

WESTERN AUSTRALIA
LEGISLATIVE COUNCIL
AMENDMENTS AND SCHEDULES
Supplementary Notice Paper No. 157
Issue No. 6
WEDNESDAY, 4 NOVEMBER 2020

CHILDREN AND COMMUNITY SERVICES AMENDMENT BILL 2019
[157-2]

When in committee on the *Children and Community Services Amendment Bill 2019*:

Clause 2

Hon Nick Goiran: To move –

1/2 Page 2, after line 7 — To insert:

- (aa) sections 3 and 74 — on the day after that day;

Hon Nick Goiran: To move –

2/2 Page 2, after line 9 — To insert:

- (2) However —
- (a) if no day is fixed under subsection (1)(b) before the end of the period of 10 years beginning on the day on which this Act receives the Royal Assent, this Act is repealed on the day after that period ends; or
 - (b) if paragraph (a) does not apply, and a provision of this Act does not come into operation before the end of the period of 10 years beginning on the day on which this Act receives the Royal Assent, the provision is repealed on the day after that period ends.

Clause 4**Committee Recommendation 1:**

23/4 Page 3, line 13 — To delete “Aboriginal child — ” and insert:

Aboriginal child or Torres Strait Islander child —

Committee Recommendation 1:

24/4 Page 3, lines 17 to 20 — To delete the lines.

Clause 11**Committee Recommendation 2:**

25/11 Page 10, line 21 — To insert before “placement”:

placement with a person who is an Aboriginal person or Torres Strait Islander or

Committee Recommendation 2:

26/11 Page 11, lines 1 and 2 — To delete the lines.

Clause 13**Hon Alison Xamon:**

10/13 Page 11, line 18 to page 12, line 4 — To oppose the clause.

Committee Recommendation 5:

27/13 Page 12, lines 1 to 3 — To delete the lines.

New Clause 13**Hon Alison Xamon:** To move –

11/NC13 Page 12, after line 4 — To insert:

13. Section 14 replaced

Delete section 14 and insert:

14. Principle of family and community participation

- (1) Each of the following must be given an opportunity and, where appropriate, assistance to participate in decision-making processes under this Act that are likely to have a significant impact on an Aboriginal or Torres Strait Islander child —
 - (a) the child’s family;
 - (b) a community of which the child is a member;
 - (c) an approved Aboriginal or Torres Strait Islander representative organisation representing the child.
- (2) Consideration must be given to the wishes and views of the child, taking into account the maturity and understanding of the child, and the child’s parents about

the participation of the child’s family or a community or organisation under subsection (1).

Clause 14

Committee Recommendation 6:

28/14 Page 12, lines 24 and 25 — To delete “duties and responsibilities” and insert:

functions

Clause 30

Hon Alison Xamon: To move –

12/30 Page 24, after line 9 — To insert:

- (5) Section 67 applies in relation to a protection order (time-limited) that comes into force under this section as if the reference in section 67(1) to a party to the initial proceedings were a reference to a person notified of the order under subsection (4).

Clause 32

Hon Alison Xamon: To move –

13/32 Page 24, lines 27 to 31 — To delete the lines and insert:

- (1) Before making a placement arrangement in respect of an Aboriginal or Torres Strait Islander child, the CEO must consult with each of the following —
 - (a) the child’s family;

Committee Recommendation 7:

29/32 Page 24, line 29 — To insert after “consult with”:

each of

Committee Recommendation 8:

30/32 Page 24, lines 30 and 31 — To delete the lines and insert:

- (a) members of the child’s family;

Leader of the House representing the Minister for Child Protection: To move –

40/32 Page 24, lines 30 and 31 — To delete the lines and insert:

- (a) Aboriginal persons or Torres Strait Islanders who are members of the child’s family;

Hon Alison Xamon: To move –

21/32 Page 25, after line 7 — To insert:

- (1A) For the purposes of subsection (1)(a), the consultation with the child’s family is to be by way of a meeting —
- (a) convened by an approved Aboriginal or Torres Strait Islander representative organisation; and
 - (b) attended by —
 - (i) to the extent practicable, the child, the child’s parents and other members of the child’s family; and
 - (ii) an officer referred to in subsection (1)(c).

Clause 38

Hon Alison Xamon: To move –

15/38 Page 29, line 16 — To delete “Subject to the regulations,” and insert:

The child’s family and, subject to the regulations,

Hon Alison Xamon: To move –

16/38 Page 29, line 17 — To delete “is to” and insert:

are to

Hon Alison Xamon: To move –

17/38 Page 29, line 18 — To insert after “opportunity”:

and, where appropriate, assistance

Clause 39

Hon Alison Xamon: To move –

18/39 Page 30, line 6 — To delete “must, subject to the regulations, give” and insert:

must give the child’s family and, subject to the regulations,

Hon Alison Xamon: To move –

19/39 Page 30, line 8 — To insert after “opportunity”:

and, where appropriate, assistance

New Clause 39A**Hon Alison Xamon:** To move –

22/NC39A Page 30, after line 10 — To insert:

39A. Section 90A inserted

At the end of Part 4 Division 5 Subdivision 3 insert:

90A. Manner of participation by child's family under s. 89A and 90

For the purposes of sections 89A(2) and 90(2A), the opportunity for the child's family to participate is to be given by way of a meeting —

- (a) convened by an approved Aboriginal or Torres Strait Islander representative organisation; and
- (b) attended by —
 - (i) to the extent practicable, the child, the child's parents and other members of the child's family; and
 - (ii) an officer who is an Aboriginal person or Torres Strait Islander who, in the opinion of the CEO, has relevant knowledge of the child, the child's family or the child's community.

Clause 51**Hon Nick Goiran:** To move –

3/51 Page 34, after line 15 — To insert:

(1A) In section 124A insert in alphabetical order:

early childhood worker means —

- (a) an adult who is any of the following under the *Education and Care Services National Law (Western Australia)* —
 - (i) an approved provider;
 - (ii) a nominated supervisor for an approved education and care service;
 - (iii) a staff member of an approved education and care service who is employed, appointed or engaged as an educator, a family day care co-ordinator or a family day care educator;
- or
- (b) an adult who is any of the following —
 - (i) a licensee under the *Child Care Services Act 2007*;
 - (ii) a supervising officer under that Act;
 - (iii) a member of staff of a child care service (as defined in section 4 of that Act) whose duties include the provision of education and care to children;

Committee Recommendation 13:

31/51 Page 34, after line 15 — To insert:

(1A) In section 124A insert in alphabetical order:

early childhood worker means —

- (a) an adult who is any of the following under the *Education and Care Services National Law (Western Australia)* —
 - (i) an approved provider;
 - (ii) a nominated supervisor for an approved education and care service;
 - (iii) a staff member of an approved education and care service who is employed, appointed or engaged as an educator, a family day care co-ordinator or a family day care educator;

or

- (b) an adult who is any of the following —
 - (i) a licensee under the *Child Care Services Act 2007*;
 - (ii) a supervising officer under that Act;
 - (iii) a member of staff of a child care service (as defined in section 4 of that Act) whose duties include the provision of education and care to children;

Leader of the House representing the Minister for Child Protection: To move —

41/51 Page 34, after line 15 — To insert:

(1A) In section 124A insert in alphabetical order:

departmental officer —

- (a) means an officer —
 - (i) who is a public service officer; or
 - (ii) who holds an office or position prescribed, or of a class prescribed, for the purposes of this subparagraph; or
 - (iii) whose duties include duties prescribed, or of a class prescribed, for the purposes of this subparagraph;

but

- (b) does not include an officer who is —
 - (i) employed or engaged as a student or volunteer; or
 - (ii) under 18 years of age;

(1B) In section 124A insert in alphabetical order:

early childhood worker means an adult who is —

- (a) any of the following for the purposes of the *Education and Care Services National Law (Western Australia)* —
- (i) an approved provider;
 - (ii) a person with management or control of an education and care service;
 - (iii) a nominated supervisor for an approved education and care service;
 - (iv) an educator;
 - (v) a family day care co-ordinator;
 - (vi) a family day care educator assistant;
- or
- (b) a licensee as defined in the *Child Care Services Act 2007* section 3; or
 - (c) a supervising officer as defined in the *Child Care Services Act 2007* section 5A; or
 - (d) a member of staff of a child care service, as defined in the *Child Care Services Act 2007* section 4, whose duties include the provision of education and care to children;

Hon Nick Goiran: To move —

4/51 Page 34, after line 28 — To insert:

(1B) In section 124A insert in alphabetical order:

out-of-home care service provider means a person who has entered into an agreement under section 15(1) for the provision of placement services;

out-of-home care worker means —

- (a) an assessor; or
- (b) an authorised officer; or
- (c) an officer who holds an office or position that is prescribed, or of a class prescribed, for the purposes of this paragraph; or
- (d) a person who holds an office or position at a residential facility or secure care facility the duties of which include the care of children living at the facility; or
- (e) a person who holds an office or position, with an out-of-home care service provider, the duties of which include the provision of social services to —
 - (i) children who are under a placement arrangement; or
 - (ii) carers of those children;

Committee Recommendation 13:

32/51 Page 34, after line 28 — To insert:

(1B) In section 124A insert in alphabetical order:

out-of-home care service provider means a person who has entered into an agreement under section 15(1) for the provision of placement services;

out-of-home care worker means —

- (a) an assessor; or
- (b) an authorised officer; or
- (c) an officer who holds an office or position that is prescribed, or of a class prescribed, for the purposes of this paragraph; or
- (d) a person who holds an office or position at a residential facility or secure care facility the duties of which include the care of children living at the facility; or
- (e) a person who holds an office or position, with an out-of-home care service provider, the duties of which include the provision of social services to —
 - (i) children who are under a placement arrangement; or
 - (ii) carers of those children;

Committee Recommendation 13:

33/51 Page 34, after line 28 — To insert:

(1C) In section 124A insert in alphabetical order:

psychologist means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the psychology profession;

Leader of the House representing the Minister for Child Protection: To move —

42/51 Page 35, lines 1 to 12 — To delete the lines and insert:

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

out-of-home care service provider means a person who has entered into an agreement under section 15(1) for the provision of placement services;

out-of-home care worker —

- (a) means an adult who holds an office or position with, or is otherwise employed or engaged by, an out-of-home care service provider and whose duties include —
 - (i) the provision of social services to children who are the subject of a placement arrangement or to carers of those children; or
 - (ii) duties prescribed, or of a class prescribed, for the purposes of this subparagraph;
 but
- (b) does not include an adult who —
 - (i) provides care, at the person's usual place of residence, for children who are the subject of a placement arrangement; or

(ii) is employed or engaged as a student or volunteer;

(3) In section 124A insert in alphabetical order:

psychologist means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the psychology profession (other than as a student);

(4) In section 124A insert in alphabetical order:

school counsellor —

- (a) means an adult who is employed or engaged in a school, as defined in the *School Education Act 1999* section 4, to provide counselling or pastoral care to children who attend the school; but
- (b) does not include an adult who is employed or engaged as a student or volunteer;

(5) In section 124A insert in alphabetical order:

youth justice worker —

- (a) means an adult who is —
 - (i) a custodial officer, as defined in the *Young Offenders Act 1994* section 3, whose duties include the supervision or monitoring of children; or
 - (ii) a member of the council, as defined in the *Young Offenders Act 1994* section 17A, of an Aboriginal community and is involved in the supervision of a child under an agreement entered into by the council under section 17B of that Act; or
 - (iii) appointed as a monitor under the *Young Offenders Act 1994* section 17C; or
 - (iv) appointed as a Juvenile Justice Team Coordinator under the *Young Offenders Act 1994* section 36(1); or
 - (v) assigned as a supervising officer under the *Young Offenders Act 1994* section 77, 108 or 139; or
 - (vi) employed or engaged in the department of the Public Service principally assisting in the administration of the *Children's Court of Western Australia Act 1988* or the *Young Offenders Act 1994* and whose duties include duties prescribed, or of a class prescribed, for the purposes of this subparagraph;

but
- (b) does not include an adult who is employed or engaged as a student or volunteer.

(6) In section 124A in the definition of **commencement day**:

- (a) delete “means —” and insert:

means the following —

- (b) in paragraph (a) delete “operation; or” and insert:
 - operation;
- (7) In section 124A in the definition of ***commencement day*** insert in alphabetical order according to paragraph designation:
 - (c) in relation to a minister of religion — the day on which the *Children and Community Services Amendment Act 2019* section 51(7) comes into operation;
- (8) In section 124A in the definition of ***commencement day*** insert in alphabetical order according to paragraph designation:
 - (d) in relation to an assessor — the day on which the *Children and Community Services Amendment Act 2019* section 51(8) comes into operation;
- (9) In section 124A in the definition of ***commencement day*** insert in alphabetical order according to paragraph designation:
 - (e) in relation to a departmental officer — the day on which the *Children and Community Services Amendment Act 2019* section 51(9) comes into operation;
- (10) In section 124A in the definition of ***commencement day*** insert in alphabetical order according to paragraph designation:
 - (f) in relation to an early childhood worker — the day on which the *Children and Community Services Amendment Act 2019* section 51(10) comes into operation;
- (11) In section 124A in the definition of ***commencement day*** insert in alphabetical order according to paragraph designation:
 - (g) in relation to an out-of-home care worker — the day on which the *Children and Community Services Amendment Act 2019* section 51(11) comes into operation;
- (12) In section 124A in the definition of ***commencement day*** insert in alphabetical order according to paragraph designation:

- (h) in relation to a psychologist — the day on which the *Children and Community Services Amendment Act 2019* section 51(12) comes into operation;
- (13) In section 124A in the definition of ***commencement day*** insert in alphabetical order according to paragraph designation:
 - (i) in relation to a school counsellor — the day on which the *Children and Community Services Amendment Act 2019* section 51(13) comes into operation;
- (14) In section 124A in the definition of ***commencement day*** insert in alphabetical order according to paragraph designation:
 - (j) in relation to a youth justice worker — the day on which the *Children and Community Services Amendment Act 2019* section 51(14) comes into operation;
- (15) In section 124A in the definition of ***teacher*** paragraph (e) delete “section.” and insert:

section;

Hon Nick Goiran: To move –

5/51 Page 35, line 10 — To delete “section 51” and insert:

section 51(1)

Committee Recommendation 13:

34/51 Page 35, line 10 — To delete “section 51” and insert:

section 51(1)

Hon Nick Goiran: To move –

6/51 Page 35, after line 12 — To insert:

- (3) In section 124A in the definition of ***commencement day***:
 - (a) in paragraph (c) delete “operation;” and insert:

operation; or
 - (b) insert in alphabetical order according to paragraph designation:

(d) in relation to an early childhood worker — the day on which the *Children and Community Services Amendment Act 2019* section 51(1A) came into operation;

(4) In section 124A in the definition of ***commencement day***:

(a) in paragraph (d) delete “operation;” and insert:

operation; or

(b) insert in alphabetical order according to paragraph designation:

(e) in relation to an out-of-home care worker — the day on which the *Children and Community Services Amendment Act 2019* section 51(1B) came into operation;

Committee recommendation 13:

35/51 Page 35, after line 12 — To insert:

(3) In section 124A in the definition of ***commencement day***:

(a) in paragraph (c) delete “operation;” and insert:

operation; or

(b) insert in alphabetical order according to paragraph designation:

(d) in relation to an early childhood worker — the day on which the *Children and Community Services Amendment Act 2019* section 51(1A) came into operation;

(4) In section 124A in the definition of ***commencement day***:

(a) in paragraph (d) delete “operation;” and insert:

operation; or

(b) insert in alphabetical order according to paragraph designation:

(e) in relation to an out-of-home care worker — the day on which the *Children and Community Services Amendment Act 2019* section 51(1B) came into operation;

(5) In section 124A in the definition of ***commencement day***:

(a) in paragraph (e) delete “operation;” and insert:

operation; or

(b) insert in alphabetical order according to paragraph designation:

(f) in relation to a psychologist — the day on which the *Children and Community Services Amendment Act 2019* section 51(1C) came into operation;

Clause 52

Leader of the House representing the Minister for Child Protection:

43/52 Page 35, lines 13 to 26 — To oppose the clause

Hon Nick Goiran: To move –

7/52 Page 35, after line 13 — To insert:

(1A) In section 124B(1)(a) and (c)(i) after “midwife,” insert:

out-of-home care worker,

(1B) In section 124B(1)(a) and (c)(i) after “police officer,” insert:

early childhood worker,

Committee Recommendation 13:

36/52 Page 35, after line 13 — To insert:

(1A) In section 124B(1)(a) and (c)(i) after “doctor,” insert:

psychologist,

(1B) In section 124B(1)(a) and (c)(i) after “midwife,” insert:

out-of-home care worker,

(1C) In section 124B(1)(a) and (c)(i) after “police officer,” insert:

early childhood worker,

Hon Nick Goiran: To move –

8/52 Page 35, after line 23 — To insert:

(aa) after “midwife,” insert:

out-of-home care worker,

- (ab) after “police officer,” insert:

early childhood worker,

Committee Recommendation 13:

37/52 Page 35, after line 23 — To insert:

- (aa) after “doctor,” insert:

psychologist,

- (ab) after “midwife,” insert:

out-of-home care worker,

- (ac) after “police officer,” insert:

early childhood worker,

New Clause 52

Leader of the House representing the Minister for Child Protection: To move –

44/NC52 Page 35, after line 26 — To insert:

52. Section 124B amended

- (1) Delete section 124B(1)(a) and insert:

- (a) is a person specified in the Table (a *specified person*); and

Table

boarding supervisor	doctor
midwife	nurse
police officer	teacher

- (2) In section 124B(1)(a) in the Table insert in alphabetical order:

assessor

- (3) In section 124B(1)(a) in the Table insert in alphabetical order:

departmental officer

- (4) In section 124B(1)(a) in the Table insert in alphabetical order:

early childhood worker

- (5) In section 124B(1)(a) in the Table insert in alphabetical order:

minister of religion

- (6) In section 124B(1)(a) in the Table insert in alphabetical order:

out-of-home care worker

- (7) In section 124B(1)(a) in the Table insert in alphabetical order:

psychologist

- (8) In section 124B(1)(a) in the Table insert in alphabetical order:

school counsellor

- (9) In section 124B(1)(a) in the Table insert in alphabetical order:

youth justice worker

- (10) In section 124B(1)(c)(i) delete “doctor, nurse, midwife, police officer, teacher or boarding supervisor; and” and insert:

specified person; and

- (11) In section 124B(4):

- (a) delete “A requirement” and insert:

The duty

- (b) delete “doctor, nurse, midwife, police officer, teacher or boarding supervisor.” and insert:

specified person.

Clause 53

Hon Charles Smith: To move –

39/53 Page 36, lines 15 to 24 — To delete the lines and insert:

- (3) A minister of religion is not excused from criminal responsibility for an offence under section 124B(1) on the grounds that disclosure of the minister's belief or information on which the belief is based is contrary to the tenets of the minister's faith or religion.
- (4) Despite subsection (3), a minister of religion does not commit an offence under section 124B(1) because of a failure to report a belief if the minister's belief is based on information disclosed to the minister during a religious confession.

Clause 74

Committee Recommendation 22:

38/74 Page 54, after line 19 — To insert:

- (1A) Without limiting subsection (1), the first review under that subsection must address —
 - (a) recommendations 4 and 11 set out in Report 44 (*Children and Community Services Amendment Bill 2019*) of the Standing Committee on Legislation of the Legislative Council; and
 - (b) the need for the continuation of section 241E(4) and (5).

Hon Nick Goiran: To move –

9/74 Page 54, after line 24 — To insert:

- (3) The Minister must transmit a copy of the report to the Clerk of a House of Parliament if —
 - (a) the report has been prepared; and
 - (b) the Minister is of the opinion that the House will not sit during the period of 21 days after the finalisation of the report.
- (4) A copy of the report transmitted to the Clerk of a House is taken to have been laid before that House.
- (5) The laying of a copy of a report that is taken to have occurred under subsection (4) must be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the receipt of the copy by the Clerk.

