



New South Wales

Children and Young Persons (Care and Protection) Amendment Bill 2009

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Children and Young Persons (Care and Protection) Act 1998* (***the Principal Act***) so as:

- (a) to provide that if the Department of Community Services (***the Department***) takes over supervising the placement of a child or young person in out-of-home care because a designated agency has ceased to be able to fulfil its responsibilities in relation to the child or young person, the Department does not take or assume any assets, rights or liabilities of the designated agency, and
 - (b) to make it clear that the Children's Guardian and the Director-General of the Department (***the Director-General***) may, for the purpose of exercising their functions, exchange information with, and require the provision of information from, other persons, and
 - (c) to make it an offence for certain prescribed persons to fail to comply with a direction of the Children's Guardian to provide information, and
 - (d) to enable the making of regulations for or with respect to the licensing of principal and other officers of designated agencies, and
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- (e) to enable the making of regulations of a savings or transitional nature consequent on the enactment of the proposed Act.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Children and Young Persons (Care and Protection) Act 1998 No 157

Section 141 (Inability of designated agency to fulfil responsibilities) of the Principal Act provides that if a designated agency, other than the Department, is designated to supervise the placement of a child or young person in out-of-home care and that agency ceases to be able to fulfil its responsibilities in relation to the child or young person, the Department is to supervise the placement of the child or young person.

Schedule 1 [1] inserts proposed section 141 (1A) into the Principal Act to provide that the Department, in supervising the placement of a child or young person in out-of-home care, does not take or assume any assets, rights or liabilities of the designated agency.

Sections 185 and 248 of the Principal Act provide that the Children's Guardian and the Director-General, respectively, may, for the purposes of providing information to, or exchanging information with, a prescribed person or body, do either or both of the following:

- (a) furnish a prescribed person or body (within the meaning of the section concerned) with information relating to the safety, welfare and well-being of a particular child or young person or class of children or young persons,
- (b) direct a prescribed person or body to furnish information to the Children's Guardian or the Director-General, respectively, relating to the safety, welfare and well-being of a particular child or young person or class of children or young persons.

Schedule 1 [2] and [6] insert proposed sections 185 (1A) and 248 (1AA), respectively, into the Principal Act to provide that the functions referred to above may also be exercised by the Children's Guardian or the Director-General, respectively, for the purpose of exercising their functions. **Schedule 1 [3], [4], [7] and [8]** make consequential amendments.

Schedule 1 [5] inserts proposed section 185 (2A) into the Principal Act to provide that a prescribed person (other than the Director-General or a Department of the Public Service) must comply with a direction of the Children's Guardian to furnish information relating to the safety, welfare and well-being of a particular child or

young person or class of children or young persons within such reasonable time as is specified in the direction. Failure to comply will be an offence carrying a maximum penalty of 10 penalty units (currently, \$1,100). **Schedule 1 [5]** also substitutes section 185 (2) of the Principal Act to make consequential amendments.

Schedule 1 [9] inserts proposed section 264 (1A) (k) into the Principal Act to provide that regulations may be made under the Principal Act for or with respect to the licensing of principal and other officers of designated agencies.

Schedule 1 [10] amends Schedule 3 to the Principal Act to provide that regulations may be made of a savings or transitional nature consequent on the enactment of the proposed Act.