It is my hope and belief that this bill will prevent other young Western Australians from experiencing similar abuse and trauma through their childhood. I commend this bill to the house.

MR D.J. KELLY (Bassendean — Minister for Water) [1.54 pm]: I rise to make a contribution to the second reading debate on the Children and Community Services Amendment Bill 2019. I begin by congratulating Minister McGurk and her department for bringing forward such an important bill. Part of what I specifically want to talk to is its furthering of the recommendations of the recent Royal Commission into Institutional Responses to Child Sexual Abuse. I also commend the member for Belmont for her very good contribution to debate on this bill.

One element of this bill is to implement recommendations made by the royal commission into child sexual abuse—in particular, to extend mandatory reporting to religious persons. That is particularly what I want to talk about. I recently gave an interview about my dealings with my former school, Christian Brothers College, Fremantle. I was a student there from year 4 to year 12. In that interview I talked about the shock I experienced when I discovered in 2013 that the head of the primary school of that school when I was there was, in fact, a paedophile. He was a Christian Brother who had taught me religion in year 4 and he was also the principal. He had, in fact, abused children in at least two schools—Trinity College and Aquinas College. That was revealed in an article in *The West Australian* in 2013.

My experience of that brother—Brother Danny McMahon—when I was at school was that he was basically a bully and quite a violent man, but I was not aware that he also sexually abused children. When I became aware of that, I contacted the school and asked, now it knew that that brother was an abuser, whether it would publicly acknowledge it, and what it would do for those students who came into contact with him. We know that one reason people do not come forward is that they do not believe that they will be believed. The Christian Brothers College now knows that Brother Danny McMahon sexually abused children. If it publicly acknowledged that, that would assist other victims to come forward. To cut a long story short, the school has never publicly acknowledged that. I now know that the Christian Brothers College knew that Brother Danny McMahon was an abuser of children back as early as 1990. Even though it had that knowledge, it did not publicly acknowledge it. Even in the representations that I have made to it as a member of Parliament since 2013, it still has not publicly acknowledged it. In my view, the school still has done absolutely nothing to assist students who may have been abused by Brother McMahon. It has not done what it should do to assist those victims to come forward.

Something that is particularly disturbing about the case of Brother McMahon is that he moved in the 1990s from Western Australia to Tasmania and became a Catholic priest. It is a very similar scenario, which we often see reported—that is, abusers, rather than being reported to the police, are moved. In the case of Brother McMahon, he moved from Western Australia to Tasmania and became a Catholic priest. Brother Shanahan, who is the head of the Christian Brothers here in Western Australia, advised me that he advised the authorities in Tasmania that there were some issues with Brother McMahon, but he saw that he had no responsibility or ability to follow that up because he had since left the Christian Brothers and had become a Catholic priest. I find it remarkable that someone in a senior position in the Christian Brothers would not follow that up. But Brother McMahon became a Catholic priest. I assume as part of that, he would have heard confessions in Tasmania and performed all the functions that a Catholic priest would have performed. When he finally passed away, I think in 2012, he was given a glowing eulogy by current members of the Christian Brothers, even though they knew, from 1990, that he was an abuser.

As the royal commission revealed, the Catholic Church has an appalling record on these matters. The royal commission estimates that approximately 22 per cent of Christian Brothers were the subject of abuse allegations.

Twenty-two per cent is not a case of one bad apple! The royal commission reported that seven per cent of Catholic priests were the subject of sexual abuse complaints. In my view, that under-reports the likely experience and the likely numbers, but if ever there were any conjecture about the extent of this problem within the Catholic Church, the royal commission really put that to bed. It was not a case of one bad apple; it was child sexual abuse, to use a common term these days, on an industrial scale.

Debate interrupted, pursuant to standing orders.

[Continued on page 2613.]