

**STANDING COMMITTEE ON LEGAL AND SOCIAL ISSUES**  
**Inquiry into the Children, Youth and Families Amendment**  
**(Restrictions on the Making of Protection Orders) Bill 2015**

**Melbourne — 19 June 2015**

For the serious consideration of the Standing Committee on Legal and Social Issues' Inquiry, into the Children, Youth and Families Amendment Bill 2015 - Restrictions on the Making of Protection Orders.

PWAD - Parents With A Disability, is an inclusive organisation managed, and directed, by parents with disabilities. With the organisational support of IDS Inc. - Independent Disability Services Inc. and utilisation of our broad networks, across the disability sector, inclusive of peak bodies, such as Yooralla, PWAD supports, consults and advocates for parents with disabilities.

PWAD brings valuable insight and direct lived experience of parenting with a disability and the outcomes for their children.

As Parents With A Disability and as stakeholders, we have a deep concern about the operation of the Children's court and the intervention services system.

Recent changes made by the Victorian State Government to retain the current requirements set out in section 276 of the Children, Youth and Families Act 2005 reinstating the Children's Court's oversight of child protection orders. PWAD has concerns regarding the changes that were not repealed to the act regarding out of home care orders made by the children's court. It is our understanding that after 12 months of cumulative out of home care a permanent guardianship order will be made for a child and the child will no longer be subject to further action by child protection or the children's court allowing only four access days per year.

There are a number of issues that concern PWAD and need clarification regarding these new arrangements:

What will be the effect on families, where a parent has a disability?

There will be a review six months after the introduction of the new act to measure its effectiveness.

How will the act's effectiveness be measured?

How will this process, of review, take place?

How long will the review take?

What is the proposed process, to implement the findings of the review?

How will parents with disability be notified and informed about the cumulative state of their out of home care?

It appears that there are uncertainties about the new act, to be introduced in 2016. How would the human rights, of both children and parents with a disability be upheld, if authorities are unable to make competent decisions in removing a child from a parent with a disability?

One of the most overwhelming obstacles parents with a disability face, is the dread that the authorities will remove their children. A 2013 report, *Whatever happened to the village? The Removal of Children From Parents With a Disability*. by Victoria's Office of the Public Advocate Noted: "That while Australia has ratified the 2006 Convention on the Rights of Persons with Disabilities, which upholds the right of parents with a disability and their children not to be separated against their will, children are being taken away, "disproportionately", from parents with a disability, in Australia."

These matters are urgent and need addressing especially in the light of the current state of early intervention services for vulnerable children and families outlined, in the 2014-2015 Victorian Auditor General's Report as showing a lack of effectiveness in, and of service delivery. This is further exacerbated by recent reports, by the ABC, regarding issues that have been reported at the Commission for Children and Young People. Findings made by a secret government inquiry, obtained under freedom or information laws, were that the commission had a poor culture, and was driven by factionalism. The ABC further, reported that staff cited many instances of bullying and that there was vast evidence of poor record-keeping practices.

The new laws on 12 months out of home cumulative care compliance will make it much more difficult, for parents with a disability to keep their children. It must be the responsibility of the government to ensure that parents with a disability fully understand and have control of the process, that they have agreed to, and that recommendations made by intervention services for vulnerable children and families are appropriate for parents with disability and conducted in a timely manner.

PWAD understands there are certain terms and conditions that apply to out of home cumulative care arrangements. It is a serious concern that parents with a disability and their children, subject to these conditions, have full access to accessible independent information; advocacy and appropriate services to make sure these conditions are understood by all parties and facilitate decisions and actions that uphold the human rights of child and parents with disability.

It is our belief that if parents with disability and their children are not properly informed, and supported, with regard to the effects on them as parents and their children, of non-consent out of home care, that the process would not be competent and therefore in breach of human rights for both children and parents with disability.

Recently we had contact with a mother with learning difficulties and whom had decided she required assistance and she contacted the department for assistance, with her baby. The mother was expecting to receive services to support her parenting. The result, however, was her child coming under a permanent kinship care order. She was distressed at the outcome, due to no action on the mother's behalf, the relationship with the kinship carer has irrevocably broken down, resulting in the mother having no access to the child.

The question is: Were the processes involved in this situation upholding the right of the mother to be a parent upheld? Had the mother been given correct information and access to appropriate assessment and services, regarding her abilities and options for her to continue as a primary carer? Had the department and court considered the difficulties involved in the kinship care order.

How will parents with a disability be notified and informed about the cumulative state of their out of home care? What government or authority will be used to ensure transparency and fairness? For example it is our understanding that when parents with a disability are, at any stage of cumulative out of home care, then decide to consent to their child being in out of home care, that the cumulative period ends and permanent guardianship cannot be ordered. Funding should be made available, by the government, to provide independent, education services to advise parents, in an accessible and accountable way. Some Examples of Advice that might be given:

How to give consent.

The benefits of giving consent in light of current legislation.

The impact that giving consent will have on the parent child relationship both at the time and in the future.

Dealing with the effect on individual's self-worth especially when consent could mean that parents will be judged on their decision to consent to send their child to out of home care.

The effect the form of consent will have on a case.

What will happen if you don't give consent?

The effect of consent on cumulative out of home care orders

PWAD wishes to clarify how the review to identify the need for further changes six months after the Act takes effect in 2016 will be carried out. How does the minister propose to undertake the investigations review and address accountability around these new arrangements resulting from the act and subsequent review be made. Especially that the changes meet both the human rights of the child and parents with a disability set out in section 23 of the CRPD and section 9 of the CRC.

We also wish to ask how is it fair for families, involved in child protection cases and the resulting decisions being made with the new act in 2016, if the act is to be subsequently reviewed.

Will the government put processes and laws in place to allow cases to be reheard if the review has found that the new act is not working? It is unfair that families will be subject to the new act without the minister being fully satisfied that the act will work effectively.

If the Law Institute of Victoria claim at a recent public forum that the act could cause conflict, why is the government still introducing the changes to the act? Would it be better for the government to fully investigate how the court and child protection work together for better solutions and outcomes?

PWAD has made enquiries with DH and HS regarding the new act and has been advised that they will only use the changes in the act in a small number of cases. Where will be the guidelines and accountability for this type of policy?

How is the government going to explain to families caught up in the new act that decisions made at the children's court are part of a review process?

What will happen to those families where the new act has permanently removed children and then further changes are made to the act or the changes that have been made are repealed after a review?

Will families' cases be able to be re-heard, if it is found that the act will be further changed or repealed?

How can the government claim they are ensuring the rights of children and parents with a disability if the new Child, Youth and Families act is not working?

Finally, it is unfortunate that, on reading, the auditor general's report, it is disappointingly apparent, that parents with disability have not been consulted, or will be central to future consultation regarding necessary changes, that need to be made, to intervention services for vulnerable children and families for parents with a disability and their children. PWAD would like a commitment to consult with parents with a disability on the future of services that directly affect them. As a group we find that parents are generally included in families with complex and multiple needs creating negative terminology, attitudes and culture for parents with disability in the wider community.

These conditions can only foster negative community attitudes towards parents with a disability. Extremely negative attitudes are a common problem and community attitudes only lead to worse outcomes and fewer possibilities for families.

PWAD believe the reason for vulnerability is different to other groups in this category as parents are vulnerable because there are no services or housing to support a parent with disability and their children.

Parents with disabilities often find that, by identifying a need and requesting assistance, their children are classified as 'At Risk' by the authorities.

If there was adequate funding and support then there would be few parents with disability requiring intervention services for vulnerable children and families. Until parents with a disability have confidence and assuredness about positive outcomes parents with a disability will remain unlikely to seek Child FIRST and IFS. There is a real fear these services are reactive and rudimentary at best. From the experience of PWAD and its members it is clear those common outcomes when intervention has occurred that the rights of both children and parents with a disability are not upheld.

PWAD is a grass roots organisation by and for parents with a disability

The PWAD vision is: a society where people with a disability can be parents with access to support they need.

PWAD aims to work on advocacy for legal, policy and systemic reforms with increased and better outcomes for parents with disability

PWAD aims to raise awareness of issues, solutions and positive parenting outcomes for parents with disabilities throughout the Disability, Child and Family service systems

PWAD currently holds a peer support group once a month for parents with a disability and their families in Melbourne.