

# HEALTH, SAFETY AND CIVIL LIABILITY (CHILDREN IN SCHOOLS AND CHILD CARE SERVICES) BILL 2010

## Explanatory Memorandum

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### INTRODUCTION

This Bill implements a recommendation of the Western Australian Anaphylaxis Expert Working Committee report, *Anaphylaxis: Meeting the Challenge for Western Australian Children*. This is achieved by amending the *Civil Liability Act 2002* and the *School Education Act 1999* as part of a framework for the management of anaphylaxis in Western Australian schools and child care services.

#### **Long Title**

The long title sets out the purpose of the Bill which is to amend the *Civil Liability Act 2002* and the *School Education Act 1999*.

#### **Part 1 – Preliminary**

This Part contains the title of the Act and the relevant commencement provisions.

##### **Clause 1 Short Title**

This clause provides the short title of the Act.

##### **Clause 2 Commencement**

This clause provides for sections 1 and 2 to come into operation following Royal Assent and for the remainder of the Act to commence on a day fixed by proclamation. Different days may be fixed for different provisions.

#### **Part 2 – *Civil Liability Act 2002* amended**

This Part amends the *Civil Liability Act 2002*.

##### **Clause 3 Act amended**

This clause provides that this Part amends the *Civil Liability Act 2002*.

##### **Clause 4 Section 3A amended**

This clause inserts 1CA into the table under section 3A (item 1) of the *Civil Liability Act 2002*. The effect of this amendment is that Part 1CA (in addition to the other Parts listed under this item) will not apply to personal injury damages caused by certain criminal acts.

**Clause 5 Section 4A amended**

This clause amends section 4A which enables parties to an agreement to expressly exclude or modify the operation of Part 1CA (in addition to the other Parts listed under section 4A).

**Clause 6 Part 1CA inserted**

Part 1CA amends the *Civil Liability Act 2002* to provide child care staff and teachers with protection from civil liability where they administer medication to a child experiencing an anaphylactic reaction when that child care staff or teacher has acted in good faith and without recklessness.

**Part 3 – School Education Act 1999 amended**

This Part amends the *School Education Act 1999*.

**Clause 7 Act amended**

This clause provides that this Part amends the *School Education Act 1999*.

**Clause 8 Section 17 amended**

Under section 16 of the *School Education Act 1999* details of any condition that may call for special steps to be taken for the benefit of or protection of the enrolled child or other persons in the school is to be notified to the principal of the school at which school the child is enrolled. This clause amends section 17 to ensure that any change in the child's health is also required to be notified to the principal as it arises.

**Clause 9 Section 244 amended**

This clause amends section 244 which is a regulation making power provision. The purpose of the amendment is to enable regulations to be made for requirements as to the health and safety of an enrolled child.