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# BILLS DIGEST

Digest No. 1602

## Children, Young Persons, and Their Families Amendment Bill (No 6) 2007

<b>Date of Introduction:</b>	03 December 2007
<b>Portfolio:</b>	Social Development and Employment
<b>Select Committee:</b>	As at 05 February, 1st reading not held.
<b>Published: 05 February 2008</b> Prepared by <b>John McSoriley</b> BA LL.B, Barrister  Legislative Analyst  P: (04) 471-9626 (Ext. 9626)  F: (04) 471-1250	Caution: This Digest was prepared to assist consideration of the Bill by members of Parliament. It has no official status.  Although every effort has been made to ensure accuracy, it should not be taken as a complete or authoritative guide to the Bill. Other sources should be consulted to determine the subsequent official status of the Bill.

### Purpose

"The Bill amends the Children, Young Persons, and Their Families Act 1989 (the Act or the CYPF Act) to give better effect to the Act's objectives and principles, enable or direct best practice, and strengthen the effectiveness of family group conferences. The Bill covers care and protection of, and offending by, children and young persons"<sup>1</sup>.

### Background

#### The need for the Bill

In a recent media release<sup>2</sup>, the Minister of Social Development and Employment, Hon Ruth Dyson said that this Bill would make the CYPF 1989 Act " ... more responsive to the needs of children and

<sup>1</sup> Children, Young Persons, and Their Families Amendment Bill (No 6), 2007 No 183-2, Explanatory note, General policy statement, p. 1.

<sup>2</sup> Media release, Hon Ruth Dyson, Minister of Social Development and Employment, *Children and Young Persons & their Families Act to be updated*, 04 December, 2007.

young people needing care and protection", it would " ... improve the participation of children and young people in decisions about them", and it would " ... ensure delivery of the right services at the right time to families in need and appropriate responses to children including those with disabilities". The Minister also said that the Bill would improve support for those moving out of the care and protection system".

## Main Provisions

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### Definition of "young person"

The Bill amends the definition of "young person" to raise the upper age to 18 years and makes consequential amendments to the Act (*Part 1, Clause 4, amending Section 2(1) of the CYPF Act, substituting definition of "young person"*).

#### *Comment*

This extends the coverage of the CYPF Act to include 17-year-olds, bringing the Act into line with the United Nations Convention on the Rights of the Child. (For the purposes of that Convention, a child means a human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier: article 1.)

### Duties of chief executive

The Bill places a new duty on the chief executive to have procedures in place to receive, hear, determine, and address complaints from children and young persons in respect of whom action has been taken under the principal Act, or their families, whanau, or family groups (*Part 1, Clause 5 amending Section 7 of the CYPF*).

### Chief social worker

The Bill provides for the formal appointment or designation of a chief social worker by the chief executive and sets out the chief social worker's functions. These include the conduct of practice reviews. The Bill gives the chief social worker the ability to delegate his or her statutory functions to any other suitable employee of the department. The chief executive is given power to arrange for the chief social worker or any other person to conduct a review of any practice of the department in relation to the CYPF Act if, in the chief executive's opinion, a review is in the public interest, or is required to improve the professional performance of social workers or other employees of the department, or a review would promote the best interests of children and young persons, or their families or family groups. Evidence given in the course of a review would be privileged and confidential and publication of review proceedings would be limited. The Bill makes it an offence to publish confidential information or particulars that identify a person subject to, or who participates in, a review (*Part 1, Clause 6, inserting New Sections 7A - 7C into the CYPF Act*).

### Views of child or young person

The Bill makes amendments in relation to the ascertaining of the views of a child or young person in proceedings under the CYPF Act. The child or young person must be encouraged and assisted to participate in the proceedings or process to the degree appropriate to his or her age and level of maturity unless that participation would, in the opinion of a person specified in the Bill<sup>3</sup>, be inappropriate having regard to the matters to be heard or considered. The child or young person must be given reasonable opportunities to express views on matters affecting that child or young person.

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<sup>3</sup> ) For proceedings before a Court, by the Judge or other person presiding and by the barrister or solicitor representing the child or young person. For proceedings of a family group conference, by the person responsible for convening the conference. For a planning process, by the person directed by the Court to prepare or review the plan. for any other process, by the person responsible for taking the action or making the decision (*Part 1, Clause 8, inserting new Section 11(3) into the CYPF Act*).

Any views the child or young person expresses (either directly or through a representative) must be taken into account. Various amendments are made to the CYPF Act to emphasise the importance of this consultation (*Part 1, Clause 8, substituting Section 11 of the CYPF Act; Clause 16, amending Section 29 of the CYPF Act; Clause 20 amending Section 130 of the CYPF Act; Clause 28 re-enacting and amending Section 250 of the CYPF Act*).

### Reports of child abuse

The Bill provides for the initial assessment of a report of ill-treatment or neglect of a child or young person made under Section 15 of the CYPF Act. The social worker or member of Police who receives the report must undertake or arrange an assessment. Detailed procedures are prescribed for further investigations. A care and protection co-ordinator must be notified if, after further investigation, the social worker or member of the Police believes the child is in need of care and protection. The Bill provides in detail for the matters that must be considered and who must be consulted in these processes (*Part 1, Clause 10, substituting Section 17 of the CYPF Act and inserting new Sections 17A - 17F into that Act*).

### Family group conferences

The Bill makes various changes to the provisions of the Act relating to family group conferences including who must be consulted on date, attendees and procedure before the conference takes place (particularly, the child or young person concerned and family). The care and protection co-ordinator must make relevant information available to care and protection family group conferences. Amendments are made in respect of the enforcement of family group conference decisions (*Part 1, Clause 12, substituting Section 21 of the CYPF Act; Clause 13, amending Section 22 of the CYPF Act; Clause 14, amending Section 23 of the CYPF Act; Clause 15, amending Section 28 of the CYPF Act; Clause 30, amending Section 255 of the CYPF Act; Clause 32 inserting New Section 269A into the CYPF Act*).

### Strengthening victims' provisions

The Bill provides that measures for dealing with offending by children and young persons should not only (as currently) have regard to, but should instead recognise properly, the interests of any victims of that offending (for example, by including consideration of whether reparation should be made to those victims) (*Clause 27 substituting paragraph (g) of Section 208 of the CYPF Act; Clause 47 substituting Section 320(5) of the CYPF Act; Clause 50 inserting New Sections 437A and 437B into the CYPF Act*).

### Orders and penalties

The Bill makes various detailed technical amendments in relation to Youth Court orders and Supervision orders (*Clause 34 amending Section 282 of the CYPF Act, Clause 35(1) and (2) amending Section 283 of the CYPF Act; Clause 35(3) amending Section 283(o) of the CYPF Act;; Clause 37 inserting New Section 289A into the CYPF Act; Clause 39, substituting Section 296 of the CYPF Act (relating to the expiry of Youth Court orders)*).

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