

# **Children and Community Services Legislation Amendment and Repeal Bill 2014**

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Western Australia

LEGISLATIVE COUNCIL

**Children and Community Services Legislation  
Amendment and Repeal Bill 2014**

**A Bill for**

**An Act to —**

- **amend the *Children and Community Services Act 2004* to make provision for responsible parenting agreements and for other purposes; and**
- **repeal the *Parental Support and Responsibility Act 2008* and regulations and guidelines made under that Act; and**
- **make consequential amendments to other Acts.**

The Parliament of Western Australia enacts as follows:

1

## **Part 1 — Preliminary**

2

### **1. Short title**

3

This is the *Children and Community Services Legislation  
Amendment and Repeal Act 2014*.

4

5

### **2. Commencement**

6

This Act comes into operation as follows —

7

(a) Part 1 — on the day on which this Act receives the  
Royal Assent;

8

9

(b) the rest of the Act — on a day fixed by proclamation,  
and different days may be fixed for different provisions.

10

**Part 2 — Amendments and repeals relating to  
responsible parenting agreements**

**Division 1 — *Children and Community Services  
Act 2004* amended**

**3. Act amended**

This Division amends the *Children and Community Services  
Act 2004*.

**4. Section 3 amended**

In section 3 insert in alphabetical order:

*responsible parenting agreement* has the meaning  
given in section 131C;

**5. Section 6 amended**

After section 6(c) insert:

(da) to support and reinforce the role and  
responsibility of parents in exercising  
appropriate control over the behaviour of their  
children; and

**6. Section 32 amended**

After section 32(1)(b) insert:

(ca) enter into a responsible parenting agreement in  
respect of the child;

- 1   **7.       Part 5A inserted**  
2       After section 130 insert:  
3

4                   **Part 5A — Responsible parenting agreements**

5       **131A.   Terms used**

6               In this Part —  
7       *authorised CEO* means —

- 8               (a)   the CEO; or  
9               (b)   the CEO (Corrective Services); or  
10              (c)   the CEO (Education);

11       *CEO (Corrective Services)* means the chief executive  
12       officer of the department of the Public Service  
13       principally assisting in the administration of the *Young*  
14       *Offenders Act 1994*;

15       *CEO (Education)* means the chief executive officer of  
16       the department of the Public Service referred to in the  
17       *School Education Act 1999* section 228;

18       *corrective services officer* means a person employed or  
19       engaged in the department of the Public Service  
20       principally assisting in the administration of the *Young*  
21       *Offenders Act 1994*, whether as a public service officer  
22       under the *Public Sector Management Act 1994*, under a  
23       contract for services, or otherwise;

24       *education officer* means a person employed or engaged  
25       in the department of the Public Service referred to in  
26       the *School Education Act 1999* section 228, whether in  
27       a category described in section 235(1) of that Act,  
28       under a contract for services, or otherwise;

29       *official* means an officer as defined in section 3, a  
30       corrective services officer, an education officer or



- 1 another person employed or engaged in a public  
2 authority;
- 3 ***parenting*** includes the provision of day-to-day care for  
4 a child by a responsible person for the child;
- 5 ***responsible person***, for a child, means —
- 6 (a) a parent of the child; or  
7 (b) an adult, other than a parent of the child, with  
8 whom the child usually lives and who provides  
9 day-to-day care for the child.
- 10 **131B. Principle to be observed in administration of**  
11 **this Part**
- 12 (1) In the administration of this Part a principle to be  
13 observed is that public authorities should work together  
14 cooperatively and effectively to give responsible  
15 persons for a child the best chance of —
- 16 (a) safeguarding and promoting the child's  
17 wellbeing; and  
18 (b) exercising appropriate control over the  
19 behaviour of the child; and  
20 (c) complying with any responsible parenting  
21 agreement they may enter into.
- 22 (2) The principle set out in subsection (1) is in addition to,  
23 and does not derogate from, the principles set out in  
24 Part 2 Divisions 2 and 3.
- 25 **131C. Responsible parenting agreements**
- 26 A ***responsible parenting agreement*** is an agreement in  
27 respect of a child or children between —
- 28 (a) any or all of the authorised CEOs; and  
29 (b) one or more responsible persons for the child or  
30 children.

**131D. Entering into responsible parenting agreement**

An authorised CEO may enter into a responsible parenting agreement if the authorised CEO is satisfied, in relation to each child in respect of whom the agreement is entered into, that —

- (a) the child engages in any of the following behaviour (the *relevant behaviour*) —
  - (i) criminal or antisocial behaviour;
  - (ii) persistent failure to attend school;
- and
- (b) the relevant behaviour is having, or is likely to have, a detrimental effect on the wellbeing of the child; and
- (c) the parenting of the child may be contributing to the child engaging in the relevant behaviour; and
- (d) the responsible parenting agreement may assist the responsible person or persons to exercise appropriate control over the behaviour of the child.

**131E. Content of responsible parenting agreement**

- (1) A responsible parenting agreement must be about one or more of the following matters —
  - (a) the responsible person engaging with a counselling service, a support service or any other relevant social service;
  - (b) the responsible person taking all reasonable steps to ensure that the child attends school;
  - (c) the responsible person taking all reasonable steps to ensure that the child avoids contact with a particular person or particular persons;

- 1 (d) the responsible person taking all reasonable  
2 steps to ensure that the child avoids a particular  
3 place or particular places;  
4 (e) other matters relating to the effective parenting  
5 of the child;  
6 (f) the assistance to be given to the responsible  
7 person or the child by a public authority to  
8 assist the responsible person to comply with the  
9 agreement.
- 10 (2) If more than one responsible person enters into the  
11 responsible parenting agreement, a reference in  
12 subsection (1) to the responsible person is a reference  
13 to any or all of those responsible persons.
- 14 (3) If the responsible parenting agreement is entered into  
15 in respect of more than one child, a reference in  
16 subsection (1) to the child is a reference to any or all of  
17 those children.

18 **131F. Formal requirements**

19 A responsible parenting agreement must —

- 20 (a) be in writing; and  
21 (b) specify the period covered by the agreement;  
22 and  
23 (c) be signed by each authorised CEO, and each  
24 responsible person, who enters into the  
25 agreement.

26 **131G. Effect of responsible parenting agreement**

- 27 (1) A responsible parenting agreement does not create  
28 obligations that are enforceable.
- 29 (2) An action in tort does not lie against the State, a  
30 Minister of the State, a public authority or an official

1 for any failure of a person to comply with a responsible  
2 parenting agreement.

3 **131H. Delegation by CEO (Corrective Services) and CEO**  
4 **(Education)**

- 5 (1) The CEO (Corrective Services) may delegate to a  
6 corrective services officer any power or duty of the  
7 CEO (Corrective Services) under another provision of  
8 this Part or section 237(3) or (4).
- 9 (2) The CEO (Education) may delegate to an education  
10 officer any power or duty of the CEO (Education)  
11 under another provision of this Part or section 237(3)  
12 or (4).
- 13 (3) A delegation under this section must be in writing  
14 signed by the CEO (Corrective Services) or the CEO  
15 (Education), as the case requires.
- 16 (4) A delegation under this section may expressly  
17 authorise the delegate to further delegate the power or  
18 duty.
- 19 (5) A person exercising or performing a power or duty that  
20 has been delegated to the person under, or as  
21 authorised under, this section, is to be taken to do so in  
22 accordance with the terms of the delegation unless the  
23 contrary is shown.
- 24 (6) Nothing in this section limits the ability of the CEO  
25 (Corrective Services) to perform a function through a  
26 corrective services officer or agent or the ability of the  
27 CEO (Education) to perform a function through an  
28 education officer or agent.  
29

**8. Section 237 amended**

(1) In section 237(2):

(a) in paragraph (c) delete “order.” and insert:

order; or

(b) after paragraph (c) insert:

(d) a person who is or was a responsible person  
under a responsible parenting agreement; or

(e) a person who is or was a child the subject of a  
responsible parenting agreement.

(2) In section 237(3) delete “by the CEO.” and insert:

by —

(a) in the case of an identified person referred to in  
subsection (2)(a), (b) or (c) — the CEO; or

(b) in the case of an identified person referred to in  
subsection (2)(d) or (e) — each authorised CEO  
(as defined in section 131A) who entered into  
the responsible parenting agreement.

(3) In section 237(4)(b) delete “by the CEO.” and insert:

by —

(i) in the case of an identified person  
referred to in subsection (2)(a), (b) or  
(c) — the CEO; or

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agreements

**Division 1** Children and Community Services Act 2004 amended  
**s. 9**

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- 1 (ii) in the case of an identified person  
2 referred to in subsection (2)(d) or (e) —  
3 each authorised CEO (as defined in  
4 section 131A) who entered into the  
5 responsible parenting agreement.  
6

7 **9. Schedule 1 Division 7 inserted**

8 At the end of Schedule 1 insert:  
9

10 **Division 7 — Provisions for *Children and Community***  
11 ***Services Legislation Amendment and Repeal Act 2014***

12 **29. Terms used**

13 In this Division —

14 ***authorised officer (Child Protection)*** means a person  
15 designated under the PSR Act section 35 as an authorised  
16 officer by the CEO (Child Protection) (as defined in the PSR  
17 Act section 3);

18 ***authorised officer (Education)*** means a person designated  
19 under the PSR Act section 35 as an authorised officer by the  
20 CEO (Education) (as defined in the PSR Act section 3);

21 ***CEO (Education)***, except in the definition of ***authorised***  
22 ***officer (Education)***, has the meaning given in section 131A;

23 ***commencement day*** means the day on which the *Children*  
24 *and Community Services Legislation Amendment and*  
25 *Repeal Act 2014* section 7 comes into operation;

26 ***departmental parenting agreement*** means an agreement —

- 27 (a) that is about one or more of the matters referred to  
28 in section 131E; and  
29 (b) that is not a PSR Act parenting agreement; and  
30 (c) that was entered into by an officer before  
31 commencement day; and

- 1 (d) that covers a period that had not expired  
2 immediately before commencement day; and  
3 (e) to which either or both of the following descriptions  
4 apply —  
5 (i) the agreement relates to a child who has  
6 reached 15 years of age but has not reached  
7 18 years of age;  
8 (ii) the agreement was entered into by an adult,  
9 other than a parent of the child, with whom  
10 the child to whom the agreement relates  
11 usually lives and who provides day-to-day  
12 care for the child;

13 ***PSR Act*** means the *Parental Support and Responsibility*  
14 *Act 2008* as in force immediately before commencement  
15 day;

16 ***PSR Act parenting agreement*** means a responsible  
17 parenting agreement that —

- 18 (a) was entered into under the *Parental Support and*  
19 *Responsibility Act 2008* before commencement day;  
20 and  
21 (b) covers a period that had not expired immediately  
22 before commencement day.

23 **30. PSR Act parenting agreements**

- 24 (1) On and after commencement day —  
25 (a) a PSR Act parenting agreement entered into by an  
26 authorised officer (Child Protection) is to be taken  
27 to be a responsible parenting agreement entered into  
28 by the CEO under section 131D; and  
29 (b) a reference in a PSR Act parenting agreement  
30 referred to in paragraph (a) to the authorised officer  
31 (Child Protection) who entered into the agreement  
32 is to be taken to be a reference to the CEO.  
33 (2) On and after commencement day —  
34 (a) a PSR Act parenting agreement entered into by an  
35 authorised officer (Education) is to be taken to be a

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**Part 2** Amendments and repeals relating to responsible parenting  
agreements

**Division 2** Repeals

**s. 10**

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- 1 responsible parenting agreement entered into by the  
2 CEO (Education) under section 131D; and  
3 (b) a reference in a PSR Act parenting agreement  
4 referred to in paragraph (a) to the authorised officer  
5 (Education) who entered into the agreement is to be  
6 taken to be a reference to the CEO (Education).

7 **31. Departmental parenting agreements**

8 On and after commencement day —

- 9 (a) a departmental parenting agreement is to be taken to  
10 be a responsible parenting agreement entered into  
11 by the CEO under section 131D; and  
12 (b) a reference in a departmental parenting agreement  
13 to the officer who entered into the agreement is to  
14 be taken to be a reference to the CEO.  
15

16 **Division 2 — Repeals**

17 **10. Parental Support and Responsibility Act 2008 repealed**

18 The *Parental Support and Responsibility Act 2008* is repealed.

19 **11. Parental Support and Responsibility Regulations 2009**  
20 **repealed**

21 The *Parental Support and Responsibility Regulations 2009* are  
22 repealed.

23 **12. Parental Support and Responsibility (Disclosure of**  
24 **Information) Guidelines 2009 repealed**

25 The *Parental Support and Responsibility (Disclosure of*  
26 *Information) Guidelines 2009* are repealed.



**Division 3 — Other Acts amended**

**Subdivision 1 — *Children's Court of Western Australia  
Act 1988* amended**

**13. Act amended**

This Subdivision amends the *Children's Court of Western  
Australia Act 1988*.

**14. Section 20 amended**

In section 20(1):

(a) in paragraph (d) delete “*Act 1911*; and” and insert:

*Act 1911*.

(b) delete paragraph (e).

**15. Section 24 deleted**

Delete section 24.

**16. Section 36 amended**

Delete section 36(1)(ab).

**17. Section 40 amended**

(1) In section 40(1) delete “person” (each occurrence) and insert:

child

**Children and Community Services Legislation Amendment and Repeal  
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**Part 2** Amendments and repeals relating to responsible parenting  
agreements

**Division 3** Other Acts amended

**s. 18**

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- 1       (2) In section 40(2):  
2               (a) in paragraph (a) delete “person,” and insert:  
3  
4                       child,  
5  
6               (b) in paragraph (b) delete “if the person is a child, by” and  
7                       insert:  
8  
9                       by  
10
- 11               **Subdivision 2 — *Young Offenders Act 1994* amended**
- 12   **18.       Act amended**  
13               This Subdivision amends the *Young Offenders Act 1994*.
- 14   **19.       Section 15A amended**  
15               Delete section 15A(3a), (3b) and (3c).
- 16   **20.       Section 46 amended**  
17               After section 46(2)(c) insert:  
18  
19                       (da) any responsible parenting agreement entered  
20                               into in respect of the offender under the  
21                               *Children and Community Services Act 2004*  
22                               section 131D; and  
23

**Part 3 — Other amendments to *Children and  
Community Services Act 2004***

**21. Act amended**

This Part amends the *Children and Community Services  
Act 2004*.

**22. Section 3 amended**

(1) In section 3 delete the definitions of:

*police officer*

*wellbeing*

(2) In section 3 insert in alphabetical order:

*act of family and domestic violence* has the meaning  
given in the *Restraining Orders Act 1997* section 6(1);

*exposed*, in relation to an act of family and domestic  
violence, includes the following —

(a) to see or hear the act of family and domestic  
violence;

(b) to witness physical injuries resulting from the  
act of family and domestic violence;

*wellbeing*, of a child, includes the following —

(a) the care of the child;

(b) the physical, emotional, psychological and  
educational development of the child;

(c) the physical, emotional and psychological  
health of the child;

(d) the safety of the child;

**s. 23**

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1     **23.     Section 8 amended**

2             In section 8(1):

3                 (a)   in paragraph (k) delete “spiritual, developmental and  
4                         educational” and insert:

5  
6                         spiritual and developmental

7  
8                 (b)   after paragraph (k) insert:

9  
10                         (la)   the child’s educational needs;

11

12     **24.     Section 9 amended**

13             After section 9(h) insert:

14

15                 (ia)   the principle that decisions about a child with  
16                         disability should be made giving special  
17                         consideration to any difficulties or  
18                         discrimination that may be encountered by the  
19                         child because of the child’s disability and  
20                         should support the child’s full and effective  
21                         participation in society;

22

23     **25.     Section 23 amended**

24             (1)   In section 23(1) delete the definition of *relevant information*.

25             (2)   In section 23(1) insert in alphabetical order:

26

27                         *non-government provider* has the meaning given in  
28                         section 28A;

- 1                    **relevant information** means —
- 2                    (a) information that, in the opinion of the CEO, is,
- 3                    or is likely to be, relevant to —
- 4                    (i) the wellbeing of a child or a class or
- 5                    group of children; or
- 6                    (ii) the wellbeing of a person who under
- 7                    section 96 qualifies for assistance for
- 8                    the purposes of Part 4 Division 6; or
- 9                    (iii) the safety of a person who has been
- 10                    subjected to, or exposed to, one or more
- 11                    acts of family and domestic violence; or
- 12                    (iv) the performance of a function under this
- 13                    Act;
- 14                    or
- 15                    (b) other information of a kind prescribed by the
- 16                    regulations for the purposes of this paragraph.
- 17
- 18                    (3) In section 23(1) in the definition of **interested person** delete
- 19                    “wellbeing of a child or a class or group of children;” and insert:
- 20
- 21                    wellbeing of —
- 22                    (a) a child or a class or group of children; or
- 23                    (b) a person who under section 96 qualifies for
- 24                    assistance for the purposes of Part 4 Division 6;
- 25
- 26                    (4) In section 23(2) and (3) delete “service provider” and insert:
- 27
- 28                    non-government provider
- 29

**s. 26**

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- 1       (5) In section 23(4) delete “written law relating to secrecy or  
2       confidentiality.” and insert:

3

4       enactment that prohibits or restricts its disclosure.

5

6       **26.       Section 24A replaced**

7       Delete section 24A and insert:

8

9       **24A.       Power of CEO to obtain copies of certain reports**  
10       **from CEO (Corrective Services)**

- 11       (1) In this section —

12       **CEO (Corrective Services)** means the chief executive  
13       officer of the department of the Public Service  
14       principally assisting in the administration of the  
15       *Sentence Administration Act 2003* Part 8;

16       **prescribed report** means any of the following —

- 17       (a) a written pre-sentence report, or a record of an  
18       oral pre-sentence report, made under the  
19       *Sentencing Act 1995* Part 3 Division 3;

- 20       (b) a report prepared for the purposes of the  
21       *Sentence Administration Act 2003* section 11A,  
22       17 or 51;

- 23       (c) a report prepared for the purposes of the *Young*  
24       *Offenders Act 1994* section 47, 48(1) or 159;

- 25       (d) a report —

- 26           (i) made under, or prepared for the  
27           purposes of, the *Bail Act 1982*, the  
28           *Dangerous Sexual Offenders Act 2006*,  
29           the *Sentence Administration Act 2003*,  
30           the *Sentencing Act 1995*, the *Prisons*

*Act 1981 or the Young Offenders*

*Act 1994; and*

- (ii) of a kind prescribed by the regulations  
for the purposes of this definition.

- (2) The CEO may request the CEO (Corrective Services)  
to give to the CEO a copy of a prescribed report if, in  
the opinion of the CEO, the report is, or is likely to be,  
relevant to the wellbeing of a child or a class or group  
of children.

- (3) The CEO (Corrective Services) must comply with a  
request under subsection (2).

- (4) Subsection (3) applies despite any enactment that  
prohibits or restricts disclosure of the report or  
information in it.

- (5) This section does not limit the operation of section 23.

**27. Part 3 Division 6 inserted**

After section 27 insert:

**Division 6 — Information sharing**

**28A. Terms used**

In this Division —

***authorised entity*** means —

- (a) the CEO of a non-government provider; or  
(b) the governing body of a registered school or  
school system under the *School Education*  
*Act 1999* Part 4;

**s. 27**

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- 1                    **CEO** means —
- 2                    (a) in relation to a prescribed authority —
- 3                            (i) if the prescribed authority is an entity
- 4                                   referred to in paragraph (a), (b) or (c) of
- 5                                   the definition of **public authority** in
- 6                                   section 3 — the principal officer
- 7                                   (however described) of that entity; or
- 8                            (ii) if the prescribed authority is a body
- 9                                   referred to in paragraph (d) of the
- 10                                  definition of **public authority** in
- 11                                  section 3 — the principal officer
- 12                                  (however described) of that body; or
- 13                            (iii) if the prescribed authority is the holder
- 14                                  of an office, post or position referred to
- 15                                  in paragraph (d) of the definition of
- 16                                  **public authority** in section 3 — that
- 17                                  holder;
- 18                            or
- 19                    (b) in relation to a non-government provider —
- 20                            (i) if the non-government provider is an
- 21                                   individual — that individual; or
- 22                            (ii) otherwise — the principal officer
- 23                                   (however described) of the
- 24                                   non-government provider;
- 25                    **non-government provider** means —
- 26                            (a) a service provider; or
- 27                            (b) a person who provides social services under a
- 28                                   contract or other agreement (excluding an
- 29                                   agreement for a monetary grant) entered into
- 30                                   between the person and a prescribed authority
- 31                                   or an officer or employee of a prescribed
- 32                                   authority;



***prescribed authority*** means a public authority (other than the Department) prescribed by the regulations for the purposes of this definition;

***relevant information*** means —

- (a) information that is, or is likely to be, relevant to —
  - (i) the wellbeing of a child or a class or group of children; or
  - (ii) the safety of a person who has been subjected to, or exposed to, one or more acts of family and domestic violence;
- or
- (b) other information of a kind prescribed by the regulations for the purposes of this paragraph.

**28B. Disclosure of information by prescribed authority or authorised entity**

- (1) The CEO of a prescribed authority (the ***disclosing CEO***) may disclose information to the CEO of another prescribed authority or an authorised entity if, in the opinion of the disclosing CEO, the information is relevant information.
- (2) The CEO of a prescribed authority (the ***requesting CEO***) may request the CEO of another prescribed authority or an authorised entity to disclose information to the requesting CEO if, in the opinion of the requesting CEO, the information is relevant information.
- (3) An authorised entity may disclose information to the CEO of a prescribed authority if, in the opinion of the authorised entity, the information is relevant information.

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- 1           (4) An authorised entity may request the CEO of a  
2           prescribed authority to disclose information to the  
3           authorised entity if, in the opinion of the authorised  
4           entity, the information is relevant information.
- 5           (5) Information may be disclosed under subsection (1) or  
6           (3), or in compliance with a request under  
7           subsection (2) or (4), despite any enactment that  
8           prohibits or restricts its disclosure.
- 9           (6) If information is disclosed, in good faith, under  
10          subsection (1) or (3) or in compliance with a request  
11          under subsection (2) or (4) —
- 12               (a) no civil or criminal liability is incurred in  
13               respect of the disclosure; and
- 14               (b) the disclosure is not to be regarded as a breach  
15               of any duty of confidentiality or secrecy  
16               imposed by law; and
- 17               (c) the disclosure is not to be regarded as a breach  
18               of professional ethics or standards or any  
19               principles of conduct applicable to a person's  
20               employment or as unprofessional conduct.
- 21          **28C. Delegation of powers under s. 28B**
- 22           (1) The CEO of a prescribed authority may, in writing,  
23           delegate a power conferred by section 28B(1) or (2) to  
24           an officer or employee of the prescribed authority.
- 25           (2) A delegation under subsection (1) must be in writing  
26           signed by the CEO of the prescribed authority.
- 27           (3) An authorised entity may, in writing, delegate a power  
28           conferred by section 28B(3) or (4) to —
- 29               (a) if the authorised entity is the CEO of a  
30               non-government provider — an officer or  
31               employee of the non-government provider; or

- 1 (b) if the authorised entity is the governing body of  
2 a registered school or school system —  
3 (i) an officer or employee of the governing  
4 body; or  
5 (ii) in the case of the governing body of a  
6 school system — the principal of a  
7 school that is a member of the school  
8 system.
- 9 (4) A delegation under subsection (3) must be in writing  
10 signed or executed by the authorised entity.
- 11 (5) A person to whom a power is delegated under this  
12 section cannot delegate the power.
- 13 (6) A person exercising a power that has been delegated to  
14 the person under this section is to be taken to do so in  
15 accordance with the terms of the delegation unless the  
16 contrary is shown.
- 17 (7) Nothing in this section limits the ability of the CEO of  
18 a prescribed authority or an authorised entity to  
19 exercise a power through an officer or agent.  
20

21 **28. Section 28 amended**

- 22 (1) In section 28(1) insert in alphabetical order:  
23  
24 *emotional abuse* includes —  
25 (a) psychological abuse; and  
26 (b) being exposed to an act of family and domestic  
27 violence;  
28

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- 1       (2) In section 28(1) in the definition of *harm* delete “wellbeing;”  
2       and insert:

3  
4                   wellbeing, whether caused by —

- 5                   (a) a single act, omission or circumstance; or  
6                   (b) a series or combination of acts, omissions or  
7                   circumstances;  
8

- 9       (3) Delete section 28(2)(c)(iv).

10   **29. Section 35 amended**

- 11       (1) After section 35(1)(b) insert:

- 12  
13                   (ca) in a case where the child is temporarily in a  
14                   safe place (for example, a hospital) — believes  
15                   that, when the child leaves that place, the child  
16                   is likely to be living in circumstances that pose  
17                   an unacceptable risk to the child’s wellbeing; or  
18

- 19       (2) In section 35(3)(b)(ii) delete “(1)(b) or (c).” and insert:

20  
21                   (1)(b), (ca) or (c).  
22

23   **30. Section 41 amended**

- 24       (1) In section 41(1) delete the definition of *responsible person*.

- 25       (2) In section 41(1) insert in alphabetical order:

26  
27                   *appropriate person*, in relation to a child, means —

- 28                   (a) a parent of the child; or

- 1 (b) an adult, other than a parent of the child, who is  
2 a relative of the child; or  
3 (c) an adult, other than a parent or other relative of  
4 the child, with whom the child usually lives;  
5
- 6 (3) In section 41(1) in the definition of *officer* delete “police  
7 officer;” and insert:  
8  
9 police officer.  
10
- 11 (4) In section 41(6), (7) and (8) delete “a responsible person” (each  
12 occurrence) and insert:  
13  
14 an appropriate person  
15
- 16 **31. Section 62 replaced**  
17 Delete section 62 and insert:  
18
- 19 **62. Duration of protection order (special guardianship)**  
20 A protection order (special guardianship) remains in  
21 force, unless it is revoked under Subdivision 7, until  
22 the earlier of —  
23 (a) the child reaching 18 years of age; or  
24 (b) an adoption order being made in relation to the  
25 child under the *Adoption Act 1994*.  
26

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**32. Section 65 amended**

After section 65(3) insert:

- (4A) An order made under subsection (1) ceases to be in force if the protection order (special guardianship) in relation to which it was made ceases to be in force.

**33. Section 87 amended**

(1) After section 87(2) insert:

- (3A) An officer may apprehend a child and take the child to such place as the CEO directs if —

- (a) a person has failed to comply with a requirement under section 84 to hand over the child; and
- (b) the officer suspects on reasonable grounds that there is an immediate or substantial risk to the wellbeing of the child.

(2) In section 87(3) after “subsection (2)” insert:

or (3A)

**34. Section 89 amended**

(1) After section 89(4) insert:

- (5A) The power in subsection (4) is subject to section 94(3).

- 1       (2) In section 89(6) delete “ensure that a copy of the care plan or  
2       modification, as the case requires, is given to —” and insert:  
3  
4       give a copy of the care plan or modification, as the case  
5       requires, to —  
6  
7       (3) After section 89(6) insert:  
8  
9       (7) Despite subsection (6), the CEO may decide not to give  
10      a copy of the care plan or modification to a person  
11      mentioned in that subsection if the CEO considers that  
12      to do so would pose an unacceptable risk to the safety  
13      of the child or another person.  
14      (8) If the CEO decides under subsection (7) not to give a  
15      person a copy of the care plan or modification, the  
16      CEO must give the person written notice of the  
17      decision and written reasons for it.  
18

19   **35. Part 4 Division 5 Subdivision 4 heading amended**

20       In the heading to Part 4 Division 5 Subdivision 4 delete “**care**  
21       **planning**” and insert:  
22

23       **certain**  
24

25   **36. Section 91 amended**

26       (1) In section 91 delete the definition of *case review panel*.

27       (2) In section 91 insert in alphabetical order:  
28

29               *care plan review panel* means the care plan review  
30               panel established under section 92;  
31

**Children and Community Services Legislation Amendment and Repeal  
Bill 2014**

**Part 3**

Other amendments to Children and Community Services  
Act 2004

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1       (3) In section 91 in the definition of *applicant* delete  
2       “section 93(1);” and insert:

3

4       section 93(1) or (2A);

5

6       **37. Section 92 amended**

7       (1) In section 92(1), (2) and (3) delete “case review panel” and  
8       insert:

9

10       care plan review panel

11

12       (2) In section 92(4) and (5) delete “case review panel.” and insert:

13

14       care plan review panel.

15

16       (3) In section 92(6), (7) and (8) delete “case review panel” and  
17       insert:

18

19       care plan review panel

20

21       Note: The heading to amended section 92 is to read:

22       **Care plan review panel**

23       **38. Section 93 amended**

24       (1) After section 93(1) insert:

25

26       (2A) An application for the review of a decision under  
27       section 89(7) may be made to the CEO by the person  
28       given notice of the decision under section 89(8).

29



1       (2) In section 93(2) delete “The application —” and insert:

2

3             An application under subsection (1) or (2A) —

4

5       (3) In section 93(3) delete “The application” and insert:

6

7             An application under subsection (1)

8

9       (4) After section 93(3) insert:

10

11           (4A) An application under subsection (2A) must be made  
12               within —

13               (a) 14 days after the day on which the applicant  
14                   received written notice of the decision under  
15                   section 89(8); or

16               (b) any longer period that the CEO in special  
17                   circumstances allows.

18

19       (5) In section 93(4):

20           (a) delete “the application,” and insert:

21

22               an application under subsection (1) or (2A),

23

24           (b) delete “case review panel.” and insert:

25

26               care plan review panel.

27

28       (6) In section 93(5) delete “case review panel” and insert:

29

30             care plan review panel

31

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- 1       (7) Delete section 93(6) and insert:  
2
- 3       (6) The CEO, after considering the report of the care plan  
4       review panel and other information available to the  
5       CEO, must —  
6           (a) confirm, vary or reverse the care planning  
7           decision or decision under section 89(7); or  
8           (b) substitute another decision for the care planning  
9           decision or decision under section 89(7); or  
10          (c) refer the matter back to the care plan review  
11          panel for further consideration and report.  
12
- 13   **39. Section 94 amended**
- 14       (1) In section 94 delete “A person” and insert:  
15
- 16           (1) A person  
17
- 18       (2) At the end of section 94 insert:  
19
- 20       (2) Subsection (3) applies if —  
21           (a) an application is made to the State  
22           Administrative Tribunal under subsection (1);  
23           and  
24           (b) the State Administrative Tribunal’s decision on  
25           the application (the ***Tribunal decision***) results  
26           in the modification of a care plan (the ***relevant***  
27           ***modification***).  
28       (3) The CEO must not, within the period of 12 months  
29       after the Tribunal decision, exercise the power in  
30       section 89(4) so as to affect the relevant modification  
31       unless the CEO is satisfied that there has been a

1                   significant change in facts or circumstances, or that  
2                   new facts or circumstances have arisen, since the  
3                   Tribunal decision was made.  
4

5   **40.       Section 95 amended**

6                   In section 95(1) and (2) delete “case review panel” (each  
7                   occurrence) and insert:

8  
9                   care plan review panel  
10

11   **41.       Section 101 amended**

12                   Delete section 101(1)(a)(iii) and (iv) and insert:

13  
14                                   (iii)   emotional abuse as defined in  
15                                   section 28(1); or  
16

17   **42.       Section 103 replaced**

18                   Delete section 103 and insert:  
19

20   **103.      Tattooing or branding**

21                   (1)   A person must not in any manner tattoo or brand any  
22                   part of the body of a child who has not reached  
23                   16 years of age.

24                   Penalty: a fine of \$12 000 and imprisonment for one  
25                   year.

26                   (2)   A person must not in any manner tattoo or brand any  
27                   part of the body of a child who has reached 16 years of  
28                   age unless the person has first obtained the written  
29                   consent of a parent of the child to tattoo or brand the

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1 child in that manner and on that part of the child's  
2 body.  
3 Penalty: a fine of \$12 000 and imprisonment for one  
4 year.

5 (3) This section does not apply to tattooing or branding  
6 carried out for a medical or therapeutic purpose.  
7

8 **43. Section 124A amended**

9 (1) In section 124A delete the definition of *commencement day*.

10 (2) In section 124A insert in alphabetical order:  
11

12 *boarding facility* means a place used to provide  
13 residential accommodation for children while they  
14 attend a school as defined in the *School Education*  
15 *Act 1999* section 4;

16 *boarding supervisor* means a person who holds an  
17 office or position at a boarding facility the duties of  
18 which include the supervision of children living at the  
19 facility;

20 *commencement day* means —

- 21 (a) in relation to a doctor, nurse, midwife, police  
22 officer or teacher — the day on which the  
23 *Children and Community Services Amendment*  
24 *(Reporting Sexual Abuse of Children) Act 2008*  
25 section 5 came into operation; or  
26 (b) in relation to a boarding supervisor — the day  
27 on which the *Children and Community Services*  
28 *Legislation Amendment and Repeal Act 2014*  
29 section 44 came into operation;  
30

**44. Section 124B amended**

- (1) In section 124B(1)(a) and (c)(i) delete “police officer or teacher;  
and” and insert:

police officer, teacher or boarding supervisor; and

- (2) In section 124B(4) delete “police officer or teacher.” and insert:

police officer, teacher or boarding supervisor.

**45. Section 124C amended**

In section 124C(3)(c)(iii) delete “responsible” and insert:

appropriate

**46. Section 145 amended**

After section 145(3) insert:

- (4) Protection proceedings are to be conducted, as far as  
possible, in a way that promotes cooperation and  
consensus.

=====