

Permanency for children

Fact sheet

On 1 March 2016, legislative changes will come into effect to address harmful delays in decision-making for children who cannot live with their families due to abuse and neglect.

Permanency refers to an ongoing care arrangement that keeps a child safe and gives them a sense of certainty about their future. Permanency can be achieved through: support to keep a family together (family preservation); a child returning to their parents' care once the Children's Court or department are satisfied that it is safe (family reunification); or through ongoing alternative care arrangements (by a permanent care order or long-term out-of-home-care). For most children, permanency is achieved through family preservation or reunification.

Under the changes, parents will have 12 months to demonstrate that they can safely care for their child by resolving the issues that led to the child being removed from their care. After this period, the Court can grant the parents an additional 12 months if it is satisfied permanent family reunification is likely to be achieved in that time. Once a child has been in out-of-home care for two years and it is not safe for them to return home, permanent alternative care will be sought through a permanent care or long term care order, except in exceptional circumstances.

An independent review of these legislative changes will begin in six months.

How decisions are made

When child protection substantiates a significant risk of harm to a child in their parents' care, an application may be made to the Children's Court to protect them and they may be placed in out-of-home care. Wherever possible, children are placed with relatives (kinship care) and if this is not possible, foster or residential care. If reunification cannot be achieved in the longer term, permanent care is sought.

The Children's Court is the sole decision-maker for out-of-home care orders. The Court must be satisfied that all reasonable steps have been taken by the Department of Health and Human Services to provide the services necessary to enable the child to remain in their parents' care before a child is placed on a protection order by the Children's Court that has the effect of placing the child in out-of-home care. A further legislative amendment was made in 2015 to ensure the Children's Court retains these powers.

Evidence to support the changes

These changes respond to the Protecting Victoria's Vulnerable Children Inquiry 2012, which found it takes too many years for a permanent care order to be granted when this is necessary to ensure a child's safety and wellbeing. Such delays are harmful and lead to poor outcomes for children. Research was undertaken by the department to identify and remove barriers to achieving timely permanency for children, which informed the 2014 amendments to the *Children, Youth and Families Act 2005*.

Changes to support permanency for children

A new set of simplified Children's Court orders will come into effect on 1 March 2016. Case plans will be prepared for every child considered to be in need of protection and will set out the protective concerns and the decisions the department has made for the child, including the permanency objective. Cultural support planning will be required for all Aboriginal children in court-ordered out-of-home care.

An actions table will set out the goals, tasks and timelines to implement the case plan so parents understand what they need to do to get the help they need to make changes. This will mean when a child is in out-of-home care their parents will know what has to happen for their child to safely return home and how long they have to resolve issues detrimental to their child's safety and wellbeing.

Timeframes for parents to address protective concerns

Parents will have set timeframes to address protective concerns before an alternative permanent care arrangement is found. Parents will have an initial 12 months to resolve issues so they can safely resume care of their child. Most children who return home, do so within the first 12 months. This will not change. An additional 12 months will be provided by the Children's Court if reunification is likely to be achieved in that time, or permanent alternative care will be sought.

Once a permanent care order has been made parents can seek the leave of the Court to apply to have the order revoked and the child returned to their care. The parent may apply to revoke a long-term care order in the first 12 months of the order, but after 12 months needs leave of the Court to apply. Parents can apply at any time to have any other order revoked.

Access to support services for parents

The Victorian Government has allocated \$2 million for individualised Family Preservation Packages that aim to provide at-risk families the support and programs they need to address protective concerns and provide children with improved care. The packages will also support reunification of children already in care with their parents.

The Department of Health and Human Services is working with key service providers to improve access to the necessary services that parents may require to address protective concerns within the required timeframes.

Impact on the number of children in care

These changes are focused on meeting the long-term needs of children who remain in care. There will be no increase in the number of children and young people entering out-of-home care as a result of these changes. The changes aim to improve outcomes for those children who cannot safely return home. The majority of children who come to the attention of child protection remain in the care of a parent. In 2014-15, the vast majority of children in out-of-home care exited care within two years. This will not change.

Aboriginal Children

The Children's Court cannot place an Aboriginal child or young person on a permanent care order without the approval of an Aboriginal agency and the child having a cultural plan. The new laws require that all Aboriginal children in out-of-home care have a cultural plan.

Frequently asked questions

How does permanent care differ from adoption?

A permanent care order transfers exclusive parental responsibility to an approved carer until the child is 18 years old. Permanent care provides security and stability for children who have entered the child protection system and are unable to live safely with their birth parents on a long-term basis. Unlike adoption, a permanent care order does not change the legal identity of the child or give the child the same legal rights as a biological child; and it ceases to have any effect after the child is 18 years old. Adoption orders are enforceable interstate and overseas; permanent care orders only have legal standing in Victoria.

Will the changes lead to an increase in adoptions?

No. There will be no change to existing arrangements. The *Adoption Act 1984* requires that an application for an adoption order be made with parental consent following mandatory counselling. In exceptional circumstances, a court may dispense with the need for parental consent for an adoption to occur, such as a situation where both parents are deceased.