

10th March 2026

Committee Secretary
Senate Standing Committees on Community Affairs
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Parliament House
Canberra ACT 2600

Social Security and Other Legislation Amendment (Technical Changes No.1) Bill 2026

I am grateful for the opportunity to make this submission to the committee on Community Affairs.

My submission is short, and is primarily focused on the question of the 'less than 35% care' provisions, particularly in regard to the impact on children in state guardianship, custody or other care agreement.

The concern I hold is that the provisions as described do not, at least on face value, address the peculiar circumstances of children in out-of-home-care (OOHC) especially under temporary orders where restoration/reunification to their parent/s is the main goal.

Usually, when a child comes into state care under statutory child protection legislation, the order given is on the basis of the 'no order principle'¹, in that granting an order would be better than having no order at all. It is the bar of evidence required to justify and support an application for a care and protection order.²

It is unusual in practice for a child protection authority to apply immediately for a long-term order, typically until the child is 18 years old, without first applying for a time-limited order with the stated goal of restoring/reunifying the child to the care of their parents. During this time the child is usually placed with a carer, either general foster-care or kinship/relative care.

Over time, if all proceeds satisfactorily, the child will spend increasing time at their parents home, until the end of the order period, when the child will be fully restored to their parent's care.

In these circumstances, child support payment is made available to the carer since they have the child primarily in their care. However, as progress is made, the parent/s are likely to have increased care and responsibility.

¹ Different states have different manner of describing this principle, but it is the consistent principle for a court to issue an order

² A care and protection order references any type of order that provides for the care of a child away from their normal home for any significant period (again, like point one above, being subject to different naming conventions of each state and territory).

I have not been able to ascertain in the explanatory memorandum, the text of the Bill, or other available guidance whether this issue has been considered, but I do worry about the possibility of a perverse outcome undermining an otherwise satisfactory effort to reunify a child to their parents.

At some point, the parent/s care of their child will be of a significant duration, with one night a week effectively equalling ~14%, two nights ~28.5%, three nights ~42.5% etc.

If the arrangement is secured for a certain level of time, and being meaningful in terms of care (so consistent and to all intents and purposes equivalent to residing in their parent/s care as normal), the means of financially supporting the parent/s is critical. This is especially the case because typically parent/s lose a significant proportion of income through lost child support when their child is removed from their care.

This is a separate scenario from a child being in OOHC over a longer-term period, where it is not envisaged that they will return to the care of their parent/s before 18.

My concern is that, on face value, some parent/s who are positively progressing with restoration may potentially be at a loss due to the changes. The same could also apply to carers who carry a significant, but minority portion of care as restoration progresses.

However, I lack familiarity with the full range of processes for social security and child support payments, so it may be that this particular scenario has been accounted for. Nonetheless, my instinctive reaction to the proposal was consideration of children in OOHC in the process of restoration/reunification to their parent/s.

I hope that this submission will assist with the inquiry and progression of the Bill.

Yours faithfully

Jack Davenport