CHILDREN AND COMMUNITY SERVICES AMENDMENT BILL 2010

Receipt and First Reading

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

Second Reading

HON ROBYN McSWEENEY (South West — Minister for Child Protection) [5.16 pm]: I move —

That the bill be now read a second time.

The Children and Community Services Act 2004 came into operation on 1 March 2006, replacing laws more than 50 years old. This important legislation, development of which commenced during the Court government, transformed the nature of Western Australia's response to supporting the wellbeing of children, families and communities. As is often required following the implementation of ground-breaking legislation, the bill before the house today proposes a suite of amendments to improve and strengthen the operation of that act.

Importantly, this bill also proposes two significant developments for vulnerable children and young people in Western Australia. The first is the establishment of a secure-care facility for children and young people at extreme risk, for whom no other option is available to manage that risk. Secondly, the bill introduces special guardianship orders for children who, for various reasons, are unable to live permanently in the care of their own families.

I turn first to the proposal in part 2 of the bill for the establishment of a secure-care facility. The need for a facility of this type has long been deliberated and was raised most recently in a 2006 Ombudsman report and in the 2007 review of the Department for Community Development by Prudence Ford. Secure facilities operate in, or are planned for, various other jurisdictions. The model introduced in this bill draws largely on Victoria's model.

The proposed facility will form part of a continuum of strengthened protection and care services for children in the care of the CEO of the Department for Child Protection, providing an option of last resort for managing the highest levels of risk that some young people present. Placing any person in secure care must always be a measure of last resort, particularly when it is done for purposes other than criminal justice or psychiatric care. Under this bill a secure-care arrangement may be made only when the CEO or the Children's Court is satisfied that a child meets the highest threshold of being at substantial and immediate risk of causing significant harm to himself or others, with no other way to manage that risk and ensure that he receives the care that he needs.

The secure-care facility is not for use as a bail option or for punitive purposes or as a placement option in the absence of any other being available—nor is it to be used as an alternative facility for the treatment of children or young people who otherwise require psychiatric intervention and management. Using best practice consistent with recognised therapeutic models of intervention, the aim of a secure-care admission is to stabilise young people and keep them safe while developing a suitable plan to address their needs and return to the community. A multi-agency response can assess complex needs and ensure that transition plans are developed and services provided to support the child's return to a suitable placement. Emphasis will be on reducing the likelihood of another period of secure care in the future.

The period of time a young person is kept in secure care under a secure-care arrangement should be the shortest necessary to stabilise the child. The bill allows for a secure-care period of up to 21 days. When there are exceptional reasons only, a young person may be kept under a secure-care arrangement for a further period of up to 21 days. Admission may be administrative or judicial. Children for whom the CEO already has parental responsibility under a protection order that is time limited, or a protection order until they are 18, may be administratively admitted by the CEO provided the CEO is satisfied the children meet the high admission threshold previously referred to and set out in clause 9 of the bill. For children who are either already in provisional protection and care or taken into provisional protection and care in emergency situations and placed in the facility under a secure-care arrangement made by the CEO, a judicial order is required. In these circumstances, the CEO must apply to the Children's Court for an interim order before a child is admitted to the facility or, in emergency situations, a continuation order as soon as practicable after the admission. It is anticipated emergency admissions will be rare.

Important protections are provided, including options for review of an administrative secure-care arrangement by the State Administrative Tribunal. Further, assessors will have the powers to enter and inspect the secure-care facility at any time to check on the operation of the facility and the wellbeing of any child in the facility.

The bill also makes amendments to the Working with Children (Criminal Record Checking) Act 2004 to require people who work in connection with the secure-care facility to undergo a working with children check. This government is committed to ensuring that children and young people in care are provided with the best possible opportunities to thrive, learn and grow. Long-term, stable care arrangements are vital for ensuring that a child is presented with these opportunities. The bill introduces a new guiding principle that, so far as is consistent with the child's best interests, planning should occur as soon as possible to ensure long-term stability for children who have been removed from their family. Removing a child from his or her family is always a measure of last resort. The Department for Child Protection works towards a child's reunification with the family if it is in the best interests of the child. Sadly, reunification is not always possible or in a child's best interests and in these cases the special guardianship option may be an appropriate alternative to achieve permanent care for a child.

During the 2008 election, the government announced its intention to introduce special guardianship orders similar to those available in the United Kingdom. To meet this commitment, part 3 of the bill introduces protection orders (special guardianship) to replace the existing protection order (enduring parental responsibility). Marking a significant change to the current provisions for a protection order (enduring parental responsibility), carers who have a child in care under a placement arrangement with the department for two years or more immediately prior to the application will be eligible to apply for a protection order (special guardianship). As with the current protection order for enduring parental responsibility, a protection order (special guardianship) will transfer parental responsibility for a child to a carer until the child reaches 18 years of age, giving the carer all the duties, powers, responsibilities and authority that, by law, birth parents have for their own children.

Part 4 of the bill introduces parentage testing orders that may be required if a question arises about the parentage of a child during protection proceedings in the Children's Court and consent to the testing is not forthcoming from those concerned. These provisions are based on provisions used under the Family Court Act 1997.

Finally, part 5 of the bill contains a number of miscellaneous amendments, some of which are required to clarify intentions or address oversights in the act. I will deal only with the more significant amendments.

At the time of the last election this government committed to review the Aboriginal and Torres Strait Islander child placement principles, which give priority to placing Aboriginal children with Aboriginal carers whenever possible and appropriate. To ensure that Aboriginal children are placed in the best possible family environment regardless of race, an amendment to the child placement principles emphasises the requirement that placement decisions for Aboriginal children are made in accordance with the child placement principles and are consistent with the best interests of the child. The bill also contains amendments to ensure that the consultation required before making a placement arrangement for an Aboriginal child is more meaningful, because it must be carried out with Aboriginal people or agencies with relevant knowledge of the child or the child's family or community.

A cornerstone to coordinated and collaborative service delivery is the exchange of relevant information between agencies in the interests of promoting children's wellbeing. The act currently allows information exchange between the Department for Child Protection and certain other agencies and individuals. This bill introduces powers to enable the exchange of information between public authorities prescribed in regulations, provided the information is relevant to the wellbeing of a child or a class or a group of children.

Protecting children from inappropriate employment continues to be a priority of government. Investigations conducted in recent years have highlighted the need for additional powers that enable the chief executive officer to issue a notice to an employer or prospective employer prohibiting or imposing limitations on the employment of children in a particular business or place. The current powers enable a notice to be issued to a parent in respect of his or her child's employment, and prohibit the employer from employing that child. However, they are inadequate for responding to unscrupulous employers who wish to employ other children in spite of that specific prohibition. Under the new powers, a notice may be issued to an employer prohibiting the employment of children when the CEO believes children are currently employed, or may be employed in the future. To issue that notice, the CEO must be of the opinion that the wellbeing of child employees is likely to be jeopardised because of the nature of the business or place or the nature of the work carried out there. The amendments also clarify and strengthen the powers of authorised officers in relation to inspecting a place and making inquiries into the employment or prospective employment of a child or children. I commend the bill to the house.

Debate adjourned, pursuant to standing orders.