

**CHILDREN AND COMMUNITY SERVICES LEGISLATION AMENDMENT AND REPEAL BILL  
2014**

*Receipt and First Reading*

Bill received from the Assembly; and, on motion by **Hon Helen Morton (Minister for Child Protection)**, read a first time.

*Second Reading*

**HON HELEN MORTON (East Metropolitan — Minister for Child Protection)** [5.22 pm]: I move —

That the bill be now read a second time.

I am pleased to introduce to the house the Children and Community Services Legislation Amendment and Repeal Bill 2014. The amendments in this bill result largely from the statutory review of the Children and Community Services Act 2004 carried out in 2012—the first review of the act since its commencement in 2006. The review was conducted by the former Department for Child Protection, now the Department for Child Protection and Family Support, on behalf of the then minister, my predecessor, Hon Robyn McSweeney, MLC. A reference committee of senior representatives from the Western Australian Council of Social Service and key government agencies assisted with the review, and the “Report of the Legislative Review of the Children and Community Services Act 2004” was tabled in this place on 29 November 2012.

The objects of this important act are: to promote the wellbeing of children, other individuals, families and communities; to acknowledge the primary role of parents, families and communities in safeguarding and promoting children’s wellbeing; to encourage and support parents in carrying out that role; to provide for the protection and care of children in certain circumstances; and to protect children from exploitation in employment. With these objects in mind, the review considered issues raised in submissions from government and non-government agencies and interested individuals, and matters that the department itself identified as relevant to the review. Overall, the act was found to be operating effectively towards meeting its legislative objectives. However, a number of areas were identified where it was considered that existing provisions could be strengthened or new provisions introduced, to enhance the operation and effectiveness of the act. This bill adopts all but two of the review’s legislative recommendations. The two outstanding matters, which deal with the legal representation of children in protection proceedings, are being addressed by an interagency working party and will be progressed in future amendments to the act.

Significant amendments proposed in the bill include the repeal of the Parental Support and Responsibility Act 2008 and its associated subsidiary legislation, and the transfer of responsible parenting agreements into the act; greater information-sharing powers to support government and non-government service delivery, consistent with the objects of the act; and extending the requirement for the mandatory reporting of child sexual abuse by certain professionals, to boarding supervisors working in government and non-government boarding facilities. This includes country high school hostels, as recommended by the Honourable Peter Blaxell in his 2012 report “St Andrew’s Hostel Katanning: How the system and society failed our children”.

Members may remember the considerable parliamentary and community debate over a three-year period that accompanied the passage through Parliament of the Parental Support and Responsibility Bill 2005 before its enactment in March 2009. The legislation has largely proved itself ineffective in achieving its objectives. Onerous procedural and information-sharing requirements have operated as a barrier in practice, resulting in fewer agreements than would otherwise have been anticipated and no use of responsible parenting orders. A more effective legislative framework for responding to parents who need to exercise more appropriate control over their children is required. Consistent with recommendation 28 of the review, part 2 of the bill provides such an approach. The bill adopts the most effective aspect of the Parental Support and Responsibility Act 2008—namely, responsible parenting agreements.

Many children and young people who engage in antisocial or criminal behaviour, or who persistently fail to attend school, live with someone other than a parent. This bill enables agreements to also be made with an adult who provides day-to-day care for a child or young person. Another policy adjustment allows for multilateral agreements involving more than one of the key departments—the Department for Child Protection and Family Support, and the Departments of Education and Corrective Services—in situations in which a joint agency response is required. Further, the current restriction under the Parental Support and Responsibility Act 2008 that agreements may be made in respect of young people aged 14 years and younger only will no longer apply. The new provisions will enable agreements to be made in respect of young people aged 15 years or older.

Part 3 of the bill contains the remainder of the amendments, including a significant broadening of the information-sharing powers in the act. As noted in the review, the ability to share relevant information is widely recognised as a foundation to coordinated, collaborative service responses that promote the safety and wellbeing of vulnerable children, individuals and families. The bill enables the Department for Child Protection and

Family Support to also exchange information relevant to the wellbeing of an adult who qualifies for leaving care services, and to the safety of a person subjected or exposed to an act of family and domestic violence.

Also proposed are strong provisions under clause 26 to ensure Department for Child Protection and Family Support access to certain offender reports to inform assessments of risk to children, including risks posed by adult or juvenile sex offenders, or those convicted of family and domestic violence-related offences.

The bill also extends the existing legislative framework that enables the exchange of relevant information between certain services without having to use the Department for Child Protection and Family Support as an intermediary. This was introduced in 2012 when section 24A of the act came into effect, allowing information relevant to the wellbeing of a child, or a class or group of children, to be shared between certain public authorities prescribed in regulations, known as “prescribed authorities”. The proposed amendments at clause 27 will enable information exchange between a prescribed authority and an authorised entity. These entities include the independent and Catholic school sectors, and non-government providers providing a wide range of social services under a contract or agreement with a prescribed authority, including services to victims and children, and to perpetrators of family and domestic violence. Information shared must be relevant to the wellbeing of a child, or a class or group of children, or to the safety of a person subjected or exposed to one or more acts of family and domestic violence. These amendments are aimed at promoting the wellbeing of children, other individuals and families by supporting interagency coordination in the provision of social services to these groups.

Part 3 also amends the provisions for the mandatory reporting of child sexual abuse. The review was required to consider the operation and effectiveness of the mandatory reporting provisions in part 4, division 9A of the act. A range of matters were considered and it was concluded that the existing provisions should be maintained, with the exception that Country High School Hostels Authority staff should be mandated to report child sexual abuse as announced by the Premier following the release of the St Andrew’s Hostel inquiry report. For consistency, the bill also extends these requirements to “boarding supervisors” of other boarding facilities servicing the government and non-government schools sector. It is intended that the requirements apply only to boarding house supervisors and managers of various positions in these facilities whose duties include the supervision of children, rather than to ancillary staff such as kitchen and gardening staff.

Other significant amendments in part 3 of the bill include recognising the needs of children with disability by inserting a new principle to be observed in the administration of the act; enabling the Department for Child Protection and Family Support to withhold a copy of a child’s care plan from certain people, if providing a copy poses a risk to the safety of the child or another person; and placing a total prohibition on the tattooing or branding of children under the age of 16 years. There is currently no limit on the age at which a child may be tattooed or branded with written parental consent.

Amendments to the definition of “harm” to a child are proposed to expressly recognise the effects of cumulative harm on a child’s wellbeing, as recommended in the Ombudsman Western Australia’s 2014 report entitled “Investigation into ways that State government departments and authorities can prevent or reduce suicide by young people”. Other amendments will place a greater focus on children’s education, in consideration of whether a child has suffered harm of a significant nature sufficient for the child to be in need of protection. It is proposed that harm caused by psychological abuse be removed as a separate ground for a child in need of protection. Instead, an inclusive definition of “emotional abuse” is provided which includes psychological abuse, and being exposed to an act of family and domestic violence. These amendments are intended to acknowledge the emotional harm caused by those who perpetrate family and domestic violence. They are neither intended nor expected to result in an increase in the number of children taken into the care of the CEO of the Department for Child Protection and Family Support as a consequence of family and domestic violence. The department endeavours to work with families experiencing family and domestic violence in a way that avoids separating victims from their children wherever possible.

Pursuant to Legislative Council standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government or the state is a party. Nor does this bill, by reason of its subject matter, introduce a uniform scheme or uniform laws to the commonwealth.

The amendments in this bill will strengthen the protection of children in Western Australia. I commend the bill to the house and table the explanatory memorandum.

[See paper 2663.]

Debate adjourned, pursuant to standing orders.