# Shaping a Better Child Protection System:

### Prohibition on publication of out-of-home care (OOHC) status

Section 105 of the *Children and Young Persons (Care and Protection) Act 1998* prohibits the publication or broadcasting of the name of a child or young person involved in proceedings in the Children’s Court or subject to a report to Family and Community Services (FACS) in any form accessible by people in NSW at any time before, during or after the proceedings.

This prohibition applies to the publication or broadcast of the child or young person’s name or any identifying information until the child or young person turns 25 years of age or dies.

Amendments to section 105 have been made to strengthen the prohibition on publishing the names and identifying information of children and young people in OOHC.

## What has changed

The amendments put beyond doubt that the status of a child or young person being in OOHC or under the parental responsibility of the Minister is not to be published, unless an exception exists.

What this means is it will be illegal to publish or broadcast the name of a child or young person **and** say they are or have been in OOHC, foster care, a ward of the state, in the care of an authorised carer or under the parental responsibility of the Minister, in whichever way this is expressed.

The safety, privacy and welfare of children and young people in OOHC is important. The change was made to the legislation to make it clear that it is prohibited to publish information identifying that a child or young person is or was in OOHC or under the parental responsibility of the Minister. The change will allow a child or young person’s OOHC status to remain private and confidential given the stigma or feelings of shame that may arise for a child or young person if it becomes widely known that they are or were in OOHC.

A child has a right to privacy and to participate in decisions that have a significant impact on their lives – this includes decisions to publish information disclosing that the child is in or was in OOHC. It is also important that a child or young person is able to control who knows that they are in or were in OOHC.

## Exceptions

Section 105 contains exceptions to the prohibition on publishing names and identifying information. These exceptions have been retained and include:

* where a young person consents
* in the case of a child, where the Children’s Court consents
* in the case of a child or young person under the parental responsibility of the Minster, where the Secretary of FACS consents if the Secretary considers the publication or broadcast is to the benefit of the child or young person.

The amendments have also introduced two new exceptions that allow the Coroner’s Court to:

* publish the name of a child or young person in its findings in an inquest concerning the suspected death of the child or young person
* consent to the publication of the name of a child or young person whose suspected death is the subject of an inquest by the Coroner and the publication would be in the public interest.