

1. Commonwealth

CONVENTION ON THE RIGHTS OF THE CHILD (CRC) ARTICLE 24: TABLE OF RELEVANT COMMONWEALTH LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>ARTICLE 24:</p> <p>States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.</p> <p>States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:</p> <p>(a) To diminish infant and child mortality;</p> <p>(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;</p> <p>(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;</p> <p>(d) To ensure appropriate pre-natal and post-natal</p>	<p>A New Tax System (Family Assistance) Act 1999</p>	<p>Cth</p>	<p>ss.4-7, 39, 42, 44 & 45, 61B</p>	<p><i>Immunisation</i></p> <p>Provides that family assistance payments and income tax concessions from the Commonwealth Government be made to parents of children (maternity immunisation allowance, child care benefits, family tax benefit) subject to the children's' parent or parents having the child immunised against certain diseases (as specified from time to time by the Commonwealth Minister for Health).</p> <p>Exceptions are for 'conscientious objectors' to immunisation, where immunisation would not be in the child's medical interest, or other specific circumstances.</p> <p>In the case of the maternity immunisation allowance, the children must have been immunised in accordance with the required vaccine schedules up to the age of 4 for the parent or parents to be eligible for the payment (s.39).</p> <p>In the case of the child care benefit payments, the children must have been immunised in accordance with the required vaccine schedules up to the age of 7 for the parent or parents to be eligible for the payments (ss.42, 44 & 45).</p> <p>In the case of family tax benefits, the parents will not be entitled to the family tax benefit Supplement A (generally \$600 per child) unless the child has been immunised in accordance with the required vaccine schedules up to the age of 5 (s.61B).</p>

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<p>health care for mothers;</p> <p>(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;</p> <p>(f) To develop preventive health care, guidance for parents and family planning education and services.</p>			s.61A	<p><i>Health Checks</i></p> <p>Provides income tax concessions from the Commonwealth Government be made to parents of children (family tax benefit) subject to the children's parent or parents having the child subjected to health check (as specified from time to time by the Commonwealth Minister for Health).</p> <p>The parents will not be entitled to the family tax benefit Supplement A (generally \$600 per child) unless the child has been subjected to the required health checks up to the age of 4.</p>
<p>States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.</p> <p>States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.</p>	<p>A New Tax System (Family Assistance) (Administration) Act 2000</p>	Cth	ss.50F, 50L, 57E & 58B	<p>Provides for administrative provisions regarding the family assistance payments and income tax concessions provided under the <i>A New Tax System (Family Assistance) Act 1999</i> (Cth).</p> <p>Claimant for payment of child care benefit may not be eligible if immunisation requirements have not been met (ss.50F & 50L). Secretary may require the child to meet the immunisation requirements in order for parent to be eligible (s.57E). Parent will not be eligible if requirements not met (s.58B).</p>
	<p>Age Discrimination Act 2004</p>	Cth	ss.28 & 42	<p>It is unlawful for a person who provides goods or services, or makes facilities available, to discriminate against another person on the ground of the other person's age (s.28). This covers the provision of medical good or services, or the provision of medical facilities.</p> <p>Exemptions for the implementation of health programmes that discriminate on the basis of age where:</p> <p>(a) there is evidence of effectiveness of the programme for the health of persons of a particular age; or</p>

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	<p>Australian Human Rights Commission Act 1986</p>	Cth	Sections 3, 7-11, 20-29, 46MA-46MN, Schedule 3	<p>(b) the health issue affects people of a particular age in a different way to people of a different age (s.42).</p> <p>The Act establishes Australian Human Rights Commission (ss.7-10).</p> <p>Part of the functions of the Commission are to:</p> <p>(a) examine enactments, and (when requested to do so by the Minister) proposed enactments, for the purpose of ascertaining whether the enactments or proposed enactments are inconsistent with or contrary to any human right and to inquire into any act or practice that may be inconsistent with or contrary to any human right (s.11(1)(e), (f) & (n) & ss.20-29);</p> <p>(b) to promote an understanding and acceptance, and the public discussion, of human rights in Australia (s.11(1)(g));</p> <p>(c) to undertake research and educational programs and other programs, on behalf of the Commonwealth, for the purpose of promoting human rights (s.11(1)(h));</p> <p>(d) to report to the Minister as to the laws that should be made by the Parliament, or action that should be taken by the Commonwealth, on matters relating to human rights or in order to comply with the provisions of the Declarations (s.11(1)(i) & (j)); and</p> <p>(e) to intervene in proceedings that involve human rights issues (subject to leave of the court) (s.11(1)(o)).</p> <p>Act establishes role of National Children's Commissioner (ss.46MA-46MN). Role of the Children's Commissioner includes (s.46MB):</p>

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				<p>(a) to submit a yearly report to the Minister on matters relating to the enjoyment and exercise of human rights by children in Australia which may include recommendations that the Commissioner considers appropriate as to the action that should be taken to ensure the enjoyment and exercise of human rights by children in Australia;</p> <p>(b) to promote discussion and awareness of matters relating to the human rights of children in Australia;</p> <p>(c) to undertake research, or educational or other programs, for the purpose of promoting respect for the human rights of children in Australia, and promoting the enjoyment and exercise of human rights by children in Australia; and</p> <p>(d) to examine existing and proposed Commonwealth enactments for the purpose of ascertaining whether they recognise and protect the human rights of children in Australia, and to report to the Minister the results of any such examination.</p> <p>In carrying out his or her functions, the National Children's Commissioner must have regard to the relevant international conventions including the 1989 Convention on the Rights of the Child (s.46MB(6)).</p> <p>For the purposes of the Act 'human rights' means the rights and freedoms recognised in the International Covenant on Civil and Political Rights, declared by the 'Declarations' or recognised or declared by any relevant international instrument (s.3).</p> <p>The 'Declarations' include the 1959 New York Declaration of the Rights of the Child (s.3). This Declaration is included as Schedule 3 to the Act.</p>

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	Clean Energy Act 2011	Cth	All	<p>The objectives of the Act are (s.3):</p> <p>(a) to give effect to Australia's obligations under the Climate Change Convention and the Kyoto Protocol;</p> <p>(b) to support the development of an effective global response to climate change, consistent with Australia's national interest in ensuring that average global temperatures increase by not more than 2 degrees Celsius above pre-industrial levels;</p> <p>(c) to take action directed towards meeting Australia's long-term target of reducing Australia's net greenhouse gas emissions to 80% below 2000 levels by 2050; and</p> <p>(d) to put a price on greenhouse gas emissions to achieve these aims.</p>
	Environment Protection and Biodiversity Conservation Act 1999	Cth	All	<p>The objects of this Act include (s.3):</p> <p>(a) to provide for the protection of the environment, especially those aspects of the environment that are matters of national environmental significance;</p> <p>(b) to promote ecologically sustainable development through the conservation and ecologically sustainable use of natural resources;</p> <p>(c) to promote the conservation of biodiversity;</p> <p>(d) to promote a co-operative approach to the protection and management of the environment involving governments, the community, land-holders and indigenous peoples; and</p> <p>(e) to assist in the co-operative implementation of Australia's international environmental responsibilities.</p>

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	Family Law Act 1975	Cth	Part VII	<p>Act provides that the Family Court may make parenting orders in respect of children of separated parents, including for (ss.64B-65ZD):</p> <ul style="list-style-type: none"> (a) the persons with whom a child is to live; (b) the time a child is to spend with another person or other persons; (d) the allocation of parental responsibility for a child; (e) if 2 or more persons are to share parental responsibility for a child - the form of consultations those persons are to have with one another about decisions to be made in the exercise of that responsibility; (f) maintenance of a child; and (g) any aspect of the care, welfare or development of the child or any other aspect of parental responsibility for a child. <p>Each of the parents of a child who is not 18 has parental responsibility for the child (s.61C).</p> <p>In deciding whether to make a particular parenting order in relation to a child, a court must regard the best interests of the child as the paramount consideration (s.60CA).</p> <p>In considering what order to make, the court must, to the extent that it is possible to do so consistently with the child's best interests being the paramount consideration, ensure that the order does not expose a person to an unacceptable risk of family violence and may include in the order any safeguards that it considers necessary (s.60CG).</p>

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				<p>When making a parenting order in relation to a child, the court must apply a presumption that it is in the best interests of the child for the child's parents to have equal shared parental responsibility for the child. This presumption does not apply if there are reasonable grounds to believe that a parent of the child (or a person who lives with a parent of the child) has engaged in abuse of the child or another child who, at the time, was a member of the parent's family (or that other person's family) or family violence (s.61DA).</p> <p>Parents of a child may agree on a parenting plan, which can be registered with the court, agreeing on the same matter as can be included in a parenting order (ss.62A to 63H).</p> <p>Children are entitled to receive a proper level of financial support from their parents (s.66B). The parents of a child have the primary duty to maintain the child (s.66C). The court has the power to make child maintenance orders to ensure that children receive proper levels of financial support (s.66G-66X).</p> <p>The father of a child who is not married to the child's mother is liable to make a proper contribution towards the child's maintenance (s.67B-67G).</p> <p>Where member of the court personnel, family counsellor, family dispute resolution practitioner or arbitrator suspects child abuse that a child has been abused, or is at risk of being abused, the person must, as soon as practicable, notify a prescribed child welfare authority of his or her suspicion and the basis for the suspicion (s.67ZA(2)).</p> <p>If the person has reasonable grounds for suspecting that a child has been ill-treated, or is at risk of being ill-treated, or has been exposed or subjected, or is at risk of being exposed or subjected,</p>

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				<p>to behaviour which psychologically harms the child, the person may notify a prescribed child welfare authority of his or her suspicion and the basis for the suspicion (s.67ZA(3)).</p> <p>Where a party to a family court proceeding alleges that there has been abuse of the child by one of the parties to the proceedings or there has been family violence, or there is risk of abuse of family violence, the court may make orders to deal with the issues raised, including orders to protect the child (s.67ZBB).</p> <p>The court has the general jurisdiction to make orders relating to the welfare of children. In deciding whether to make such an order, the court must regard the best interests of the child as the paramount consideration (s.67ZC).</p> <p>The court, during the course of family court proceedings, may issue injunctions for, <i>inter alia</i> (s.68B & 68C):</p> <p>(a) the personal protection of the child;</p> <p>(b) an injunction for the personal protection of a parent of the child or other person with which the child is to spend time or communicate with; or</p> <p>(c) an injunction restraining a person from entering or remaining in a place of residence, employment or education of the child or other person with which the child is to spend time or communicate with.</p>
	Food Standards Australia New Zealand Act 1991	Cth	All	<p>The object of this Act is to ensure a high standard of public health protection throughout Australia and New Zealand by means of the establishment and operation of a joint body to be known as Food Standards Australia New Zealand to achieve:</p> <p>(a) a high degree of consumer confidence in the quality and safety</p>

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				<p>of food produced, processed, sold or exported from Australia and New Zealand;</p> <p>(b) an effective, transparent and accountable regulatory framework within which the food industry can work efficiently;</p> <p>(c) the provision of adequate information relating to food to enable consumers to make informed choices; and</p> <p>(d) the establishment of common rules for both countries and the promotion of consistency between domestic and international food regulatory measures without reducing the safeguards applying to public health and consumer protection (s.3).</p>
	<p>Geneva Conventions Act 1957</p>	<p>Cth</p>	<p>Schedule 4</p>	<p>Schedule 4 to the Act includes the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949.</p> <p>Article 14 of Schedule 4 provides:</p> <p>In time of peace, the High Contracting Parties and, after the outbreak of hostilities, the Parties thereto, may establish in their own territory and, if the need arises, in occupied areas, hospital and safety zones and localities so organized as to protect from the effects of war, wounded, sick and aged persons, children under fifteen, expectant-mothers and mothers of children under seven.</p> <p>Upon the outbreak and during the course of hostilities, the Parties concerned may conclude agreements on mutual recognition of the zones and localities they have created. They may for this purpose implement the provisions of the Draft Agreement annexed to the present Convention, with such amendments as they may consider necessary.</p>

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				<p>Article 17 of Schedule 4 provides:</p> <p>The Parties to the conflict shall endeavour to conclude local agreements for the removal from besieged or encircled areas, of wounded, sick, infirm, and aged persons, children and maternity cases, and for the passage of ministers of all religions, medical personnel and medical equipment on their way to such areas.</p> <p>Article 23 of Schedule 4 provides:</p> <p>Each High Contracting Party shall allow the free passage of all consignments of medical and hospital stores and objects necessary for religious worship intended only for civilians of another High Contracting Party, even if the latter is its adversary. It shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases.</p> <p>Article 24 of Schedule 4 provides:</p> <p>The Parties to the conflict shall take the necessary measures to ensure that children under fifteen, who are orphaned or are separated from their families as a result of the war, are not left to their own resources, and that their maintenance, the exercise of their religion and their education are facilitated in all circumstances. Their education shall, as far as possible, be entrusted to persons of a similar cultural tradition.</p> <p>Article 50 of Schedule 4 provides:</p> <p>The Occupying Power shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children.</p> <p>The Occupying Power shall not hinder the application of any</p>

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				<p>preferential measures in regard to food, medical care and protection against the effects of war, which may have been adopted prior to the occupation in favour of children under fifteen years, expectant mothers, and mothers of children under seven years.</p> <p>Article 89 of Schedule 4 provides:</p> <p>Daily food rations for internees shall be sufficient in quantity, quality and variety to keep internees in a good state of health and prevent the development of nutritional deficiencies. Account shall also be taken of the customary diet of the internees.</p> <p>Sufficient drinking water shall be supplied to internees. The use of tobacco shall be permitted.</p> <p>Expectant and nursing mothers, and children under fifteen years of age, shall be given additional food, in proportion to their physiological needs.</p> <p>Article 91 of Schedule 4 provides:</p> <p>Every place of internment shall have an adequate infirmary, under the direction of a qualified doctor, where internees may have the attention they require, as well as an appropriate diet. Isolation wards shall be set aside for cases of contagious or mental diseases.</p> <p>Article 92 of Schedule 4 provides:</p> <p>Medical inspections of internees shall be made at least once a month. Their purpose shall be, in particular, to supervise the general state of health, nutrition and cleanliness of internees, and to detect contagious diseases, especially tuberculosis, malaria, and venereal diseases. Such inspections shall include, in particular, the checking of weight of each internee and, at least once a year,</p>

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				<p>radioscopic examination.</p> <p>Schedule 5 to the Act includes the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I).</p> <p>Article 77 of Schedule 5 provides:</p> <p>Children shall be the object of special respect and shall be protected against any form of indecent assault. The Parties to the conflict shall provide them with the care and aid they require, whether because of their age or for any other reason.</p>
	Greenhouse and Energy Minimum Standards Act 2012	Cth	All	<p>The objects of this Act are (s.3):</p> <p>(a) to give effect to certain obligations that Australia has under the Climate Change Convention; and</p> <p>(b) to promote the development and adoption of products that use less energy or produce fewer greenhouse gases or contribute to reducing the amount of energy used, or greenhouse gases produced, by other products.</p>
	Hazardous Waste (Regulation of Exports and Imports) Act 1989	Cth	All	<p>The object of this Act is to regulate the export, import and transit of hazardous waste to ensure that exported, imported or transited waste is managed in an environmentally sound manner so that human beings and the environment, both within and outside Australia, are protected from the harmful effects of the waste (s.3).</p>
	Health Insurance Act 1973	Cth	Part II, Part IVA	<p>Part II of the Act provides that where medical expenses are incurred in respect of a professional service rendered in Australia to an eligible person (being an Australian resident or certain resident overseas), a medicare benefit is payable in respect of that</p>

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				<p>professional service (s.10).</p> <p>Where a registered family, including parent and children, pays more than a combined threshold amount for the provision of medical services, the family will be entitled to additional medicare benefits payable in respect of those services (referred to as the family safety net) (ss.10AA-10ACA)</p> <p>Part IVA of the Act establishes the Australian Childhood Immunisation Register. Under that part, the Chief Executive Medicare's is given power (s.46B):</p> <p>(a) to establish and keep a register known as the Australian Childhood Immunisation Register;</p> <p>(b) to record in the Register all immunisations in Australia and overseas that are notified to the Chief Executive Medicare by recognised immunisation providers or prescribed bodies;</p> <p>(c) to use information contained in the Register for purposes relating to the immunisation or health of children; and</p> <p>(d) to make a payment to recognised immunisation providers or the relevant authority of a State or Territory for notifying the Chief Executive Medicare about an Australian immunisation or the death of a child on the Register.</p>
	<p>Human Rights (Parliamentary Scrutiny) Act 2011</p>	Cth	All	<p>The Act provides for the establishment of Parliamentary Joint Committee on Human Rights, comprised on 5 sitting members from the House of Representatives and 5 sitting members from the Senate (ss.4 & 5).</p> <p>The Committee has the function of:</p> <p>(a) examining Bills for Acts, and legislative instruments, that</p>

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				<p>come before either House of the Parliament for compatibility with human rights, and to report to both Houses of the Parliament on that issue;</p> <p>(b) examining Acts for compatibility with human rights, and to report to both Houses of the Parliament on that issue; and</p> <p>(c) inquiring into any matter relating to human rights which is referred to it by the Attorney-General, and to report to both Houses of the Parliament on that matter (ss 6 & 7).</p> <p>A member of Parliament who proposes to introduce a Bill for an Act into a House of the Parliament must cause a statement of compatibility to be prepared which must include an assessment of whether the Bill is compatible with human rights (ss.8 & 9).</p> <p>'Human rights' includes the rights and freedoms recognised or declared by the Convention on the Rights of the Child done at New York on 20 November 1989 (s.3).</p>
	Industrial Chemicals (Notification and Assessment) Act 1989	Cth	All	<p>The objects of the Act are to provide for:</p> <p>(a) a national system of notification and assessment of industrial chemicals, including for the purposes of aiding in the protection of the Australian people and the environment by finding out the risks to occupational health and safety, to public health and to the environment that could be associated with the importation, manufacture or use of the chemicals; and</p> <p>(b) giving effect to Australia's obligations under international agreements relating to the regulation of chemicals.</p>
	Maternity Leave (Commonwealth)	Cth	All	The Act provides that Commonwealth public servants and other persons employed by the Commonwealth are entitled to 52 weeks

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	Employees) Act 1973			unpaid leave from work following the birth of a child and 12 weeks paid leave.
	National Health Act 1953	Cth	Part II, Part VII	<p>Part II of the Acts gives the Commonwealth the power to provide certain medical and dental services, including:</p> <ul style="list-style-type: none"> (a) aerial medical and dental services; (b) diagnostic and therapeutic services for medical practitioners and hospitals, and for patients of medical practitioners or hospitals; (c) teaching, research and advisory services in relation to maternal and child health; (d) teaching, research and advisory services for or in relation to the improvement of health or the prevention of disease (s.9). <p>Part II also provides that the Minister for Health may arrange for:</p> <ul style="list-style-type: none"> (a) the supply by the Commonwealth of such medical or surgical aids, equipment or appliances as are prescribed to persons who require them; (b) any modifications to a building, vehicle or equipment that necessary for the treatment or rehabilitation of a sick or disabled person; (c) designated vaccines; and (d) goods or services that are associated with, or incidental to, the provision or administration of designated vaccines (ss.9A & 9B). <p>Part VII of the Act provides for the regulation of the provision of certain identified prescribed pharmaceutical products, including</p>

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				drugs, and for those pharmaceuticals to be subsidised or wholly paid for by the Commonwealth.
	National Health Security Act 2007	Cth	Part 2	<p>The objects of Part 2 of the Act are:</p> <p>(a) to provide a national system of public health surveillance to enhance the capacity of the Commonwealth and the States and Territories to identify, and respond to, public health events of national significance which include the occurrence of certain communicable diseases, the release of chemical, biological or radiological agents, the occurrence of public health risks, the occurrence of overseas mass casualties; and</p> <p>(b) to provide for the sharing of information with the World Health Organization, countries affected by a public health event or an overseas mass casualty, and to support the Commonwealth and the States and Territories in giving effect to the International Health Regulations (other than as mentioned in paragraphs (a) and (b)).</p>
	Paid Parental Leave Act 2010	Cth	All	<p>The object of this Act is to provide financial support to primary carers (mainly birth mothers) of newborn and newly adopted children, in order to:</p> <p>(a) allow those carers to take time off work to care for the child after the child's birth or adoption;</p> <p>(b) enhance the health and development of birth mothers and children;</p> <p>(c) encourage women to continue to participate in the workforce; and</p> <p>(d) promote equality between men and women, and the balance</p>

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				<p>between work and family life (s.3A).</p> <p>Parents of newborn children will generally be entitled to paid parental leave of 18 weeks if they have worked a minimum amount of time in the year prior to the birth of the child, are an Australian resident, are the child's primary carer and have not have returned to work (Chapter 2).</p> <p>The amounts payable, by either the Commonwealth or the person's employer are 7.6 times the minimum wage (Chapter 3).</p>
	Quarantine Act 1908	Cth	All	<p>The Act provides the Commonwealth with powers to implement measures:</p> <p>(a) for the examination, exclusion, detention, observation, segregation, isolation, protection, treatment and regulation of vessels, installations, human beings, animals, plants or other goods or things;</p> <p>(b) for the seizure and destruction of animals, plants, or other goods or things; or</p> <p>(c) for the destruction of premises comprising buildings or other structures when treatment of these premises is not practicable,</p> <p>(d) having as their object the prevention or control of the introduction, establishment or spread of diseases or pests that will or could cause significant damage to human beings, animals, plants, other aspects of the environment or economic activities (s.4).</p> <p>The Act provides that the Commonwealth may declare the existence of an epidemic or of the danger of that epidemic and give such directions and take such action as thinks necessary to control and eradicate the epidemic, or to remove the danger of the</p>

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				epidemic, by quarantine measures or measures incidental to quarantine (ss.2B & 3).
	Sex Discrimination Act 1984	Cth	Part II	<p>The objects of this Act are:</p> <p>(a) to give effect to certain provisions of the Convention on the Elimination of All Forms of Discrimination Against Women and to provisions of other relevant international instruments;</p> <p>(b) to eliminate, so far as is possible, discrimination against persons on the ground of sex, marital status, pregnancy or potential pregnancy or breastfeeding in the areas of work, accommodation, education, the provision of goods, facilities and services, the disposal of land, the activities of clubs and the administration of Commonwealth laws and programs;</p> <p>(c) to eliminate, so far as possible, discrimination on the ground of family responsibilities in the area of work;</p> <p>(d) to eliminate, so far as is possible, discrimination involving sexual harassment in the workplace, in educational institutions and in other areas of public activity; and</p> <p>(e) to promote recognition and acceptance within the community of the principle of the equality of men and women (s.3)</p> <p>It is unlawful for an employer, provider of education, provider of goods & services or providers of accommodation (and others) to discriminate against a person on the basis of that the person's sex, marital status, pregnancy or potential pregnancy, breastfeeding or (for employers) family responsibilities (ss.14-27).</p> <p>A person discriminates against a woman on the ground of the aggrieved woman's pregnancy or potential pregnancy if, because</p>

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				<p>of:</p> <p>(a) the aggrieved woman's pregnancy or potential pregnancy;</p> <p>(b) a characteristic that appertains generally to women who are pregnant or potentially pregnant; or</p> <p>(c) a characteristic that is generally imputed to women who are pregnant or potentially pregnant;</p> <p>(d) the discriminator treats the aggrieved woman less favourably than, in circumstances that are the same or are not materially different, the discriminator treats or would treat someone who is not pregnant or potentially pregnant (s.7).</p> <p>A person discriminates against a woman on the ground of the aggrieved woman's breastfeeding if, by reason of:</p> <p>(a) the aggrieved woman's breastfeeding; or</p> <p>(b) a characteristic that appertains generally to women who are breastfeeding; or</p> <p>(c) a characteristic that is generally imputed to women who are breastfeeding;</p> <p>(d) the discriminator treats the aggrieved woman less favourably than, in circumstances that are the same or are not materially different, the discriminator treats or would treat someone who is not breastfeeding, or if the discriminator imposes, or proposes to impose, a condition, requirement or practice that has the effect of disadvantaging women who are breastfeeding (s.7AA).</p> <p>For the purposes of this Act, an employer discriminates against an employee on the ground of the employee's family responsibilities</p>

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				<p>if:</p> <p>(a) the employer treats the employee less favourably than the employer treats, or would treat, a person without family responsibilities in circumstances that are the same or not materially different; and</p> <p>(b) the less favourable treatment is by reason of the family responsibilities of the employee, a characteristic that appertains generally to persons with family responsibilities, or a characteristic that is generally imputed to persons with family responsibilities (s.7A).</p> <p>(c) Nothing in the Act renders it unlawful for a person to discriminate against a man on the ground of his sex by reason only of the fact that the first-mentioned person grants to a woman rights or privileges in connection with pregnancy, childbirth or breastfeeding (s.31).</p>
	Social Security Act 1991	Cth	Part 2.5	<p>Part 2.5 of the Act provides for payments to be made to carers of:</p> <p>(a) children with a severe disabilities or severe medical conditions; and</p> <p>(b) a child who has a terminal condition,</p> <p>subject to an income ceiling.</p>
			Part 2.10	<p>Part 2.10 of the Act provides for the payment of parenting payments for:</p> <p>(a) Australian residents with at least one PP child;</p> <p>(b) where the person is not a member of a couple and does not have at least one PP child who has not turned 6 - the person meets</p>

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				<p>any participation requirements; and</p> <p>(c) persons specified by legislative instrument subject to meeting any participation requirements,</p> <p>(d) where at least one of the following conditions is satisfied:</p> <p>(e) the person is not a member of a couple and the person was not a lone parent at the start of the person's current period as an Australian resident; or</p> <p>(f) the person has, at any time, been in Australia for a period of, or periods adding up to, at least 104 weeks during a continuous period throughout which the person was an Australian resident;</p> <p>(g) the person has a qualifying residence exemption for parenting payment (s.500).</p> <p>The participation requirements provide that the person must enter into a Parenting Payment Employment Pathway Plan when the person is required by the Secretary under section 501 to do so and may also be required to undertake particular paid work, other than paid work that is unsuitable to be done by the person, as notified by the Secretary. The parenting plan may require the person to look for of undertake regular employment (ss.500A, 501, 501A & 502).</p> <p>A PP child is:</p> <p>(a) a child of the person, the person is a member of a couple, the child has not turned 6 and the person is the principal carer of the child;</p> <p>(b) a child of the person, the person is <u>not</u> a member of a couple, the child has not turned <u>8</u> and the person is the principal carer of</p>

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				<p>the child; or</p> <p>(c) a child of the person, the child has not turned <u>16</u>, the person is the principal carer of the child, the person was the principal carer of the child immediately before 1 July 2011 and the person is and has been since 1 July 2006 covered by the parenting payment transitional arrangement under s.500F in relation to that child or any other child (ss.500B).</p> <p>In having regard to a person's capacity to comply with the requirements in a parenting plan, the following matters, , are to be taken into account, <i>inter alia</i>, the person's family and caring responsibilities (s.501A).</p> <p>A person may be exempt from the participation requirements:</p> <p>(a) if they are the principal carer of one or more children who suffer from a physical, intellectual or psychiatric disability or illness and whose care needs are such that the person should, for specified periods, not be required to meet participation requirements (s.502D); and</p> <p>(b) for the period 6 weeks before the expected date of birth and six weeks after the actual date of birth (s.502G).</p>
			Part 2.11	<p>Persons applying for youth allowance are exempt from complying with the activity test (s.540):</p> <p>(a) for the period 6 weeks before the expected date of birth and six weeks after the actual date of birth (s.542D); and</p> <p>(b) if the person is the principal carer of one or more children who suffer from a physical, intellectual or psychiatric disability or illness and whose care needs are such that the person should, for the period specified in the determination, not be required to satisfy</p>

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				<p>the activity test (s.542FA).</p> <p>The activity test otherwise requires that the person is undertaking full-time study or is actively seeking, and willing to undertake, paid work in Australia (other than paid work that is unsuitable for the person) (s.541).</p> <p>A person who is the principal carer of at least one child is taken to satisfy the activity test if the person is engaged for at least 30 hours per fortnight in paid work that the Secretary regards as suitable (s.541(1B)).</p> <p>In general, persons between the age of 16 and 22 (or 25 if full time students) may apply for payment of youth allowance (ss.543A-543B).</p>
			Part 2.12	<p>Part 2.12 of the Act generally provides for the payment of Newstart allowance for unemployed people who are Australian residents over the age of 22, satisfies the activity test (or are not required to satisfy the activity test). The person may also be required to participate in a Newstart Employment Pathway Plan (s.593).</p> <p>The activity test is satisfied where the person is, throughout the relevant period, actively seeking and willing to undertake paid work in Australia, other than paid work that is unsuitable to be undertaken by the person (s.601).</p> <p>Particular paid work is deemed unsuitable for a person if in the Secretary's opinion, <i>inter alia</i>, the person is the principal carer for one or more children, and does not have access to appropriate care and supervision for the children at the times when the person would be required to undertake the work (s.601(2A) & (2AA)).</p>

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				<p>A person may be exempt from the activity test:</p> <p>(a) if they are the principal carer of one or more children who suffer from a physical, intellectual or psychiatric disability or illness and whose care needs are such that the person should, for specified periods, not be required to meet participation requirements (s.602C); and</p> <p>(b) for the period 6 weeks before the expected date of birth and six weeks after the actual date of birth (s.603AAA).</p>
			Part 2.15	<p>The Secretary may determine that a person is entitled to payment of a special benefit if that person is not receiving any other social benefit payment (or has been disqualified from receiving a benefit payment), and is an Australian resident or the holder of a visa issued for temporary protection, humanitarian, or safe haven purposes (s.729).</p> <p>Holders of a visa issued for temporary protection, humanitarian, or safe haven purposes must also satisfy the activity test, or be exempt from satisfying the activity test and participate in a Special Benefit Employment Pathway Plan (s.729(2B)).</p> <p>The activity test is satisfied where the person is, throughout the relevant period, actively seeking and willing to undertake paid work in Australia, other than paid work that is unsuitable to be undertaken by the person (s.731A).</p> <p>Particular paid work is deemed unsuitable for a person if in the Secretary's opinion, <i>inter alia</i>, the person is the principal carer for one or more children, and does not have access to appropriate care and supervision for the children at the times when the person would be required to undertake the work (s.731B).</p>

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				<p>A person may is taken to satisfy the activity test:</p> <p>(a) if they are the principal carer of one or more children who suffer from a physical, intellectual or psychiatric disability or illness and whose care needs are such that the person should, for specified periods, not be required to meet participation requirements (s.731DB);</p> <p>(b) if the is the principal carer of at least one child the person is engaged for at least 30 hours per fortnight in paid work that the Secretary regards as suitable (s.731GA);</p> <p>(c) if the person has at least one child who is a dependent child of the person, has not turned 6 and is in Australia (s.731H); and</p> <p>(d) if the person would otherwise be qualified for a carer payment under Part 2.5 (s.731HA).</p> <p>A person is not required to satisfy the activity test for the period 6 weeks before the expected date of birth and six weeks after the actual date of birth (s.731F).</p>
			Parts 2.19, 2.19AA, 2.19B	<p>Part 2.19 of the Act provides for the payment of a carer allowance to a person:</p> <p>(a) who is a carer of a disabled child, or two disabled children, that are dependents of the person, are Australian residents and the children receive care and attention on a daily basis from that person or the person's partner (or together with another person) in a private home that is the residence of the person and the children; and</p> <p>(b) the disability is declared to be a recognised disability (where only one child is being cared for); or</p>

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				<p>(c) the person has been given a qualifying rating of intense under the Disability Care Load Assessment (Child) Determination for caring for the care receiver (when one or two children are being cared for) (ss.953 & 935A).</p> <p>A person may also qualify for payment of a carer allowance if the person is participating in the care of a disabled child in hospital and, if the child were not in hospital, one or more persons would qualify for carer allowance for the child, and the hospitalised person is terminally ill or that, upon the child leaving hospital he or she will reside in the private home of the carer. However, the maximum period for payment of 63 days per year (s.955).</p> <p>Part 2.19AA of the Act provides for the payment of a child disability assistance to a person where the person was paid an instalment of carer allowance and the instalment was in respect of a care receiver who was a disabled child or for care receivers who were 2 disabled children (s.992MB).</p> <p>Part 2.19B of the Act provides for the payment of a carer supplement of \$600 (indexed) if the person was paid an instalment of carer allowance in a particular year (s.992X).</p>
	Stronger Futures in the Northern Territory Act 2012	Cth	All	The object of this Act is to support Aboriginal people in the Northern Territory to live strong, independent lives, where communities, families and children are safe and healthy.
			Part 4	<p><i>Food Security</i></p> <p>Part 4 provides for a licensing regime for certain community stores operating in the food security area. That regime is aimed at promoting food security for Aboriginal communities.</p> <p>The Secretary may determine, at any time, whether the owner of a</p>

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				<p>community store is required to hold a community store licence. If the Secretary determines that the owner is required to hold a licence, then the store will be prohibited from operating in the food security area unless the owner obtains the licence. The Secretary cannot determine that the owner is required to hold a licence unless the Secretary is satisfied that the store is an important source of food, drink or grocery items for an Aboriginal community.</p> <p>If the Secretary grants a licence, the Secretary may impose conditions on the licence, including as to 'food security matters'. The owner will be required to comply with those conditions, plus the conditions that are imposed by Part 4 and the rules (ss.51-60).</p> <p>Food security matters include:</p> <p>(a) whether the store will provide a satisfactory range of healthy and good quality food, drink or grocery items;</p> <p>(b) whether the store will take reasonable steps to promote good nutrition and health products; and</p> <p>(c) whether the store will satisfactorily address other aspects of the store's operations which may impact on food security (s.46).</p>
	Therapeutic Goods Act 1989	Cth	All	<p>The objects of this Act are to provide for the establishment and maintenance of a national system of controls relating to the quality, safety, efficacy and timely availability of therapeutic goods, which include medical devices and medicines, that are used in Australia and exported from Australia, and to provide a framework for the States and Territories to adopt a uniform approach to control the availability and accessibility, and ensure the safe handling, of poisons in Australia (s.4).</p>

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	<p>United Nations Food and Agriculture Organization Act 1944</p>	Cth	All	<p>The Act provides for the acceptance of the Constitution of the Food and Agriculture Organization of the United Nations (Constitution).</p> <p>The Constitution is included as a Schedule to the Act and provides for the establishment of the United Nations Food and Agriculture Organization. The preamble to the Constitution sets out the aims of the organisation which include:</p> <ul style="list-style-type: none"> (a) raising levels of nutrition and standards of living of the peoples under their respective jurisdictions; (b) securing improvements in the efficiency of the production and distribution of all food and agricultural products; (c) bettering the condition of rural populations; and (d) thus contributing toward an expanding world economy. <p>Article I of the Constitution provides that the functions of the organisation are to:</p> <ul style="list-style-type: none"> (a) collect, analyse, interpret, and disseminate information relating to nutrition, food and agriculture; (b) promote and, where appropriate, recommend national and international action with respect to: (c) scientific, technological, social, and economic research relating to nutrition, food and agriculture; (d) the improvement of education and administration relating to nutrition, food and agriculture, and the spread of public knowledge of nutritional and agricultural science and practice;

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				<p>(e) the conservation of natural resources and the adoption of improved methods of agricultural production;</p> <p>(f) the improvement of the processing, marketing, and distribution of food and agricultural products;</p> <p>(g) the adoption of policies for the provision of adequate agricultural credit, national and international; and</p> <p>(h) the adoption of international policies with respect to agricultural commodity arrangements; and</p> <p>(i) to furnish such technical assistance as governments may request, to organize, in co-operation with the Governments concerned, such missions as may be needed to assist them to fulfil the obligations arising from their acceptance of the recommendations of the United Nations Conference on Food and Agriculture; and to take all necessary and appropriate action to implement the purposes of the organisation as set forth in the Preamble.</p>
	<p>World Health Organisation Act 1947</p>	Cth	All	<p>The Act provides for Australia's membership of the World Health Organisation and for Arrangement establishing an Interim Commission of the World Health Organization (Arrangement).</p> <p>The Arrangement is included as a Schedule to the Act and provides for the establishment of the World Health Organisation. The preamble to the Arrangement sets out the principles of the organisation which include:</p> <p>(a) health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity;</p> <p>(b) the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without</p>

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				<p>distinction of race, religion, political belief, economic or social condition;</p> <p>(c) the health of all peoples is fundamental to the attainment of peace and security and is dependent upon the fullest co-operation of individuals and States;</p> <p>(d) the achievement of any State in the promotion and protection of health is of value to all;</p> <p>(e) unequal development in different countries in the promotion of health and control of disease, especially communicable disease, is a common danger;</p> <p>(f) healthy development of the child is of basic importance; the ability to live harmoniously in a changing total environment is essential to such development;</p> <p>(g) the extension to all peoples of the benefits of medical, psychological and related knowledge is essential to the fullest attainment of health;</p> <p>(h) informed opinion and active co-operation on the part of the public are of the utmost importance in the improvement of the health of the people; and</p> <p>(i) Governments have a responsibility for the health of their peoples which can be fulfilled only by the provision of adequate health and social measures.</p> <p>Particular Articles of the Arrangement provide:</p> <p>Article 1:</p> <p>The objective of the World Health Organization (hereinafter</p>

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				<p>called the Organization) shall be the attainment by all peoples of the highest possible level of health.</p> <p>Article 2:</p> <p>The functions of the World Health Organisation are:</p> <p>(a) to act as the directing and co-ordinating authority on international health work;</p> <p>(b) to establish and maintain effective collaboration with the United Nations, specialised agencies, governmental health administrations, professional groups and such other organisations as may be deemed appropriate;</p> <p>(c) to assist governments, upon request, in strengthening health services;</p> <p>(d) to furnish appropriate technical assistance and, in emergencies, necessary aid upon the request or acceptance of governments;</p> <p>(e) to provide or assist in providing, upon the request of the United Nations, health services and facilities to special groups, such as the peoples of trust territories;</p> <p>(f) to establish and maintain such administrative and technical services as may be required, including epidemiological and statistical services;</p> <p>(g) to stimulate and advance work to eradicate epidemic, endemic and other diseases;</p> <p>(h) to promote, in co-operation with other specialised agencies</p>

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				<p>where necessary, the prevention of accidental injuries;</p> <p>(i) to promote, in co-operation with other specialised agencies where necessary, the improvement of nutrition, housing, sanitation, recreation, economic or working conditions and other aspects of environmental hygiene;</p> <p>(j) to promote co-operation among scientific and professional groups which contribute to the advancement of health;</p> <p>(k) to propose conventions, agreements and regulations, and make recommendations with respect to international health matters and to perform such duties as may be assigned thereby to the organisation and are consistent with its objective;</p> <p>(l) to promote maternal and child health and welfare and to foster the ability to live harmoniously in a changing total environment;</p> <p>(m) to foster activities in the field of mental health, especially those affecting the harmony of human relations;</p> <p>(n) to promote and conduct research in the field of health;</p> <p>(o) to promote improved standards of teaching and training in the health, medical and related professions;</p> <p>(p) to study and report on, in co-operation with other specialized agencies where necessary, administrative and social techniques affecting public health and medical care from preventive and curative points of view, including hospital services and social security;</p> <p>(q) to provide information, counsel and assistance in the field of health;</p>

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				<p>(r) to assist in developing an informed public opinion among all peoples on matters of health;</p> <p>(s) to establish and revise as necessary international nomenclatures of diseases, of causes of death and of public health practices;</p> <p>(t) to standardise diagnostic procedures as necessary;</p> <p>(u) to develop, establish and promote international standards with respect to food, biological, pharmaceutical and similar products; and</p> <p>(v) generally to take all necessary action to attain the objective of the organisation.</p>

2. New South Wales

CONVENTION ON THE RIGHTS OF THE CHILD (CRC) ARTICLE 24: TABLE OF RELEVANT NEW SOUTH WALES LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions	Summary/Description of Relevant Provision
<p>ARTICLE 24</p> <p>1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.</p> <p>2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:</p> <p>(a) To diminish infant and child mortality;</p> <p>(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;</p> <p>(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of</p>	<p>Births, Deaths, Marriages Registration Act 1995</p>	<p>NSW</p>	<p>Section 3</p>	<p>Section 3 lists the objects of the Act as follows:</p> <p>(a) the registration of births, deaths and marriages in New South Wales, and</p> <p>(b) the registration of adoption information, and</p> <p>(c) the registration of changes of name and the recording of changes of sex, and</p> <p>(d) the keeping of registers for recording and preserving information about births, adoptions, deaths, marriages, registered relationships, changes of name and changes of sex in perpetuity, and</p> <p>(e) access to the information in the registers in appropriate cases by government or private agencies and members of the public, from within and outside the State, and</p> <p>(f) the issue of certified information from the registers, and</p> <p>(g) the collection and dissemination of statistical information.</p>
			<p>Section 4</p>	<p>Section 4 includes a lists of definitions of words used in the Act, of which the ones relevant to Article 24 are extracted below:</p> <p><i>birth</i> includes a stillbirth.</p> <p><i>child</i> includes a stillborn child</p> <p><i>death</i> does not include a stillbirth</p>
			<p>Section 12</p>	<p>Section 12 provides that when a child is born in the State, the responsible person must give notice of the birth to the Registrar in a form and manner required by the Registrar, specifying the particulars required by the regulations. Section 12</p>

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<p>readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;</p> <p>(d) To ensure appropriate pre-natal and post-natal health care for mothers;</p> <p>(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;</p> <p>(f) To develop preventive health care, guidance for parents and family planning education and services.</p> <p>3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.</p> <p>4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full</p>				<p>prescribes a maximum penalty of 5 penalty units for failing to do so.</p> <p>Section 12(2) stipulates that the notice must be given:</p> <p>(a) in the case of a child born alive - within 7 days after birth, or</p> <p>(b) in the case of a stillbirth - within 48 hours after stillbirth.</p> <p>Section 12(3) stipulates that when notice of a stillbirth is given, the responsible person must also give the Registrar, in a form and manner required by the Registrar:</p> <p>(a) a doctor's certificate certifying the cause of foetal death, or</p> <p>(b) if a doctor is of the opinion that it is impracticable or undesirable to certify the cause of foetal death at the time the notice referred to in subsection (2) (b) is given, a notice signed by a doctor stating the doctor's intention to complete such a certificate.</p> <p>Section 12(4) further stipulates that the certificate or notice referred to in subsection (3) must be completed by the doctor responsible for the professional care of the birth mother at the birth or a doctor who examined the body of the stillborn child after the stillbirth.</p>
			Section 16	Section 16 stipulates that a person responsible for having the birth of a child registered must have the birth registered (as provided by section 14) within 60 days after the date of the birth. Section 16 prescribes a maximum penalty of 10 penalty units for failing to do so.
	Children (Community Service Orders) Act 1987	NSW	Section 26F	<p>Section 26F provides that a person in respect of whom a children's community service order is in force has, while the order is in force, a duty to disclose as soon as possible to the person's assigned officer: any condition of the person that is a condition to which this section applies, or any substantial change in that condition.</p> <p>Section 26F(2) states that a person's condition to which this section applies is any medical, physical or mental condition of the person of which the person is aware and that the person is aware substantially increases the risk to the person of injury in</p>

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realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.				performing community service work of any kind.
	Children and Young Persons (Care and Protection) Act 1998	NSW	Section 8	<p>Section 8 outlines the objects of the Act as follows:</p> <p>(a) that children and young persons receive such care and protection as is necessary for their safety, welfare and well-being, having regard to the capacity of their parents or other persons responsible for them, and</p> <p>(b) that all institutions, services and facilities responsible for the care and protection of children and young persons provide an environment for them that is free of violence and exploitation and provide services that foster their health, developmental needs, spirituality, self-respect and dignity, and</p> <p>(c) that appropriate assistance is rendered to parents and other persons responsible for children and young persons in the performance of their child-rearing responsibilities in order to promote a safe and nurturing environment.</p>
		Section 174	<p>Section 174 provides that a medical practitioner may carry out medical treatment on a child or young person without the consent of (a) the child or young person, or (b) a parent of the child or young person, if the medical practitioner is of the opinion that it is necessary, as a matter of urgency, to carry out the treatment on the child or young person in order to save his or her life or to prevent serious damage to his or her health.</p> <p>Section 174(2) states that a registered dentist may carry out dental treatment on a child or young person without the consent of (a) the child or young person, or (b) a parent of the child or young person, if the dentist is of the opinion that it is necessary, as a matter of urgency, to carry out the treatment on the child or young person in order to save his or her life or to prevent serious damage to his or her health.</p> <p>Section 174(3) states that medical or dental treatment carried out on a child or young person under this section is taken, for all purposes, to have been carried out with the consent of:</p>	

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				<p>(a) in the case of a child - a parent of the child, or</p> <p>(b) in the case of a young person - the young person.</p> <p>Section 174(4) states that nothing in this section relieves a medical practitioner or registered dentist from liability in respect of the carrying out of medical or dental treatment on a child or young person, being a liability to which the medical practitioner or dentist would have been subject had the treatment been carried out with the consent of (a) in the case of a child - a parent of the child, or (b) in the case of a young person - the young person.</p> <hr/> <p>Section 175</p> <p>Section 175 states that a person must not carry out special medical treatment on a child otherwise than in accordance with this section. The maximum penalty that can be imposed is 7 years imprisonment.</p> <p>Section 175(2) states that a medical practitioner may carry out special medical treatment on a child if:</p> <p>(a) the medical practitioner is of the opinion that it is necessary, as a matter of urgency, to carry out the treatment on the child in order to save the child's life or to prevent serious damage to the child's health, or</p> <p>(b) the Guardianship Tribunal, in the case of special medical treatment described in paragraph (a), (b) or (c) of the definition of <i>special medical treatment</i> in subsection (5), consents to the carrying out of the treatment, or</p> <p>(c) consent is granted to the carrying out of the treatment in accordance with the regulations.</p> <p>Section 175(3) states that consent to the carrying out of special medical treatment on a child must not be given by the Guardianship Tribunal unless the Guardianship Tribunal is satisfied that it is necessary to carry out the treatment on the child in order to save the child's life or to prevent serious damage to the child's psychological or physical health.</p> <p>Section 175(4) states that a child is entitled to be legally represented in proceedings</p>

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				under this section before the Guardianship Tribunal.
			Section 229	<p>Section 229 stipulates that a person who, without lawful excuse removes a child or young person from the care of a person into whose care and protection or care responsibility the child or young person has been placed under this Act, or causes or procures a child or young person to be so removed, is guilty of an offence.</p> <p>Section 229 (1A) further provides that a person must not, by any conduct carried out within the State, without lawful excuse remove a child or young person from the care of a person into whose care and protection the child or young person has been placed under a child protection order, or an interim order, within the meaning of Chapter 14A (other than an order under this Act).</p> <p>Section 229(2) stipulates that a person who (a) is in charge of any hospital or other premises used for the purpose of receiving (whether or not for fee, gain or reward) more than one woman who is at the premises for the purposes of giving birth, and (b) permits a child who is not in the charge of the child’s mother to be taken from the premises without first obtaining the consent of the Director-General, is guilty of an offence. The statute prescribes a maximum penalty of 200 penalty units.</p>
			Section 230	<p>Section 230 stipulates that a person must not perform tattooing on any part of a child’s or young person’s body unless the person has first obtained the consent of a parent of the child or young person, given in accordance with this section, to the tattooing of the child or young person in that manner and on that part of the child’s or young person’s body. Section 230 prescribes a maximum penalty of 200 penalty units.</p> <p>Section 230(3) provides that the consent of a parent to the tattooing must be given in person by a parent accompanying the child or young person or in writing.</p>
			Section 230A	<p>Section 230A stipulates that a person must not perform body piercing on any part of (a) the genitalia of a child, or (b) the nipples of a child. Section 230A prescribes a maximum penalty of 200 penalty units.</p> <p>Section 230A(3) states that it is not a defence to a prosecution for an offence under subsection (2) that the child or a parent of the child consented to the body piercing of</p>

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				<p>the child.</p> <p>Section 230A(4) further stipulates that a person must not perform body piercing on any other part of a child's body unless the person has first obtained the consent of a parent of the child, given in accordance with this section, to the body piercing of that part of the child's body. Section 230A(4) prescribes a maximum penalty of 30 penalty units.</p> <p>Section 230A(5) provides that the consent of a parent to the body piercing must be given in person by a parent accompanying the child or in writing.</p> <p>Section 230A(6) provides that this section does not apply in relation to any body piercing performed for a medical purpose.</p>
	<p>Children (Detention Centres) Act 1987</p>	<p>NSW</p>	<p>Section 3</p>	<p>Section 3 defines child as a person who is under the age of 18 years.</p>
<p>Section 4</p>			<p>Section 4 lists the objects of the Act as follows:</p> <ul style="list-style-type: none"> (a) persons on remand or subject to control take their places in the community as soon as possible as persons who will observe the law, (b) in the administration of this Act, sufficient resources are available to enable the object referred to in paragraph (a) to be achieved, and (c) satisfactory relationships are preserved or developed between persons on remand or subject to control and their families. <p>Section 4(2) stipulates that in the administration of this Act:</p> <ul style="list-style-type: none"> (a) the welfare and interests of persons on remand or subject to control shall be given paramount consideration, and (b) it shall be recognised that the punishment for an offence imposed by a court is the only punishment for that offence. 	

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			Section 14	<p>Section 14 stipulates that the Director-General shall ensure that adequate arrangements exist and further:</p> <ul style="list-style-type: none"> (a) to maintain the physical, psychological and emotional well-being of detainees, (b) to promote the social, cultural and educational development of detainees, (c) to maintain discipline and good order among detainees, and (d) to facilitate the proper control and management of detention centres. <p>Section 14(2) stipulates that in exercising any function under this section in relation to a detainee who is a forensic patient within the meaning of the <i>Mental Health Act 1990</i>, the Director-General must consult with, and have regard to the recommendations of, the Director-General of the Department of Health.</p>
			Section 17A	<p>Section 17A states that the centre manager of a detention centre shall not supply a detainee with, or authorise the supply to a detainee of, alcohol or tobacco in any form, and further, must not allow in a detention centre any film classified RC, X 18+ or R 18+ under the <i>Classification (Publications, Films and Computer Games) Act 1995</i> of the Commonwealth.</p>
			Section 25	<p>Section 25 makes provision for the removal of the youth detainee to a hospital for medical treatment.</p> <p>Section 25(2) stipulates that a detainee who is absent from a detention centre pursuant to an order under this section shall be deemed to be in lawful custody.</p> <p>Section 25(3) stipulates that the centre manager of the detention centre from which a detainee has been removed pursuant to an order under this section may direct a juvenile justice officer to take charge of the detainee while the detainee is absent from the detention centre.</p> <p>Section 25(4) makes provision for the return of that detainee to detention:</p> <p>(4) When:</p>

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				<p>(a) the medical superintendent or other person in charge of a hospital certifies that a detainee who has been removed to the hospital may be discharged from the hospital,</p> <p>(b) a medical practitioner certifies that a detainee who has been removed to a place other than a hospital may be discharged from that place, or</p> <p>(c) an order under this section with respect to a detainee is revoked, the detainee shall forthwith return or, if a juvenile justice officer has taken charge of the detainee, be returned to the detention centre from which the detainee was removed.</p>
			Section 27	<p>Section 27 provides variously that:</p> <p>(1) A detainee must be supplied with such medical attendance, treatment and medicine as in the opinion of a medical officer is necessary for the preservation of the health of the detainee, of other detainees and of any other person.</p> <p>(2) A medical practitioner (whether a medical officer or not) may carry out medical treatment on a detainee without the detainee's consent if the Chief Executive Officer, Justice Health is of the opinion, having taken into account the cultural background and religious views of the detainee, that it is necessary to do so in order to save the detainee's life or to prevent serious damage to the detainee's health</p> <p>(3) Medical treatment carried out on a detainee under this section is, for all purposes, taken to have been carried out with the detainee's consent.</p> <p>(4) Nothing in this section relieves a medical practitioner from liability in respect of the carrying out of medical treatment on a detainee, being a liability to which the medical practitioner would have been subject had the treatment been carried out with the detainee's consent.</p> <p>(5) If the Chief Executive Officer, Justice Health is not a medical practitioner, the reference to the Chief Executive Officer, Justice Health in subsection (2) is taken to be a reference to a person, designated by the Chief Executive Officer for the purposes of that subsection, who is a medical practitioner.</p>
			Section 37E	Section 37E lists the functions of the Justice Health division as follows:

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				(a) to provide health services to detainees, (b) to prevent the spread of infectious diseases in, or in relation to, detention centres, (c) to keep medical records of detainees, (d) to provide advice to the Director-General on the diet, exercise, clothing, capacity to work and general hygiene of detainees.
			Section 37F	Section 37F is a provision to ensure access to medical records. It states that: For the purpose of ensuring that the provisions of this Act and the regulations (in so far as they relate to the functions of Justice Health) are being complied with at a detention centre, the Chief Executive Officer, Justice Health, is to have free and unfettered access at all times to all parts of the detention centre, to all medical records held at the detention centre and to all detainees held in custody in the detention centre.
	Children (Criminal Proceedings) Act 1987	NSW	Section 48A	Section 48A lists the objects of ' youth conduct orders ' as follows: (a) to establish a youth conduct order scheme for dealing with children who have been charged with (or pleaded guilty to or been found guilty of) certain offences, (b) to address the underlying causes of anti-social behaviour by such children by means of youth conduct orders that operate to prohibit or restrict negative behaviours and to promote socially acceptable behaviours through participation in anti-social behaviour programs, (c) to provide for a coordinated multi-agency approach to the administration of the scheme.
			Section 48C	Section 48C makes a provision that for the purposes of this Part (in relation to ' youth conduct orders '), <i>positive conduct provisions</i> are any of the following kinds of provisions:

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				<p>(a) provisions requiring a child to engage in kinds of conduct aimed at addressing the underlying causes of the child's anti-social behaviour, including (without limitation) any of the following:</p> <ul style="list-style-type: none"> (i) attending or completing a course of study or training, (ii) meeting with health professionals or other persons with backgrounds or experience that may assist the child, (iii) participating in sporting or recreational activities, <p>(b) such other kinds of provisions as may be prescribed by the regulations.</p>
	Children's Court Act 1987	NSW	Section 15B	<p>Section 15B stipulates that the Minister for Health is to establish and maintain, in accordance with the rules, a Children's Court Clinic.</p> <p>Section 15B(2) provides that the Children's Court Clinic has the following functions:</p> <ul style="list-style-type: none"> (a) making clinical assessments of children, (b) submitting reports to courts, (c) such other functions as may be prescribed by the rules.
	Crimes Act 1900	NSW	Section 20	Section 20 stipulates that on the trial of a person for the murder of a child, such child shall be held to have been born alive if it has breathed, and has been wholly born into the world whether it has had an independent circulation or not.
			Section 21	Section 21 stipulates that whosoever, being a woman delivered of a child is indicted for its murder, shall, if the jury acquit her of the murder, and specially find that she has in any manner wilfully contributed to the death of such child, whether during delivery, or at or after its birth, or has wilfully caused any violence, the mark of

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				which has been found on its body, be liable to imprisonment for ten years.
			Section 22	Section 22 stipulates that where, on the trial of a person for the murder or manslaughter of a child, the jury are not satisfied that the person is guilty thereof, but are satisfied that the person is guilty of an offence within section 85, they may acquit the person of the offence charged and find the person guilty of an offence under the said section, and the person shall be liable to punishment accordingly.
			Section 22A	<p>Section 22A(1) provides that where a woman by any wilful act or omission causes the death of her child, being a child under the age of twelve months, but at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, then, notwithstanding that the circumstances were such that but for this section the offence would have amounted to murder, she shall be guilty of infanticide, and may for such offence be dealt with and punished as if she had been guilty of the offence of manslaughter of such child.</p> <p>Section 22A(2) provides that where upon the trial of a woman for the murder of her child, being a child under the age of twelve months, the jury are of opinion that she by any wilful act or omission caused its death, but that at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to such child or by reason of the effect of lactation consequent upon the birth of the child, then the jury may, notwithstanding that the circumstances were such that but for the provisions of this section they might have returned a verdict of murder, return in lieu thereof a verdict of infanticide, and the woman may be dealt with and punished as if she had been guilty of the offence of manslaughter of the said child.</p>
	Education Act 1990	NSW	Section 4	<p>Section 4 stipulates that in enacting this Act, Parliament has had regard to the following principles:</p> <p>(a) every child has the right to receive an education,</p>

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				<p>(b) the education of a child is primarily the responsibility of the child's parents,</p> <p>(c) it is the duty of the State to ensure that every child receives an education of the highest quality,</p> <p>(d) the principal responsibility of the State in the education of children is the provision of public education</p>
			Section 6	<p>Section 6(1) stipulates that it is the intention of Parliament that every person concerned in the administration of this Act or of education for children of school-age in New South Wales is to have regard (as far as is practicable or appropriate) to the following objects:</p> <p>(a) assisting each child to achieve his or her educational potential,</p> <p>(b) promotion of a high standard of education in government schools which is provided free of charge for instruction and without discrimination on the ground of sex, race or religion,</p> <p>(c) encouraging innovation and diversity within and among schools,</p> <p>(d) provision of an education for children that gives them access to opportunities for further study, work or training,</p> <p>(e) mitigating educational disadvantages arising from the child's gender or from geographic, economic, social, cultural, lingual or other causes,</p> <p>(f) provision of an education for Aboriginal children that has regard to their special needs,</p> <p>(g) development of an understanding of Aboriginal history and culture by all children,</p> <p>(h) provision of an education for children from non-English speaking backgrounds that has regard to their special needs,</p> <p>(i) recognition of the special problems of rural communities, particularly small and</p>

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				<p>isolated communities,</p> <p>(j) provision of opportunities to children with special abilities,</p> <p>(k) provision of special educational assistance to children with disabilities,</p> <p>(l) development of a teaching staff that is skilled, dedicated and professional,</p> <p>(m) provision of opportunities for parents to participate in the education of their children,</p> <p>(m1) provision of opportunities for Aboriginal families, kinship groups, representative organisations and communities to participate in significant decisions under this Act relating to the education of their children,</p> <p>(n) provision of an education for children that promotes family and community values.</p> <p>Section 6(1A) stipulates that it is the intention of Parliament that the provision of courses of study required by this Act for the Higher School Certificate has the following objects:</p> <p>(a) to provide a curriculum structure that encourages students to complete secondary education,</p> <p>(b) to foster the intellectual, social and moral development of students, in particular by developing:</p> <p>(i) their knowledge, skills, understanding and attitudes in the fields of study they choose, and</p> <p>(ii) their capacity to manage their own learning, and</p> <p>(iii) their desire to continue learning in formal or informal settings after school, and</p> <p>(iv) their capacity to work with others, and</p>

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				(v) their respect for the cultural diversity of Australian society, (c) to provide a flexible structure within which students can prepare for: (i) further education and training, and (ii) employment, and (iii) full and active participation as members of the community, (d) to provide formal assessment and certification of students' achievements, (e) to provide a context within which schools also have the opportunity to foster the physical and spiritual development of students.
			Section 7	Section 7 states that each of the following is a key learning area for primary education: - English, - Mathematics, - Science and Technology, - Human Society and its Environment, - Creative and Practical Arts, - Personal Development, Health and Physical Education.
			Section 9	Section 9 states that each of the following is a key learning area for secondary education in Years 7 to 10: - English,

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				<ul style="list-style-type: none"> - Mathematics, - Science, - Human Society and its Environment, - Languages other than English, - Technological and Applied Studies, - Creative Arts, - Personal Development, Health and Physical Education.
	Surrogacy Act 2010	NSW	Section 3	Section 3 states that this Act is to be administered by reference to the principle that, in relation to any surrogacy arrangement, the best interests of the child of the surrogacy arrangement are paramount.
			Section 7	<p>Section 7 lists what will constitute the birth mother's reasonable cost as including:</p> <ul style="list-style-type: none"> (a) becoming or trying to become pregnant, (b) a pregnancy or a birth, (c) entering into and giving effect to a surrogacy arrangement. <p>And further,</p> <ul style="list-style-type: none"> - By section 7(2), the reasonable costs associated with becoming or trying to become pregnant include any reasonable medical, travel or accommodation costs associated with becoming or trying to become pregnant. - By section 7(3), the reasonable costs associated with a pregnancy or birth include

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				<p>the following:</p> <ul style="list-style-type: none"> (a) any reasonable medical costs associated with the pregnancy or birth (both pre-natal and post-natal), (b) any reasonable travel or accommodation costs associated with the pregnancy or birth, (c) any premium paid for health, disability or life insurance that would not have been obtained by the birth mother, had the surrogacy arrangement not been entered into, (d) any reasonable costs, including reasonable medical costs, incurred in respect of a child (being the child of the surrogacy arrangement), (e) the cost of reimbursing the birth mother for a loss of earnings as a result of unpaid leave taken by her, but only for the following periods: <ul style="list-style-type: none"> (i) a period of not more than 2 months during which the birth happened or was expected to happen, (ii) any other period during the pregnancy when the birth mother was unable to work on medical grounds related to pregnancy or birth. <p>- By section 7(4), the reasonable costs associated with entering into and giving effect to a surrogacy arrangement include the following:</p> <ul style="list-style-type: none"> (a) the reasonable costs associated with the birth mother and the birth mother's partner (if any) receiving counselling in relation to the surrogacy arrangement (whether before or after entry into the arrangement), (b) the reasonable costs associated with the birth mother and the birth mother's partner (if any) receiving legal advice in relation to the surrogacy arrangement or a parentage order relating to the surrogacy arrangement, (c) the reasonable costs associated with the birth mother and the birth mother's partner (if any) being a party to proceedings in relation to such a parentage order,

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				<p>including reasonable travel and accommodation costs.</p> <p>Section 7(5) stipulates that a cost is reasonable only if (a) the cost is actually incurred, and (b) the amount of the cost can be verified by receipts or other documentation.</p>
			Section 8	Section 8 stipulates that a person must not enter into, or offer to enter into, a commercial surrogacy arrangement. Section 8 prescribes the maximum penalty as 2,500 penalty units, in the case of a corporation, or 1,000 penalty units or imprisonment for 2 years (or both), in any other case.
			Section 9	<p>Section 9 provides a definition for surrogacy arrangement as a commercial surrogacy arrangement if the arrangement involves the provision of a fee, reward or other material benefit or advantage to a person for the person or another person:</p> <p>(a) agreeing to enter into or entering into the surrogacy arrangement, or</p> <p>(b) giving up a child of the surrogacy arrangement to be raised by the intended parent or intended parents, or</p> <p>(c) consenting to the making of a parentage order in relation to a child of the surrogacy arrangement.</p> <p>Section 9(2) stipulates however, that a surrogacy arrangement is not a commercial surrogacy arrangement if the only fee, reward or other material benefit or advantage provided for is the reimbursement of a birth mother's surrogacy costs.</p>
			Section 10	<p>Section 10 stipulates that a person must not publish any advertisement, statement, notice or other material that:</p> <p>(a) states or implies that a person is willing to enter into, or arrange, a surrogacy arrangement, or</p> <p>(b) seeks a person willing to act as a birth mother under a surrogacy arrangement, or</p> <p>(c) states or implies that a person is willing to act as a birth mother under a</p>

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				<p>surrogacy arrangement, or</p> <p>(d) is intended, or is likely, to induce a person to act as a birth mother under a surrogacy arrangement.</p> <p>Section 10 further prescribes the maximum penalty as follows:</p> <p>(a) in the case of a commercial surrogacy arrangement - 2,500 penalty units in the case of a corporation or 1,000 penalty units or imprisonment for 2 years (or both) in any other case, or</p> <p>(b) in any other case - 200 penalty units in the case of a corporation or 100 penalty units in any other case.</p>
			Section 14-17	Sections 14-17 sets out the procedural framework for applying for a parentage order.
			Section 18-20	Sections 18-20 sets out the framework for the making of the parentage order.
			Sections 21-38	<p>Sections 21-38 sets out the preconditions that must be satisfied before the making of the parentage order, and includes:</p> <p>22 Best interests of child are paramount</p> <p>23 Surrogacy arrangement must be altruistic</p> <p>24 Surrogacy arrangement must be a pre-conception surrogacy arrangement</p> <p>25 Intended parent must be single person or member of a couple</p> <p>26 Age and wishes of child must be considered</p> <p>27 Age of birth mother</p> <p>28 Age of intended parents</p> <p>29 Maturity of younger intended parent must be demonstrated</p>

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				<p>30 Medical or social need for surrogacy arrangement must be demonstrated</p> <p>31 Affected parties must consent to order</p> <p>32 Applicant or applicants must be resident in NSW</p> <p>33 Child must be living with applicant or applicants</p> <p>34 Surrogacy arrangement must be in writing</p> <p>35 Counselling must have been obtained</p> <p>36 Legal advice must have been obtained</p> <p>37 Information must be provided for inclusion in central register</p> <p>38 Birth of child must be registered</p>

3. Victoria

CONVENTION ON THE RIGHTS OF THE CHILD (CRC) ARTICLE 24: TABLE OF RELEVANT VICTORIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>ARTICLE 24:</p> <p>States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.</p> <p>States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:</p> <p>(a) To diminish infant and child mortality;</p> <p>(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;</p> <p>(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;</p> <p>(d) To ensure appropriate pre-natal and post-natal</p>	Adoption Act 1984	Vic	s 15(d)	Requires the Court to be satisfied that the welfare and interests of a child are promoted by the adoption before making any orders for the adoption of a child under the age of 18.
	Births, Deaths and Marriages Registration Act 1996	Vic	Division 4A (ss 49A and 49B)	This Division imposes obligations on the Registrar to undertake certain enquiries and disclose certain information pertaining to the child deaths, still births and maternal deaths.
	Charter of Human Rights and Responsibilities Act 2006	Vic	s 17(2)	Not healthcare specific, but states that every child has the right to such protection as is in his/her best interests and needed by reason of him/her being a child.
	Child Employment Act 2003	Vic	s 1(b)	A stated purpose of this Act (which places restrictions on when and at what age children can be employed) is to protect children from performing work that could be harmful to their health or safety.
	Child Wellbeing and Safety Act 2005	Vic	s 1(a)	A stated purpose of this Act is to establish principles for the wellbeing of children.
s 5	<p>Relevant 'guiding principles' for this legislation are:</p> <p>(a) that those who develop services, as well as parents, should give the highest priority to the promotion and protection of a child's safety, health, development, education and wellbeing.</p> <p>(b) it is the responsibility of government to meet the needs of the child when the child's family is unable to provide adequate care</p>			

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<p>health care for mothers;</p> <p>(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;</p> <p>(f) To develop preventive health care, guidance for parents and family planning education and services.</p> <p>States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.</p> <p>States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.</p>				<p>and protection.</p> <p>(c) ensure that families are made aware of the services available to them and of the benefits those services can provide.</p>
			s 6	Specifies that the role of the Minister includes co-ordinating Government programs that affect child wellbeing and safety.
			Part 4 (ss 8 - 12)	Part 4 of the Act establishes the Victorian Children's Council. The Council's function is to provide the Premier and the Minister with independent and expert advice relating to policies and services that enhance the health, wellbeing, development and safety of children.
			Part 6	<p>Establishes the role of a Child Safety Commissioner whose functions include: (s 19(a)) providing advice and recommendations to the Minister about child safety issues, (s 19(b)) to promote child friendly and child safe practices in the Victorian community, (s 19(e)) functions relating to child inquiries including child deaths.</p> <p>Section 33 requires the Child Safety Commissioner to conduct an inquiry and prepare a report in relation to children that die while a child protection client, or within 12 months of being a child protection client.</p> <p>Section 35 allows health professionals and welfare practitioners to disclose to the Child Safety Commissioner any information relating to a child or the death of a child under inquiry.</p>
	Children's Services Act 1996	Vic	s 25E	A license to operate children's services will be granted subject to the condition that the service is operated in a way that supports the health and well being of those children.

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			s 43A	<p>There is a process for issuing notices to children's services if it is operating in a way that poses, or is likely to pose, a risk to the health, welfare or safety of a child being cared for by the service. The notice will direct the proprietor to take steps to remove or reduce the risk within a certain time.</p> <p>The proprietor must comply with this direction. A penalty of 120 penalty units will apply if it does not.</p>
			s 44(1)	<p>The Secretary is given power to remove a child from the premises where the children's service of operating (or return the child to its parent's or guardian's care or placed temporarily in the care of another licensed children's service or approved associated children's service) if the Secretary is satisfied that there is an immediate danger to the health, welfare or safety of any child or children being cared for or educated by a children's service.</p>
			s 45	<p>Subsection 1 provides that the Secretary can cancel a children's service license if the Secretary is satisfied that that the licensee has failed to operate the children's service in a way which ensures the safety of the children being cared for or educated by the service.</p> <p>Subsections 2 and 3 sets out the requisite process for cancelling a license pursuant to subsection 1.</p>
			s 45A	<p>Subsection 1 provides that the Secretary may decide to cancel a service approval to the extent it relates to an approved associated children's service if the Secretary is satisfied that the approved provider has failed to operate the service in a way which ensures the safety of the children being cared for or educated by the service.</p> <p>Subsections 2 to 4 set out the procedural steps required to cancel a service pursuant to subsection 1.</p>

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	Children, Youth and Families Act 2005	Vic	s 1	The stated purpose of this Act includes: to provide community services to support children and families, and to provide for the protection of children.
			s 10	<p>Relevant 'guiding principles' of this legislation include:</p> <p>(a) the best interests of the child must always be paramount;</p> <p>When determining whether a decision or action is in the best interests of the child, the need to protect the child from harm, to protect his or her rights and to promote his or her development (taking into account his or her age and stage of development) must always be considered;</p> <p>(a) the desirability of the child being supported to gain access to appropriate educational services, health services and accommodation and to participate in appropriate social opportunities.</p>
				<p>The Act imposes certain responsibilities on the Secretary, including:</p> <p>(a) to promote the prevention of child abuse and neglect;</p> <p>(b) to assist children who have suffered abuse and neglect and to provide services to their families to prevent further abuse and neglect from occurring;</p> <p>(c) to work with other government agencies and community services to ensure that children in out of home care receive appropriate educational, health and social opportunities;</p> <p>(d) to publish and promote a Charter for children in out of home care to provide a framework of principles to promote the</p>

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				wellbeing of those children.
			Part 3.1	<p>This Part promotes and supports the provision of funding and resources for community based child and family services and other services for families.</p> <p>The Secretary is given power to allocate funding to community based child and family services and award grants to families in need.</p>
			Part 3.2	<p>This Part establishes a framework for reporting or referring significant concerns about the wellbeing of children.</p> <p>If the Secretary receives such a report and considers that the child may be in need of protection, the Secretary may determine that the report is a protective intervention report for the purposes of this Act. The investigation of a protective intervention report is addressed at Part 4.6 of the Act.</p>
			Part 4.1	<p>Chapter 4 of the legislation covers situations where children are in need of protection. S 162 provides that children are in need of protection when, relevantly:</p> <p>(a) the child has suffered, or is likely to suffer, significant harm as a result of physical injury and the child's parents have not protected, or are unlikely to protect, the child from harm of that type;</p> <p>(b) the child has suffered, or is likely to suffer, significant harm as a result of sexual abuse and the child's parents have not protected, or are unlikely to protect, the child from harm of that type;</p> <p>(c) the child has suffered, or is likely to suffer, emotional or psychological harm of such a kind that the child's emotional or intellectual development is, or is likely to be, significantly</p>

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				<p>damaged and the child's parents have not protected, or are unlikely to protect, the child from harm of that type;</p> <p>(d) the child's physical development or health has been, or is likely to be, significantly harmed and the child's parents have not provided, arranged or allowed the provision of, or are unlikely to provide, arrange or allow the provision of, basic care or effective medical, surgical or other remedial care.</p>
			Part 4.2	This Part imposes responsibilities on the Minister to establish and maintain child protection services.
			Part 4.3	This Part imposes obligations on the Secretary to prepare case plans and stability plans for children in certain circumstances (eg. when a court makes a supervision order, supervised custody order, protection order). The case plan may, amongst other things, include details of steps to be taken by the child's carer to meet the developmental needs of the child, including steps relating to the child's health, emotional and behavioural development, education, family and social relationships and identity.
			Part 4.4	This Part requires mandatory reporting by the categories of person listed in s 182 (eg medical practitioner, midwife, nurse). Failure to report by a ' mandatory reporter ', where that person forms a reasonable belief that a child is in need of protections attracts a penalty of 10 penalty units (s 184).
			Part 4.6	<p>This Part establishes investigatory framework in response to protective intervention reports.</p> <p>A protective intervener is obliged to investigate, or cause another protective intervener to investigate, the subject matter of the report in a way that will be in the best interests of the child.</p>

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			Part 6.1	<p>Section 493 makes it an offence to fail to protect a child from harm. A person who has a duty of care in respect of a child who:</p> <p>(a) intentionally takes action that results in the child suffering significant harm as a result of physical or sexual abuse, or emotional harm significantly damaging a child's emotionally development, or the child's physical development being significantly harmed; or</p> <p>(b) intentionally fails to take action that results in the child's physical development being significantly harmed</p> <p>(c) is guilty of an offence (punishable by up to 50 penalty units or imprisonment not exceeding 12 months).</p>
			Part 8.2	<p>This Part relates to the powers of the Secretary in relation to medical services.</p> <p>Section 597(1) allows the Secretary to order a child in the care or custody or legal custody of the Secretary (or placed in a safe house or placed with a suitable person in an out of home care service) be examined to determine his/her medical, physical, intellectual or mental condition.</p> <p>Section 597(2) provides that the Minister may make arrangements to provide any necessary medical, dental, psychiatric, psychological or pharmaceutical services to persons referred to in subsection (1) or to any class or classes of those persons or to any other persons placed in an out of home care service.</p> <p>Subsection (3) and (4) relate to a child obtaining medical treatment on the advice of a registered medical practitioner that the medical treatment is necessary, if authorised by the Minister,</p>

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				the Secretary or other authorised person even if the child's parent objects.
	Corrections Act 1986	Vic	s 31	<p>This provision states that children of prisoners may live in prison with their parent, if the Secretary is satisfied that this arrangement is in the best interests of the child and the management and good order or security of the prison will not be threatened by the child living there.</p> <p>Subsection (3) provides that if the Secretary considers that the child's behaviour is threatening the security or good order of the prison or the child's safety is threatened, the Secretary may cause the child to be removed from the prison.</p>
			s 47	<p>Relevantly, this section provides that prisoners have the right to:</p> <p>(a) access to reasonable medical care and treatment necessary for the preservation of health including, with the approval of the principal medical officer but at the prisoner's own expense, a private registered medical practitioner physiotherapist or chiropractor chosen by the prisoner;</p> <p>(b) if intellectually disabled or mentally ill, the right to have reasonable access within the prison or, with the Governor's approval outside a prison to such special care and treatment as the medical officer considers necessary or desirable in the circumstances;</p> <p>(c) the right to have access to reasonable dental treatment necessary for the preservation of dental health.</p>
	Crimes Act 1958	Vic	s 5A	A person who, by his or her conduct, kills a child who is under the age of 6 years in circumstances that, but for this section, would constitute manslaughter is guilty of child homicide, and not of manslaughter, and liable to level 3 imprisonment (20 years

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				maximum).
			s 6	<p>If a woman carries out conduct that causes the death of her child in circumstances that would constitute murder and, at the time of carrying out the conduct, the balance of her mind was disturbed because of:</p> <p>(a) her not having fully recovered from the effect of giving birth to that child within the preceding 2 years; or</p> <p>(b) a disorder consequent on her giving birth to that child within the preceding 2 years</p> <p>(c) she is guilty of infanticide, and not of murder, and liable to level 6 imprisonment (5 years maximum).</p>
			s 32	<p>It is an offence to perform female genital mutilation on a child.</p> <p>Section 34A provides some exceptions to section 32 (eg. if the performance of the female genital mutilation is by a surgical operation which is necessary for the health of the person on whom it is performed and which is performed by a medical practitioner).</p>
			s 67	Concealing the birth of a child is a summary offence.
	Disability Act 2006	Vic	s 1	<p>The stated purpose of this Act is to enact a new legislative scheme for persons with a disability which reaffirms and strengthens their rights and responsibilities and which is based on the recognition that this requires support across the government sector and within the community.</p> <p>Disability is defined as:</p> <p>(a) a sensory, physical or neurological impairment or acquired</p>

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				<p>brain injury or any combination thereof, which:</p> <ul style="list-style-type: none"> (i) is, or is likely to be, permanent; and (ii) causes a substantially reduced capacity in at least one of the areas of self-care, self-management, mobility or communication; and (iii) requires significant ongoing or long term episodic support; and (iv) is not related to ageing; or <p>(b) an intellectual disability; or</p> <p>(c) a developmental delay.</p>
			s 4	<p>The objectives of this Act include:</p> <ul style="list-style-type: none"> (a) facilitate the planning, funding and provision of services, programs and initiatives for persons with a disability; (b) support the provision of high quality disability services; (c) make disability service providers accountable to persons accessing those disability services; (d) ensure the efficient and effective use of public funds in the provision of disability services. <p>Disability Service is defined to mean a service specifically for the support of persons with a disability which is provided by a disability service provider.</p> <p>This Act does not appear to address health care services for</p>

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	Education and Care Services National Law Act 2010	Vic		disabled people, but rather other services such as residential services, planning assistance, community programs etc.
			s 5(3)(1)	Disability services should have regard for the needs of children with a disability and preserve and promote relationships between the child, their family and other persons (including carers) who are significant in the life of the child with a disability.
			s 3(2)	The objectives of the national education and care services framework include ensuring the safety, health and wellbeing of children attending education and care services.
			ss 28, 31, 49, 73, 77, 126	These sections entitles the Regulatory Authority to suspend or cancel provider approval, service, approval, supervisor certificates and other approvals if it is satisfied that there is an immediate risk to the safety, health or wellbeing of a child or children being educated and cared for by the relevant education and care service.
			s 179	<p>The Regulatory Authority can issue emergency action notices if satisfied that an education and care service is operating in a manner that poses, or is likely to pose, an immediate risk to the safety, health or wellbeing of a child or children being educated and cared for by the service.</p> <p>Such a notice will direct the approved provider of the education and care service to take the steps specified in the notice to remove or reduce the risk within the time (not more than 14 days) specified in the notice.</p> <p>An approved provider must comply with the direction.</p>
			s 182 - 183	The Regulatory Authority may issue a prohibition notice to a person who is in any way involved in the provision of an approved education and care

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				service if it considers that there may be an unacceptable risk of harm to a child or children if the person were allowed to continue being involved in the provision of the service. A show cause notice must first be issued.
			s 189	This section addresses the emergency removal of children. If, on reasonable grounds, the Regulatory Authority considers there to be an immediate danger to the safety or health of a child educated or cared for in an education or care service, it may remove the child from the premises. If this happens, the child's parents must be immediately notified of the child's location.
	Education and Training Reform Act	Vic	s 1.2.2	One of the principles underlying the government education and training system is that certain learning areas must be provided free of charge to all students. Health and physical education is one of those learning areas. Section 2.2.4 implements this principle.
	Education and Training Reform Act	Vic	s 5.4.3	A work experience arrangement may only be organised for a child/student if the principal is satisfied that the health, education and moral and material welfare of the child will not suffer from the proposed arrangement.
	Equal Opportunity Act 2010	Vic	s 86	A person may discriminate against another person on the basis of disability or physical features if the discrimination is reasonably necessary: (a) to protect the health or safety of any person (including the person discriminated against) or of the public generally; or (b) to protect the property of any person (including the person discriminated against) or any public property. Further, a person may discriminate against another person on the

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				basis of pregnancy if the discrimination is reasonably necessary to protect the health or safety of any person (including the person discriminated against).
	Family Violence Protection Act 2008	Vic	s 83	If the court makes a family violence intervention order against a respondent that is a child, in deciding whether it should include an exclusion condition in the order, it must consider the desirability of the child being supported to gain access to appropriate educational services and health services.
	Guardianship and Administration Act 1986	Vic	s 24	A plenary guardian has the power to consent to any health care that is in the best interests of the represented person.
			Part 4A	<p>This Part addresses rights and duties in respect of medical and other treatment.</p> <p>Section 38 lists the matters to be taken into account for the purposes of determining whether a special or medical or dental treatment would be in the best interests of the patient.</p> <p>The bulk of this Part deals with the requisite consent for various medical and other treatments.</p>
Health Services Act 1988	Vic	s 9	<p>Sets out the objectives of the Act, which include ensuring that an adequate range of essential health services is available to all persons resident in Victoria irrespective of where they live or whatever their social or economic status.</p> <p>The rest of the Act is very 'administrative' - sets up Boards and bodies, registration processes for establishing community health services, functions of the Secretary, Minister and Boards, auditing of public health services and ensuring they operate within budgets. Does not address the application of these to children specifically.</p>	

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	Mental Health Act 1986	Vic	s 4	<p>The objects of this Act include:</p> <ul style="list-style-type: none"> (a) providing for the care, treatment and protection of mentally ill people who do not or cannot consent to that care, treatment or protection; (b) facilitating the provision of treatment and care to people with a mental disorder; and (c) protecting the rights of people with a mental disorder; (d) ensuring that people with a mental disorder are informed of and make use of the provisions of this Act.
s 5			<p>Sets out the objectives of the Department to include:</p> <ul style="list-style-type: none"> (a) establishing, developing, promoting, assisting and encouraging mental health services which: (b) provides standards and conditions of care and treatment for people with a mental disorder which are in all possible respects at least equal to those provided for people suffering from other forms of illness; (c) takes into account the age-related, gender-related, religious, cultural, language and other special needs of people with a mental disorder; (d) provides for intervention at an early stage of mental disorder; (e) ensuring that patients and other people with a mental disorder are informed of their legal rights and other entitlements under this Act. 	

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			s 6	<p>Sets out the functions of the Secretary under this Act to include:</p> <ul style="list-style-type: none"> (a) facilitating the provision of care, protection, treatment and rehabilitation of people (including children) with a mental disorder; (b) facilitating the planning, co-ordination and development of a comprehensive and accessible range of mental health services; (c) overseeing and monitoring standards of mental health services; (d) facilitating the provision of appropriate and comprehensive information and education to people receiving treatment for a mental disorder; (e) facilitating education, assistance and consultation programs about mental disorders for primary health care workers; (f) facilitating the provision of information, education and support to carers and advocates.
			s 6A	<p>Sets out the principles to be given effect to when providing treatment and care to people with a mental disorder to include:</p> <ul style="list-style-type: none"> (a) people with a mental disorder should be provided with timely and high quality treatment and care in accordance with professionally accepted standards; (b) people with a mental disorder should be provided with appropriate and comprehensive information about their mental disorder, proposed and alternative treatments, including medication, and services available to meet their needs; (c) when receiving treatment and care the age-related, gender-

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				related, religious, cultural, language and other special needs of people with a mental disorder should be taken into consideration.
	Public Health and Wellbeing Act	Vic	s 4	<p>First, the Government recognises that:</p> <p>(a) the State has a significant role in promoting and protecting the public health and wellbeing of persons in Victoria;</p> <p>(b) public health and wellbeing includes the absence of disease, illness, injury, disability or premature death and the collective state of public health and wellbeing;</p> <p>(c) public health interventions are one of the ways in which the public health and wellbeing can be improved and inequalities reduced;</p> <p>(d) where appropriate, the State has a role in assisting in responses to public health concerns of national and international significance.</p> <p>The, the objectives of the Act are set out as being to achieve the highest attainable standard of public health and wellbeing by:</p> <p>(a) protecting public health and preventing disease, illness, injury, disability or premature death;</p> <p>(b) promoting conditions in which persons can be healthy;</p> <p>(c) reducing inequalities in the state of public health and wellbeing.</p>
			s 7	This section provides that the prevention of disease, illness, injury, disability or premature death is preferable to remedial measures.

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			s 8	This section provides that members of the public should therefore be given access to reliable information in appropriate forms to facilitate a good understanding of public health issues.
			s 17	<p>This section sets out the roles and functions of the Secretary to include:</p> <p>(a) developing and implementing policies and programs to achieve the objective of this Act;</p> <p>(b) promoting awareness and understanding of public health and wellbeing issues within the community;</p> <p>(c) developing public health and wellbeing policies.</p>
			ss 20 - 23	<p>These sections establish the role of a Chief Health Officer whose roles include:</p> <p>(a) develop and implement strategies to promote and protect public health and wellbeing;</p> <p>(b) provide advice to the Minister or the Secretary on matters relating to public health and wellbeing</p> <p>(c) publishing a comprehensive report on public health and wellbeing in Victoria.</p>
			s 24	<p>This section sets out the roles of Councils under this Act as being to seek to protect, improve and promote public health and wellbeing within the municipal district by (amongst other things):</p> <p>(a) initiating, supporting and managing public health planning processes at the local government level;</p> <p>(b) developing and implementing public health policies and</p>

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				<p>programs within the municipal district;</p> <p>(c) facilitating and supporting local agencies whose work has an impact on public health and wellbeing to improve public health and wellbeing in the local community;</p> <p>(d) co-ordinating and providing immunisation services to children living or being educated within the municipal district;</p> <p>(e) ensuring that the municipal district is maintained in a clean and sanitary condition.</p>
			s 26	<p>This section requires a Council to prepare a municipal public health and wellbeing plan which includes the following:</p> <p>(a) an examination of data about health status and health determinants in the municipal district;</p> <p>(b) identifies goals and strategies based on available evidence for creating a local community in which people can achieve maximum health and wellbeing;</p> <p>(c) involves people in the local community in the development, implementation and evaluation of the public health and wellbeing plan;</p> <p>(d) specifies how the Council will work in partnership with the Department and other agencies undertaking public health initiatives, projects and programs to accomplish the goals and strategies identified in the public health and wellbeing plan.</p>
			s 46	<p>Establishes a Consultative Counsel on Obstetrics and Paediatric Mortality and Morbidity the functions of which are to:</p> <p>(a) study, research, analyse incidents and causes of maternal</p>

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				<p>deaths, still births and deaths of children;</p> <p>(b) provide to health service providers information on obstetrics and paediatrics and strategies to improve obstetric and paediatric care.</p>
			s 49	<p>This section requires the Minister to prepare a State Public Health and Wellbeing Plan every 4 years. This plan must:</p> <p>(a) identify the public health and wellbeing needs of the people of the State;</p> <p>(b) establish objectives and policy priorities for</p> <p>(c) the promotion and protection of public health and wellbeing in the State;</p> <p>(d) the development and delivery of public health interventions in the State.</p>
			Part 8	<p>This Part deals with the management and control of infectious diseases, microorganisms and medical conditions. It gives officers the power to issue public health orders specifying that a relevant person be tested, refrain from certain activities, reside in a specified place, refrain from certain behaviours etc.</p> <p>Section 120 requires people to adhere to a public health order.</p> <p>Division 4 requires certain information to be provided to people who are tested for HIV and for those whose results come back positive.</p>
			s 145	Requires children to produce an immunisation certificate before attendance at primary school.

4. Queensland

CONVENTION ON THE RIGHTS OF THE CHILD (CRC) ARTICLE 24: TABLE OF RELEVANT QUEENSLAND LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>ARTICLE 24:</p> <p>States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.</p> <p>States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:</p> <p>(a) To diminish infant and child mortality;</p> <p>(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;</p> <p>(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;</p> <p>(d) To ensure appropriate pre-natal and post-natal health care for mothers;</p>	Adoption Act 2009	Qld	s 6	The Act is to be administered in accordance with guiding principles that include that an adopted child should be cared for in a way that promotes the development of the child's emotional, mental, physical and social wellbeing.
	Anti-Discrimination Act 1991	Qld	s 7(e)	This Act prohibits discrimination on the basis of (among other grounds) breastfeeding.
	Births, Deaths and Marriages Registration Act 2003	Qld	s 49A	This section imposes an obligation on the registrar to give notice to the commissioner and the chief executive (child safety) when the death of a child (other than a stillborn) is registered.
			s 49B	This section allows the registrar to enter into an arrangement with the commissioner to provide the commissioner with certain information and documents about the births or deaths of children.
	Child Care Act 2002	Qld	s 9(b)	The guiding principles for this Act include that child care be provided in a way that protects the child from harm and promotes the child's wellbeing.
			s 76	This section requires the licensee of a child care service to prepare and keep up to date written policies about the conduct of the child care service. This plan must address (among other things) health issues, including hygiene practices; and dealing with injuries, illness and infectious diseases.
	Child Employment Act	Qld	s 4	The purpose of the Act is to safeguard children working in Queensland. One of the ways this is to be achieved is by

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<p>(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;</p> <p>(f) To develop preventive health care, guidance for parents and family planning education and services.</p> <p>States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.</p> <p>States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.</p>	2006			preventing children performing work that may be harmful to their health or safety or physical, mental, moral or social development.
	<p>Child Protection Act 2006</p>	Qld	s 5A	The paramount principle for the administration of this Act is stated as being that the safety, wellbeing and best interests of a child are paramount.
	Qld	s 5B(k)	Other guiding principles for the administration of this Act includes that a child should have stable living arrangements, including arrangements that provide for the child's developmental, educational, emotional, health, intellectual and physical needs to be met.	
		s 7	<p>This section sets out the chief executive's functions, which include:</p> <p>(a) providing, or helping provide, information for parents and other members of the community about the development of children and their safety needs;</p> <p>(b) providing, or helping provide, preventative and support services to strengthen and support families and to reduce the incidence of harm to children.</p>	
		s 97	This section empowers the chief executive to arrange for a child that has been taken into the chief executive officer's custody, to be medically examined and treated.	
<p>Commission for Children and Young People and Child Guardian Act 2000</p>	Qld	s 6	This Act is to be administered under the principle that the welfare and best interest of a child are paramount. Also, that every child is entitled to be cared for in a way that protects the child from harm and promotes the child's wellbeing and to have access to services necessary to meet the child's needs	

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			s17	<p>This function describes the functions of the Commissioner to include:</p> <p>(a) to receive, seek to resolve, monitor and investigate complaints about services provided to certain children by service providers;</p> <p>(b) to monitor and review laws, policies and practices that relate to the delivery of services to children.</p>
			s 48	<p>This section requires relevant service providers (including public health service providers) to periodically report to the Commissioner about its systems, policies or practices affecting children in the child safety system.</p>
			s 49	<p>If the Commissioner has a concerns about a relevant service provider's systems (including public health service providers), policies or practices affecting children in the child safety system, it may require the service provider to undertake a review of the systems, policies or practices or undertake a review itself.</p>
			s 54 - 68	<p>These sections set out a complaint process, including investigations, in relation to a service provider failing to provide a service to a child that it is required to provide or providing a service to a child in a way that is contrary to the rights, interests or wellbeing of the child.</p>
	Criminal Code Act 1899	Qld	s 224	<p>Any person who, with intent to procure the miscarriage of a woman, whether she is or is not with child, unlawfully administers to her or causes her to take any poison or other noxious thing, or uses any force of any kind, or uses any other means whatever, is guilty of a crime, and is liable to imprisonment for 14 years.</p>
			s 225	<p>Any woman who, with intent to procure her own miscarriage, whether she is or is not with child, unlawfully administers to</p>

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				herself any poison or other noxious thing, or uses any force of any kind, or uses any other means whatever, or permits any such thing or means to be administered or used to her, is guilty of a crime, and is liable to imprisonment for 7 years.
			s 226	Any person who unlawfully supplies to or procures for any person anything whatever, knowing that it is intended to be unlawfully used to procure the miscarriage of a woman, whether she is or is not with child, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.
			s 286	It is the duty of every person who has care of a child under 16 years to: (a) provide the necessaries of life for the child; and (b) take the precautions that are reasonable in all the circumstances to avoid danger to the child's life, health or safety; and (c) take the action that is reasonable in all the circumstances to remove the child from any such danger; (d) and he or she is held to have caused any consequences that result to the life and health of the child because of any omission to perform that duty, whether the child is helpless or not.
			s 294	When a child dies in consequence of an act done or omitted to be done by any person before or during its birth, the person who did or omitted to do such act is deemed to have killed the child.
			s 313	This section provides that any person who, when a female is about to be delivered of a child, prevents the child from being born alive by any act or omission of such a nature that, if the child had been born alive and had then died, the person would be deemed to have

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				<p>unlawfully killed the child, is guilty of a crime, and is liable to imprisonment for life.</p> <p>Further, any person who unlawfully assaults a female pregnant with a child and destroys the life of, or does grievous bodily harm to, or transmits a serious disease to, the child before its birth, commits a crime.</p> <p>The maximum penalty is imprisonment for life.</p>
			s 314	Any person who, when a woman is delivered of a child, endeavours, by any secret disposition of the dead body of the child, to conceal the birth, whether the child died before, at, or after, its birth, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.
			s 323A	Any person who performs female genital mutilation on another person is guilty of a crime. The maximum penalty is 14 years imprisonment.
			s 323B	Any person who takes a child from the State, or arranges for a child to be taken from the State, with the intention of having female genital mutilation performed on the child is guilty of a crime. The maximum penalty is 14 years imprisonment.
			s 326	<p>Any person who unlawfully abandons or exposes a child under the age of 7 years, whereby the life of such child is or is likely to be endangered, or the child's health is or is likely to be permanently injured, commits a crime.</p> <p>The maximum penalty is 7 years imprisonment.</p>
			s 364	A person who, having the lawful care or charge of a child under 16 years, causes harm to the child by any prescribed conduct that the person knew or ought reasonably to have known would be

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				likely to cause harm to the child commits a crime. Prescribed conduct is defined to include failing to take all lawful steps to obtain adequate food, clothing, medical treatment, accommodation or care when it is not available to the person from his or her own resources.
	Disability Services Act 2006	Qld	s 6	The stated objective of this Act includes to ensure that disability services funded by the department are safe, accountable and respond to the needs of people with a disability. Disability services do not include health services.
			s 7	The objectives of the Act are to be implemented by (a) stating the principles for service delivery to people with a disability to be promoted by service providers; (b) regulating disability services funded by the department to ensure the quality, safety, responsiveness and accountability of the services; This Act is mostly concerned with service providers such as respite services, accommodation provider, community support services etc rather than health service providers.
	Domestic and Family Violence Protection Act 2012	Qld	Preamble	The preamble acknowledges that children who are exposed to domestic violence can experience serious physical, psychological and emotional harm.
	Environment Protection Act 1994	Qld	All	The object of this Act is to protect Queensland's environment while allowing for development that improves the total quality of life, both now and in the future, in a way that maintains the ecological processes on which life depends (s.3).

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				The objects of the Act are to be achieved by an integrated management program that is consistent with ecologically sustainable development (s.4)
	Guardianship and Administration Act 2000	Qld	Chapter 5A	<p>The primary purpose of the Act is to regulate the guardianship of adults with impaired capacity.</p> <p>However, Chapter 5A of the Act provides the applications may be made to the Queensland Civil and Administrative Tribunal for the sterilisation of the child with impaired capacity where sterilisation would be in the child's best interest (ss.80A-80Q).</p>
	Maintenance Act 1965	Qld	All	<p>The Act provides for the making of orders for the maintenance of wives, husbands and children, and for confinement, medical and like expenses and funeral expenses, and for the enforcement of such orders.</p> <p>In particular, the Act provides for the court to order that maintenance orders may be made, including (s.8):</p> <ul style="list-style-type: none"> • an order against a father or mother for the maintenance of children (ss.11, 12, 14, 15 & 17); • an order against an unmarried father for preliminary expenses in respect of the birth of his child (ss.16); and • an order against a husband, wife, father, or mother for or towards the cost of medical, surgical, psychiatric, dental, hospital, or nursing care or treatment of a wife (s.20).
	Mental Health Act 2000	Qld	All	The Act provides for the involuntary assessment and treatment, and the protection, of persons (whether adults or minors) who have mental illnesses while at the same time safeguarding their rights and freedoms and balancing their rights and freedoms with

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				<p>the rights and freedoms of other persons (s.4).</p> <p>The purpose of this Act is to be achieved by:</p> <ul style="list-style-type: none"> • providing for the detention, examination, admission, assessment and treatment of persons having, or believed to have, a mental illness; • establishing the Mental Health Review Tribunal to carry out reviews relating to involuntary patients and hear applications to administer or perform particular treatments; • establishing the Mental Health Court to, among other things, decide the state of mind of persons charged with criminal offences; • providing for the making of arrangements for the transfer to other States of involuntary patients and the transfer to Queensland of persons who have mental illnesses; and • when making a decision under this Act about a forensic patient, taking into account the protection of the community and the needs of a victim of the alleged offence to which the applicable forensic order relates (s.5).
	<p>National Environment Protection Council (Queensland) Act 1994</p>	Qld	All	<p>The object of this Act is to ensure that, by means of the establishment and operation of the National Environment Protection Council:</p> <ul style="list-style-type: none"> • people enjoy the benefit of equivalent protection from air, water or soil pollution and from noise, wherever they live in Australia; and • decisions of the business community are not distorted, and markets are not fragmented, by variations between participating

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				jurisdictions in relation to the adoption or implementation of major environment protection measures (s.3).
	Private Health Facilities Act 1999	Qld	All	<p>The main object of this Act is to provide a framework for protecting the health and wellbeing of patients receiving health services at private health facilities.</p> <p>The object is to be achieved by:</p> <ul style="list-style-type: none"> • enabling standards to be made for the provision of health services at private health facilities; • requiring persons proposing to operate private health facilities to first hold approvals; • requiring persons to hold licences for the operation of the facilities; and • providing for compliance with this Act to be monitored and enforced (s.3).
	Public Health Act 2005	Qld	All	<p>The object of this Act is to protect and promote the health of the Queensland public (s.6).</p> <p>The object is to be mainly achieved by:</p> <ul style="list-style-type: none"> • preventing, controlling and reducing risks to public health; • providing for the identification of, and response to, notifiable conditions; and • imposing obligations on persons and particular health care facilities involved in the provision of declared health services to minimise infection risks;

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				<ul style="list-style-type: none"> • providing for the notification by doctors and registered nurses of child abuse and neglect, and protecting children who have been harmed or are at risk of harm when the children present at health service facilities; • restricting the performance of cosmetic procedures on children; • collecting and managing particular health information, and establishing mechanisms for health information held by a health agency to be accessed for appropriate research; • inquiring into serious public health matters; • responding to public health emergencies; and • providing for compliance with this Act to be monitored and enforced (s.7).
			Chapters 5 & 5A	<p><i>Child Health</i></p> <p>Chapter 5 of the Act includes certain provisions relating specifically to child health.</p> <p>Part 2, Div 1 provides that where a parent knows or ought reasonably to know that the a child has a contagious condition, or where a person in charge of a school, education and care service or child care service has directed the parent to remove the child from, and not to send the child to, the school or service during the condition, the parent must not send the child to any school, education and care service or child care service (ss.161-164).</p> <p>Where a person in charge of a school, education and care service or child care service reasonably suspects that a child attending the school or service has a contagious condition that is a vaccine preventable condition and that another child has not been</p>

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				<p>vaccinated for the condition and may be at risk of contracting the condition because of contact with the first child, the person in charge may advise the second child's parents, and may direct that the second child not attend the school (ss.165 & 166).</p> <p>The chief executive arrange for the examination of students at a school, etc., a doctor where he or she reasonably suspects that some or all of the children attending a school, etc. may have a contagious condition (ss.167-169).</p> <p>The chief executive may require details from a school, education and care service or child care service if a child is suspected of having a contagious condition (ss.172-173).</p> <p>If the chief executive is satisfied there is an outbreak of a contagious condition at a school, education and care service or child care service, the chief executive may give a direction to the person in charge of the school or service, and may order that the school, etc. be closed (ss.180-182).</p> <p>Sections 185 to 213 of the Act address issues of child neglect and abuse. The guiding principles for these provisions are stated to be that:</p> <ul style="list-style-type: none"> • that the welfare and best interests of a child are paramount; • every child has a right to protection from harm; • families have the primary responsibility for the physical, psychological and emotional wellbeing of their children; • the preferred way of ensuring a child's wellbeing is through the support of the child's family; • powers conferred under this part should be exercised in a way

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				<p>that is open, fair and respects the rights of people affected by their exercise, and, in particular, in a way that ensures the views of a child and the child's family are considered and a child and the child's parents have the opportunity to take part in making decisions affecting the wellbeing of the child; and</p> <ul style="list-style-type: none"> • a child should be kept informed of matters affecting him or her in a way and to an extent that is appropriate, having regard to the child's age and ability to understand (s.185). <p>Key provisions include:</p> <ul style="list-style-type: none"> • where a professional becomes aware, or reasonably suspects, that a child has been, is being or is likely to be harmed, the professional must notify the chief executive (child safety) (ss.191-196); • where a designated medical officer at a health facility at which a child is being treated becomes aware, or reasonably suspects, that a child has been, is being or is likely to be harmed, the designated medical officer may order the child be held at the facility and notify the head of the facility and the chief executive (child safety) (ss.197-213) <p>The performance of cosmetic surgical procedures on children is prohibited (ss.213A-213D).</p>
	Surrogacy Act 2010	Qld	All	<p>The main objects of this Act are:</p> <ul style="list-style-type: none"> • to regulate matters in relation to surrogacy arrangements, including by prohibiting commercial surrogacy arrangements and providing, in particular circumstances, for the court-sanctioned transfer of parentage of a child born as a result of a surrogacy arrangement; and

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				<ul style="list-style-type: none"> • in the case of a court-sanctioned transfer of parentage of a child, to establish procedures to ensure parties to the arrangement understand its nature and implications and to safeguard the child's wellbeing and best interests (s.5). <p>The guiding principles of the Act are that:</p> <ul style="list-style-type: none"> • the wellbeing and best interests of a child born as a result of a surrogacy arrangement, both through childhood and for the rest of his or her life, are paramount; • a child born as a result of a surrogacy arrangement should be cared for in a way that ensures a safe, stable and nurturing family and home life, promotes openness and honesty about the child's birth parentage and promotes the development of the child's emotional, mental, physical and social wellbeing; • the same status, protection and support should be available to a child born as a result of a surrogacy arrangement regardless of how the child was conceived under the arrangement, whether there is a genetic relationship between the child and any of the parties to the arrangement or the relationship status of the persons who become the child's parents as a result of a transfer of parentage; • the long-term health and wellbeing of parties to a surrogacy arrangement and their families should be promoted; and • the autonomy of consenting adults in their private lives should be respected.
	Water Act 2000	Qld	Chapters 2, 2A	The objective of Chapter 2 of the Act is to advance sustainable management and efficient use of water and other resources by establishing a system for the planning, allocation and use of water, including allowing for the allocation and use of water for the

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				<p>physical, economic and social wellbeing of the people of Queensland and Australia within limits that can be sustained indefinitely (s.10).</p> <p>The objective of Chapter 2A of the Act is to ensure the delivery of sustainable and secure water supply and demand management for the South East Queensland region and designated regions (s.340).</p>
	Water Supply (Safety and Reliability) Act 2008	Qld	All	<p>The purpose of this Act is to provide for the safety and reliability of water supply (s.3).</p> <p>The purpose is achieved primarily by:</p> <ul style="list-style-type: none"> • providing for a regulatory framework for providing water and sewerage services in the State, including functions and powers of service providers, a regulatory framework for providing recycled water and drinking water quality, primarily for protecting public health, the regulation of referable dams and flood mitigation responsibilities; and • protecting the interests of customers of service providers (s.3).
	Youth Justice Act 1992	Qld	Part 8	<p>Part 8 of the Act provides that the Queensland Government may establish youth detention centres (s.262).</p> <p>Under section 263 of the Act, the chief executive is responsible for the management of each detention centre. This includes responsibility for providing services that promote the health and wellbeing of children detained at the centre (s.263(3)).</p> <p>The chief executive is authorised to give consent to any medical treatment of a child held in a detention centre if:</p> <ul style="list-style-type: none"> • the medical treatment requires the consent of a guardian of the

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				<p>child;</p> <ul style="list-style-type: none"> • the chief executive is unable to ascertain the whereabouts of a guardian of the child despite reasonable inquiries; and • it would be detrimental to the child's health to delay the medical treatment until the guardian's consent can be obtained (s.271).

5. South Australia

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>ARTICLE 24: 1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.</p> <p>2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:</p> <p>(a) To diminish infant and child mortality;</p> <p>(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;</p> <p>(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;</p> <p>(d) To ensure appropriate pre-natal and post-natal health care for mothers;</p> <p>(e) To ensure that all segments of society, in particular parents and children, are informed, have</p>	<p>Consent to Medical Treatment and Palliative Care Act 1995</p>	SA	12	<p>A medical practitioner may administer medical treatment to a child if:</p> <p>(a) a parent or guardian consents; or</p> <p>(b) the child consents and (i) the medical practitioner who is to administer the treatment is of the opinion that the child is capable of understanding the nature, consequences and risks of the treatment and that the treatment is in the best interest of the child's health and well-being; and (ii) that opinion is supported by the written opinion of at least one other medical practitioner who personally examines the child before the treatment is commenced.</p>
			13(5)	<p>If the patient is a child, and a parent or guardian of the child is available to decide whether the medical treatment should be administered, the parent's or guardian's consent to the treatment must be sought but the child's health and well-being are paramount and if the parent or guardian refuses consent, the treatment may be administered despite the refusal if it is in the best interests of the child's health and well-being.</p>
	<p>Health Care Act 2008</p>	SA	30	<p>An incorporated hospital must be administered and managed on the basis that its services will address the health needs of the community but may, in so doing, focus on 1 or more areas or sections of the community if so determined by the Minister or the Chief Executive.</p> <p>Note:</p> <p>It is recognised that some groups within the community should be</p>

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<p>access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;</p> <p>(f) To develop preventive health care, guidance for parents and family planning education and services.</p> <p>3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.</p> <p>4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.</p>				able to access special or enhanced health services due to their special needs. Examples of these groups include veterans, Aboriginal people and Torres Strait Islanders.	
			39(1)(b)	An incorporated hospital may establish, maintain and operate health and community care services for all or specific sections of the community, including residential services for the aged and other vulnerable groups, or for persons who must interact with the public health system.	
		Children's Protection Act 1993	SA	6(2)(aa)	For the purposes of the act, a child is at risk if there is a significant risk that the child will suffer serious harm to his or her physical wellbeing which he or she should have but does not have proper protection.
				26B	If a Court is satisfied that there is a reasonable risk to suspect that a child may be at risk of female genital mutilation, the Court may make an order for the protection of that child.
				51	If a child is in the Minister's care pursuant to a the Act or under a guardianship order, the Minister can make arrangements (including admission to hospital) for the medical or dental examination of the child or for such other professional examination or treatment as may be necessary or desirable.
		Equal Opportunity Act 1984	SA	85T(1)(d) and (5)	It is unlawful to discriminate against someone on the grounds of association with a child in that he is she is treated unfavourably because the person is breastfeeding or bottle feeding an infant or proposes to do so.
	Family & Community Services Act 1972	SA	22(1)	The Minister must endeavour, as far as is practicable, to make the services provided by the Department available to members of the public within the localities in which they live, and at, or near to places where people congregate, for the purposes medical	

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				treatment.
	South Australian Public Health Act	SA	50	The Minister must prepare and maintain a plan called the State Public Health Plan. The State Public Health Plan is to set out principles and policies for achieving the objects of the Act and implementing the principles established under the Act.
	South Australian Public Health Act	SA	4	<p>The objects of the Act include (amongst others):</p> <p>(a) to promote health and well being of individuals and communities and to prevent disease, medical conditions, injury and disability through a public health approach</p> <p>(b) to protect individuals and communities from risks to public health and to ensure, so far as is reasonably practicable, a healthy environment for all South Australians and particularly those who live within disadvantaged communities to provide for the development of effective measures for the early detection, management and amelioration of risks to public health; and</p> <p>(c) to promote the provision of information to individuals and communities about risks to public health; and</p> <p>(d) to provide for or support policies, strategies, programs and campaigns designed to improve the public health of communities and special or vulnerable groups (especially Aboriginal people and Torres Strait Islanders) within communities.</p>
	South Australian Public Health Act	SA	26, 31	<p>The South Australian Public Health Council is established and its functions include (amongst others) to assist the Chief Public Health Officer in relation to:</p> <p>(a) The protection and promotion of public health;</p>

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				(b) The development of health plans under the Act; (c) Programs to promote public health research.

6. Western Australia

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>ARTICLE 24:</p> <p>States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.</p> <p>States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:</p> <p>(a) To diminish infant and child mortality;</p> <p>(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;</p> <p>(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;</p> <p>(d) To ensure appropriate pre-natal and post-natal health care for mothers;</p>	<p>Criminal Code Act Compilation Act 1913</p>	<p>WA</p>	306(1)	<p>female genital mutilation means:</p> <p>(a) excision or mutilation of the clitoris, labia minora, labia majora or any other part of the female genital organs;</p> <p>(b) infibulations or any procedure that involves sealing the labia minora or labia majora; or</p> <p>(c) any procedure to narrow/ close the vaginal opening,</p> <p>but does not include:</p> <p>(d) reassignment procedure; or</p> <p>(e) medical procedure carried out for proper medical purposes.</p>
			306(2)	A person who person who performs female genital mutilation on another person is guilty of a crime and is liable to imprisonment for 20 years.
			306(3)	It is not a defence that the other person or a parent/ guardian of the person consented to the mutilation.
			306(4)	A person who takes a child from Western Australia or arranges for a child to be taken from Western Australia with the intention of having the child subjected to female genital mutilation is guilty of a crime and liable to imprisonment for 10 years.
		<p>Hospitals and Health</p>	<p>WA</p>	5A

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<p>(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;</p> <p>(f) To develop preventive health care, guidance for parents and family planning education and services.</p> <p>States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.</p> <p>States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.</p>	Services Act 1927			<p>requirements:</p> <p>(a) hospital accommodation;</p> <p>(b) hospital service; and</p> <p>(c) health services.</p>
			34(1)	Medicare principles and Commitments are established as guidelines for the delivery of public hospital services to eligible persons in the State.
			34(2)	Sets out Medicare Principles and Commitments.
			34(3)	Any eligible person is entitled to receive, without charge, out-patient and accident and emergency services provided by a recognized hospital.
	Health Act 1911	WA	15	In an emergency, the Executive Director of Public Health may make regulations to cope with the emergency including for the protection from pollution of water used for domestic purposes and for securing the healthfulness of persons collected in any encampment or otherwise.
			34	Medical officer of health shall report to local government on the sanitary condition of the district at least annually.
			35	Executive Director, Public Health may make an order for performance of a duty by a local government where he considers the local government has made default in enforcing or carrying out provisions under the Act.
			71	Local government shall cause all sewers and drains under its control to be constructed and kept and cleansed so as not injurious

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				to public health.
			129	Any person who pollutes or causes the water supply to be polluted commits an offence.
			130	When the pollution of the water supply becomes or is likely to become injurious to public health the local government may generally prevent pollution of the water by enforcing the rights of a riparian proprietor.
			Part IX	Provisions to prevent the spread of infectious diseases which include the ability to apprehend persons ordered into quarantine or isolation.
			275	If a parent, within 4 months of the birth of a child, makes a statutory declaration that he conscientiously believes that vaccination would be prejudicial to the health of the child, the parent will not be liable to conviction for neglecting to vaccinate the child.
			Part XI	Provisions to prevent the spread of venereal diseases which include compulsory examination and treatment and penalties for conveying infection of venereal disease.
			306	Where a person under 16 becomes liable under this Part, any parent or guardian of the person who knows the person is liable and doesn't exercise his authority/ use best endeavours to compel the person is guilty of an offence.
			314(2)	Where the Executive Director, Public Health suspects or knows that a person under 16 is suffering from venereal disease he may communicate that suspicion or knowledge to the parents of the person.

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			324A	The CEO has the power to enter into agreement with local government for the establishment of maternal and infant health centres and provide nursing staff etc.
			330A	The Minister may acquire land for the purposes of establishing community health centres, child health centres, clinics for treatment of venereal diseases, immunisation clinics, community health services clinics and children's assessment centres.
			336A	Where a child of more than 20 weeks gestation is stillborn or any child under the age of one year dies from any cause whatsoever, the fact will be reported to the Executive Director, Public Health.
			337(1)	<p>Medical officer or nurse may examine medically and physically any child attending any school or child care centre and the child shall submit to (and parents will permit) such examination as the medical officer or nurse deems necessary.</p> <p>337 (2A) In subsection (1) —</p> <p><i>child care centre</i> means a place where —</p> <p>(a) an education and care service as defined in the <i>Education and Care Services National Law (Western Australia)</i> section 5(1) operates; or</p> <p>(b) a child care service as defined in the <i>Child Care Services Act 2007</i> section 4 is provided.</p>
337(2)	School dentist may examine the teeth of a child and the child shall submit to (and parents will permit) such examination.			

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			337(3)	Where a child is found to be in an unclean or verminous condition, the parents may be notified and required to keep the child clean or free from vermin.
			338	Any parent or guardian, who after being notified by a medical officer of a physical defect in a child which requires medical or surgical attention, fails or neglects to secure such attention, and the life or health of the child is endangered commits an offence.
			340AB	Constitutes the ' Perinatal and Infant Mortality Committee ' having the functions prescribed by the Act.
			340AK(4)	The Perinatal and Infant Mortality Committee in considering reports under section 336A shall determine whether the stillbirth or death might have been avoided and add such constructive comments as it deems advisable.
	Children and Community Services Act 2004	WA	3 (terms used)	' wellbeing ' of a child includes the care, development, health and safety of the child;
			6	Objects of the Act include to promote the wellbeing of children.
			21	Functions of the CEO include to take any action in respect of a child or children that the CEO considers reasonably necessary for the purpose of safeguarding or promoting the wellbeing of the child or children.
			28(1)	In this section: ' harm ', in relation to a child, means any detrimental effect of a significant nature on a child's wellbeing; ' neglect ' includes failure by a child's parents to provide, arrange, or allow the provision of:

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				(a) adequate care for the child; (b) or effective medical, therapeutic or remedial treatment for the child.
			28(2)	A child is 'in need of protection' if the child has suffered harm or is likely to suffer harm as a result of neglect or because the child's parents are unable to provide, or arrange the provision of, effective medical, therapeutic or other remedial treatment for the child.
			32	Sets out actions that CEO must take if he determines that action should be taken to safeguard or promote a child's wellbeing.
			33A	If CEO receives information before a child is born that raises concerns about that child's wellbeing after it is born, the CEO may make necessary inquiries to determine whether action should be taken to protect the child's wellbeing after it is born.
			35(3)	A judge/ magistrate may issue a warrant for provisional protection and care if satisfied that there are reasonable grounds for the authorised officer to believe the child is in need of protection.
			36	CEO must make a protection application in respect of a child taken into provisional protection and care as soon as practicable and in any event not more than 2 working days after the child is taken into provisional protection and care.
			37(2)	Child may be taken into provisional protection and care without a warrant if the officer suspects that there is an immediate and substantial risk to the child's wellbeing.
			38(4)	If CEO decides to make a protection or other application in relation to the child CEO must make a protection application in respect of a child taken into provisional protection and care without a warrant as soon as practicable and in any event not more than 2 working

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				days after the child is taken into provisional protection and care.
			39	Where a child is taken into provisional protection and care and the CEO decides/ is required to make a protection application in relation to the child then the CEO must prepare and implement a provisional care plan for the child.
			40(2)	If a child under 6 years of age is brought to hospital and the officer in charge believes the child is in need of protection then the officer may keep the child in hospital for the purposes of observation, assessment or treatment of otherwise to safeguard or promote the wellbeing of the child.
			40(7)	A child must not be kept in a hospital under subsection (2) for more than 2 working days.
			44	The application for a protection order can be made by the CEO (for supervision, time limited, until 18 or special guardianship protection orders).
			47(1)	A protection order (supervision) provides for the supervision of the wellbeing of a child by the CEO for the period specified in the order.
			48(2)	The period specified in a protection order (supervision) must not exceed 2 years and must end before the child reaches 18.
			88C(1)	The CEO may make arrangement for the placement of a provisionally protected child or a protected child in a secure care facility (secure care arrangement).
			88C(2)	The CEO must not make a secure care arrangement unless satisfied that there is an immediate and substantial risk of the child causing significant harm to the child or another person and there is no other suitable way to manage that risk and to ensure that the child

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				receives the care the child needs.
			88D(1)	The period for which a provisionally protected child is kept in a secure care facility must not exceed the period set out in an interim order or otherwise, 21 days.
			89(2)	As soon as practicable after a child first comes into the CEO's care, the CEO must prepare and implement a care plan for the child.
			90	The CEO must review the operation and effectiveness of every care plan at least every 12 months.
			92	Establishes a case review panel to review care planning decisions of the CEO.
			94	A person aggrieved by a decision of the CEO to confirm, vary or reverse a care planning decision (after consideration of a report from the case review panel) may apply to the State Administrative Tribunal for review.
			98	The CEO must ensure that a child who leaves the CEO's care is provided with social services that the CEO considered appropriate. Note: ' social services ' does not include medical services.
			101	A person who has care and control of a child and engages in conduct that may result in the child suffering harm as a result of neglect is guilty of a crime and liable to 10 years imprisonment.
			102	A person who has care and control of a child and leaves them in a motor vehicle such that the child's health becomes or is likely to become permanently or temporarily impaired is guilty of a crime and is liable to 5 years imprisonment.

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	Mental Health Act 1996 Note: A draft Mental Health Bill has been released by the WA Government for public comment following a review of its mental health legislation last year.		242A	The CEO must give the Commissioner written notice of any investigable death (as defined in the <i>Parliamentary Commissioner Act 1971</i> section 19A) within 14 days of the date on which the Coroner notifies the CEO of the death.
		WA	4(1)	' Mental illness ', defined - A person has a mental illness if the person suffers from a disturbance of thought, mood, volition, perception, orientation or memory that impairs judgment or behaviour to a significant extent.
			4(2)	Sets out factors which on their own do not mean the person has a mental illness - including that the person has an intellectual disability.
			5	Objects of the Act include to ensure that persons having a mental illness receive the best care and treatment with the least restriction of their freedom and the least interference with their rights and dignity.
			7	Sets out the functions of the Minister including to promote the development and coordination of services for care and treatment of persons who have mental illness.
			9(1)	The Chief Psychiatrist has responsibility for the medical care and welfare of all involuntary patients.
			26	Sets out criteria for involuntary patients.
			29	A medical practitioner may refer a person for examination by a psychiatrist if they suspect the person should be an involuntary patient.
			36	A person referred under section 29 is to be received into an authorised hospital and may be detained there for up to 24 hours for

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				a psychiatrist to examine them.
			43	A psychiatrist may make an order that a person be made an involuntary patient and that they should be detained in an authorised hospital or the subject of a community treatment order.
			48	An order under section 43 must be for no longer than 28 days.
			49	The treating psychiatrist is to order the examination of the involuntary patient before the end of 28 days and order either they should continue to be an involuntary patient or not. An order may specify a further period of up to 6 months.
			50	An involuntary patient must be examined by a psychiatrist before the end of the period specified in the order made under section 49 which may be up to 6 months.
			59	An involuntary patient may be granted leave if a psychiatrist is satisfied that the leave will enable the patient to obtain surgical or medical treatment or is likely to benefit the health of the patient in some other way.
			65	A psychiatrist is not to make an order detaining a person as an involuntary patient without first having considered whether the objects of the Act would be better achieved by making a community treatment order.
			67	General power for a psychiatrist to make a community treatment order.
			69	A community treatment order does not have effect unless 72 hours after it is made it is confirmed by another psychiatrist.
			75	The supervising psychiatrist of an involuntary patient in the community is to ensure that not more than one month passes

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				without the patient being examined.
			Part 5	Deals with treatment of patients including informed consent, prohibited treatment, psychosurgery, ECT, emergency psychiatric treatment, seclusion, mechanical body restraint.
			Part 6	Establishes the Mental Health Review Board.
			137	In a review by the Board, it is to have regard to the psychiatric condition of the person and consider the medical and psychiatric history and the social circumstances of the person.
			138	As soon as practicable and within at least 8 weeks of the making of an order in relation to an involuntary patient, the Board is to carry out a review of whether or not the order should continue to have effect.
			139	As soon as practicable and within at least 8 weeks of the making of an order in relation to an involuntary patient, the Board is to carry out a review of whether or not the order should continue to have effect.
			148A	A person in respect of whom the Board makes a decision or order may without payment of any fee, apply to the State Administrative Tribunal for a review of the decision or order.
			149	A person in respect of whom the State Administrative Tribunal makes a decision who is dissatisfied with the decision may without leave, appeal under section 105 of the State Administrative Tribunal Act against the decision or order.
			162	A person having any responsibility towards a person as a patient who ill-treats or wilfully neglects the patient commits an offence.

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				Penalty: \$4000 or imprisonment for 1 year.
			Part 9	Establishes the Council of Official Visitors to ensure affected persons are informed of their rights, inspect facilities, be accessible to hear complaints, enquire into and resolve complaints and to assist with the making and presentation of an application or appeal under this Act in respect of an affected person or, to make any such application.

7. Northern Territory

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>ARTICLE 24: 1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.</p>	Criminal Code Act	NT	186B	A person who performs female genital mutilation on another person is guilty of a crime.
	Criminal Code Act	NT	186C(1)	A person who takes a child from the Territory, or arranges for a child to be taken from the Territory, with the intention of having female genital mutilation performed on the child is guilty of a crime.
	Care & Protection of Children Act	NT	4 and 14	The object of the Act is to promote the wellbeing of children (a child's physical, psychological and emotional wellbeing) to maximise the opportunities to realise their full potential.
	Care & Protection of Children Act	NT	42	The CEO of the Department of may take any action consistent with the Act to promote the wellbeing of children generally and provide proper facilities for the Act.
	Care & Protection of Children Act	NT	44	The CEO may enter into an arrangement for the provision of child-related services (including any social services that relate to services for the care or support of a child or the child's family or medical or other health related services).

8. Tasmania

CRC Article Number & Description	Relevant Australian Legislation	Cth/State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>ARTICLE 24:</p> <p>1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.</p> <p>2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:</p> <p>(a) To diminish infant and child mortality;</p> <p>(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;</p> <p>(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;</p> <p>(d) To ensure appropriate pre-natal and post-natal health care for mothers;</p> <p>(e) To ensure that all segments of society, in</p>	<p>Anti-Discrimination Act 1998</p>	TAS	14, 15 and 16(h)	It is prohibited to discriminate against someone directly or indirectly on the basis of breastfeeding or to discriminate against someone directly or indirectly for being associated with a person who is breastfeeding.
	<p>Children, Young Persons and Their Families Act 1997</p>	TAS	13(1A)	If, while pregnant a women knows, or suspects that once a child is born is it likely to suffer abuse or negligent she has a responsibility to take steps to prevent the occurrence of the abuse of neglect.
	<p>Criminal Code Act 1924</p>	TAS	178A	A person who performs female genital mutilation on another person is guilty of a crime.
	<p>Criminal Code Act 1924</p>	TAS	178B	A person who takes a child from the State, or arranges for a child to be taken from the State, with the intention of having female genital mutilation performed on the child is guilty of a crime.
	<p>Tasmanian Early Years Foundation Act 2005</p>	TAS	4, 5 and 6	<p>The Act establishes a Foundation is to support and promote the wellbeing, development and learning of Tasmanian children up to the age of 6 years.</p> <p>The functions of the Foundation includes:</p> <p>(a) to provide grants for evidence-based early childhood projects and initiatives;</p> <p>(b) to promote awareness of the importance of early years of childhood; and</p> <p>(c) to promote research in relation to the wellbeing, development and learning of Tasmanian children up to the age of 6 years.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;</p> <p>(f) To develop preventive health care, guidance for parents and family planning education and services.</p>	<p>Tasmanian Health Organisations Act 2011</p>	<p>TAS</p>	<p>3</p>	<p>The Act establishes Tasmanian Health Organisations for the provision and coordination of health services and health support services in operational areas and providing for State-wide health system management through enabling effective planning and coordination of the provision of health services and health support services across the State as a whole.</p>
<p>3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.</p> <p>4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.</p>	<p>Tasmanian Health Organisations Act 2011</p>	<p>TAS</p>	<p>11</p>	<p>The functions of the Tasmanian Health Organisations include:</p> <p>(a) generally to improve, promote, protect and maintain the health of persons to whom the organisation is required under its service agreement to provide health services;</p> <p>(b) to ensure the effective provision of health services, and health support services;</p> <p>(c) to provide training and education relevant to the provision of health services and health support services; and</p> <p>(d) to undertake research and development relevant to the provision of health services and health support services.</p>
	<p>Public Health Act 1997</p>	<p>TAS</p>	<p>58</p>	<p>A person in charge of a school or child-care facility must require the parent or guardian of a child about to attend that school or facility for the first time to produce, in respect of each notifiable disease specified by the Director an immunisation certificate.</p>
	<p>Public Health Act 1997</p>		<p>128</p>	<p>An agency or body responsible for managing water must ensure it does not pose a threat to public health or if it does, notify the Department of the threat.</p>

9. Australian Capital Territory

CRC Article Number & Description	Relevant Australian Legislation	Cth/State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>ARTICLE 24:</p> <p>1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.</p> <p>2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:</p> <p>(a) To diminish infant and child mortality;</p> <p>(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;</p> <p>(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;</p> <p>(d) To ensure appropriate pre-natal and post-natal health care for mothers;</p> <p>(e) To ensure that all segments of society, in particular parents and children, are informed, have</p>	<p>Children and Young Peoples Act 2008</p>	<p>ACT</p>	<p>18(1)</p>	<p>The director-general must ensure that young detainees have a standard of health care equivalent to that available to other people in the ACT; and arrangements are made to ensure the provision of appropriate health services for young detainees.</p>
	<p>Crimes Act 1900</p>	<p>ACT</p>	<p>74</p>	<p>A person shall not intentionally perform female genital mutilation on another person.</p>
	<p>Crimes Act 1900</p>	<p>ACT</p>	<p>75</p>	<p>A person shall not take a child from the ACT, or arrange for a child to be taken from the ACT, with the intention of having female genital mutilation performed on the child.</p>
	<p>Discrimination Act 1991</p>	<p>ACT</p>	<p>8</p>	<p>It is unlawful to treat or propose to treat the other person unfavourably because the other person is breastfeeding.</p>
	<p>Health Care Act 1993</p>	<p>ACT</p>	<p>10</p>	<p>In providing health services the Territory must have regard to the following objectives:</p> <p>(a) to improve the efficiency, effectiveness and quality of health services;</p> <p>(b) to guarantee equitable access to and participation in health services and to ensure that language and cultural differences are not barriers to such access or participation;</p> <p>(c) to maintain a strong and viable public hospital system and a full range of community health services;</p> <p>(d) to support worker and community participation in the development of policies for the delivery of health services;</p> <p>(e) to ensure that the community is aware of the range of health</p>

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<p>access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;</p> <p>(f) To develop preventive health care, guidance for parents and family planning education and services.</p> <p>3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.</p> <p>4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.</p>	<p>Health Care Act 1993</p>	<p>ACT</p>	<p>11(c)</p>	<p>services that is available and that patients have information that is sufficient to enable them to make informed choices;</p> <p>(f) to foster disease prevention and primary health care;</p> <p>(g) to cooperate with community groups in the provision of health services.</p> <p>To the maximum practicable extent, the Territory will ensure the provision of public hospital services equitably to all eligible persons, regardless of their geographical location.</p>
	<p>Anti-discrimination Act 1992</p>	<p>ACT</p>	<p>19(1)(h)</p>	<p>A person shall not discriminate against another person on the ground of breastfeeding.</p>