



## Queensland Consolidated Acts

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Search this Act\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)

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### CHILD PROTECTION ACT 1999 - SECT 5A

#### 5A Paramount principle

The main principle for administering this Act is that the safety, wellbeing and best interests of a child are paramount.

*Example—*

*If the chief executive is making a decision under this Act about a child where there is a conflict between the child's safety, wellbeing and best interests, and the interests of an adult caring for the child, the conflict must be resolved in favour of the child's safety, wellbeing and best interests.*

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[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Search this Act\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)



## Queensland Consolidated Acts

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Search this Act\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)

---

### CHILD PROTECTION ACT 1999 - SECT 5B

#### 5B Other general principles

The following are general principles for ensuring the safety, wellbeing and best interests of a child—

- (a) a child has a right to be protected from harm or risk of harm;
- (b) a child's family has the primary responsibility for the child's upbringing, protection and development;
- (c) the preferred way of ensuring a child's safety and wellbeing is through supporting the child's family;
- (d) if a child does not have a parent who is able and willing to protect the child, the State is responsible for protecting the child;
- (e) in protecting a child, the State should only take action that is warranted in the circumstances;
- (f) if a child is removed from the child's family, support should be given to the child and the child's family for the purpose of allowing the child to return to the child's family if the return is in the child's best interests;
- (g) if a child does not have a parent able and willing to give the child ongoing protection in the foreseeable future, the child should have long-term alternative care;
- (h) if a child is removed from the child's family, consideration should be given to placing the child, as a first option, in the care of kin;
- (i) if a child is removed from the child's family, the child should be placed with the child's siblings, to the extent that is possible;
- (j) a child should only be placed in the care of a parent or other person who has the capacity and is willing to care for the child (including a parent or other person with capacity to care for the child with assistance or support);
- (k) a child should have stable living arrangements, including arrangements that provide—
  - (i) for a stable connection with the child's family and community, to the extent that is in the child's best interests; and
  - (ii) for the child's developmental, educational, emotional, health, intellectual and physical needs to be met;



## Queensland Consolidated Acts

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Search this Act\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)

---

### CHILD PROTECTION ACT 1999 - SECT 51E

#### 51E Who is a child's family group

For this part, a child's family group includes—

- (a) members of the child's extended family; and
- (b) if the child belongs to a clan, tribe or similar group—members of that group; and
- (c) anyone else recognised by persons mentioned in paragraph (a) or (b) as belonging to the child's family.

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[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Search this Act\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)



## Queensland Consolidated Acts

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Search this Act\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)

---

### CHILD PROTECTION ACT 1999 - SECT 51W

#### 51W Who may participate

(1) The chief executive must give the following persons a reasonable opportunity to participate in the review and preparation of the revised case plan—

- (a) the child, unless it would be inappropriate because of the child's age or ability to understand;
- (b) the child's parents;
- (c) other members of the child's family group who the chief executive considers are likely to make a useful contribution;
- (d) other persons with whom the child has a significant relationship;

*Example—*

*An approved carer may be someone with whom the child has a significant relationship.*

- (e) any legal representative of the child;
- (f) if the child is an Aboriginal or Torres Strait Islander child—a recognised entity, or member of a recognised entity, for the child;
- (g) the public guardian;
- (h) a relevant service provider;
- (i) anyone else who the chief executive considers is likely to make a useful contribution to the review.

(2) To enable the participation, the chief executive may convene a family group meeting or have a private convenor convene a family group meeting.

(3) If a family group meeting or other meeting is convened for the purpose of the review and the child or a parent of the child attends, the convenor must allow the child or parent to have someone attend and participate in the meeting to give help or support to the child or parent.

(4) To remove any doubt, it is declared that a requirement to allow a person to attend or participate in a meeting under this section, or otherwise participate in the review, applies whether or not the child's parents agree to the person's attendance or participation.

(5) The convenor of a meeting under this section is not required to allow a particular person to attend or participate in the meeting, under subsection (1)(b) to (d) or (3), if the convenor is satisfied that person's attendance or participation would be contrary to the purposes of the meeting or not in the child's best interests.



## Queensland Consolidated Acts

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Search this Act\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)

---

### CHILD PROTECTION ACT 1999 - SECT 52

#### 52 Meaning of parent in pt 4 (Child Protection Orders)

In this part—

parent, of a child, means each of the following persons—

- (a) the child's mother or father;
- (b) a person in whose favour a residence order or contact order for the child is in operation under the Family Law Act 1975 (Cwlth);
- (c) a person, other than the chief executive, having custody or guardianship of the child under—
  - (i) a law of the State, other than this Act; or
  - (ii) a law of another State;
- (d) a long-term guardian of the child.

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[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Search this Act\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)



## Queensland Consolidated Acts

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Search this Act\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)

---

### SUCCESSION ACT 1981 - SECT 40

#### 40 Definitions for pt 4

In this part—

child means, in relation to a deceased person, any child, stepchild or adopted child of that person.

dependant means, in relation to a deceased person, any person who was being wholly or substantially maintained or supported (otherwise than for full valuable consideration) by that deceased person at the time of the person's death being—

- (a) a parent of that deceased person; or
- (b) the parent of a surviving child under the age of 18 years of that deceased person;  
or
- (c) a person under the age of 18 years.

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[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Search this Act\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)



## Queensland Consolidated Acts

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Search this Act\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)

### SUCCESSION ACT 1981 - SECT 41

#### 41 Estate of deceased person liable for maintenance

(1) If any person (the deceased person) dies whether testate or intestate and in terms of the will or as a result of the intestacy adequate provision is not made from the estate for the proper maintenance and support of the deceased person's spouse, child or dependant, the court may, in its discretion, on application by or on behalf of the said spouse, child or dependant, order that such provision as the court thinks fit shall be made out of the estate of the deceased person for such spouse, child or dependant.

(1A) However, the court shall not make an order in respect of a dependant unless it is satisfied, having regard to the extent to which the dependant was being maintained or supported by the deceased person before the deceased person's death, the need of the dependant for the continuance of that maintenance or support and the circumstances of the case, that it is proper that some provision should be made for the dependant.

(2) The court may—

- (a) attach such conditions to the order as it thinks fit; or
- (b) if it thinks fit—by the order direct that the provision shall consist of a lump sum or a periodical or other payment; or
- (c) refuse to make an order in favour of any person whose character or conduct is such as, in the opinion of the court, disentitles him or her to the benefit of an order, or whose circumstances are such as make such refusal reasonable.

(3) The incidence of the payment or payments ordered shall, unless the court otherwise directs, fall rateably upon the whole estate of the deceased person or upon so much thereof as is or may be made directly or indirectly subject to the jurisdiction of the court.

(4) The court may, by such order or any subsequent order, exonerate any part of the estate of the deceased person from the incidence of the order, after hearing such of the parties as may be affected by such exoneration as it thinks necessary, and may for that purpose direct the personal representative to represent, or appoint any person to represent, any such party.

(5) The court may at any time fix a periodic payment or lump sum to be paid by any beneficiary in the estate, to represent, or in commutation of, such proportion of the sum ordered to be paid as falls upon the portion of the estate in which the beneficiary is interested, and exonerate such portion from further liability, and direct in what manner such periodic payment shall be secured, and to whom such lump sum shall be paid, and in what manner it shall be invested for the benefit of the person to whom the commuted payment was payable.

(6) Where an application has been filed on behalf of any person it may be treated by the court as, and, so far as regards the question of limitation, shall be deemed to be, an application on behalf of all persons who might apply.

(7) The personal representative or the public trustee or the chief executive of the department in which the Child Protection Act 1999 is administered, or any person acting as the litigation guardian of a person under a legal incapacity, may apply on behalf of a person under a legal incapacity in any case where such person might apply, or may apply to the court for advice or directions as to whether the person ought so to apply; and, in the latter case, the court may treat such application as an application on behalf of such person for the purpose of avoiding the effect of limitation.

(8) Unless the court otherwise directs, no application shall be heard by the court at the instance of a party claiming the benefit of this part unless the proceedings for such application be instituted within 9 months after the death of the deceased; but the court may at its discretion hear and determine an application under this part although a grant has not been made.

(9) A person who, if a declaration of paternity were made upon the person's application under the provisions of the Status of Children Act 1978, would be entitled to make an application under this part may make an application under this part but such application shall not be proceeded with until the person has obtained a declaration of paternity under that Act; and the court may give such directions and act as it thinks fit to facilitate the making and determination of all necessary applications on behalf of that person under that Act and this part.

(10) Upon any order being made, the portion of the estate comprised therein or affected thereby shall be held subject to the provisions of the order.

(11) No mortgage, charge or assignment of any kind whatsoever of or over such provision, made before the order is made, shall be of any force, validity or effect, and no such mortgage, charge or assignment made after the order is made shall be of any force, validity or effect unless made with the permission of the court.

(12) Where any sum of money or other property is received by any person as a donatio mortis causa made by the deceased person that sum of money or that other property shall be treated for the purposes of this part as part of the estate of the deceased; but this subsection shall not render any person liable for having paid that sum or transferred that other property in order to give effect to that donatio mortis causa.

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[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Search this Act\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)