

Children and Community Services Legislation Amendment and Repeal Bill 2014

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Western Australia

LEGISLATIVE ASSEMBLY

(As amended during consideration in detail)

**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*
4 *Amendment and Repeal Act 2014*.

5 **2. Commencement**

6 This Act comes into operation as follows —

- 7 (a) Part 1 — on the day on which this Act receives the
8 Royal Assent;
- 9 (b) the rest of the Act — on a day fixed by proclamation,
10 and different days may be fixed for different provisions.

**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

- 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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Division 2	Repeals
s. 10	

- 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

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agreements

Division 3 Other Acts amended

s. 17A

- 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 1A — *School Education Act 1999* amended**

12 **17A. Act amended**

13 This Subdivision amends the *School Education Act 1999*.

14 **17B. Section 26 amended**

15 In section 26(3) delete “*Parental Support and Responsibility*
16 *Act 2008*” and insert:
17

18 *Children and Community Services Act 2004*
19

20 **17C. Section 40 amended**

21 In section 40(3A) delete “*Parental Support and Responsibility*
22 *Act 2008*” and insert:
23

24 *Children and Community Services Act 2004*
25

1 **Subdivision 2 — *Young Offenders Act 1994* amended**

2 **18. Act amended**

3 This Subdivision amends the *Young Offenders Act 1994*.

4 **19. Section 15A amended**

5 Delete section 15A(3a), (3b) and (3c).

6 **20. Section 46 amended**

7 After section 46(2)(c) insert:

8

9 (da) any responsible parenting agreement entered
10 into in respect of the offender under the
11 *Children and Community Services Act 2004*
12 section 131D; and
13

s. 21

**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;

23. Section 8 amended

In section 8(1):

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

spiritual and developmental

- (b) after paragraph (k) insert:

(la) the child’s educational needs;

24. Section 9 amended

After section 9(h) insert:

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

25. Section 23 amended

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

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

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

s. 25

- 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

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

enactment that prohibits or restricts its disclosure.

26. Section 24A replaced

Delete section 24A and insert:

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

- (1) In this section —

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

prescribed report means any of the following —

- (a) a written pre-sentence report, or a record of an oral pre-sentence report, made under the *Sentencing Act 1995* Part 3 Division 3;
- (b) a report prepared for the purposes of the *Sentence Administration Act 2003* section 11A, 17 or 51;
- (c) a report prepared for the purposes of the *Young Offenders Act 1994* section 47, 48(1) or 159;
- (d) a report —
 - (i) made under, or prepared for the purposes of, the *Bail Act 1982*, the *Dangerous Sexual Offenders Act 2006*, the *Sentence Administration Act 2003*, 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.

After section 27 insert:

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;

- 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;

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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.

- 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

s. 28

- 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

- 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

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- 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

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).

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- 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

- 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

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- 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

- 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

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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

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

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1 **44. Section 124B amended**

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

4

5 police officer, teacher or boarding supervisor; and

6

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

8

9 police officer, teacher or boarding supervisor.

10

11 **45. Section 124C amended**

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

13

14 appropriate

15

16 **46. Section 145 amended**

17 After section 145(3) insert:

18

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

22

23

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