



PARLIAMENTARY LIBRARY

Te Pātaka Rangahau a Te Whare Pāremata

# BILLS DIGEST

Digest No. 1713

## Child and Family Protection Bill 2009

<b>Date of Introduction:</b>	20 August 2009
<b>Portfolio:</b>	Justice
<b>Select Committee:</b>	As at 14 October, 1st Reading not held.
<p><b>Published: 14 October 2009</b></p> <p>Prepared by <b>John McSoriley</b> BA LL.B, Barrister</p> <p>Legislative Analyst</p> <p>P: (04) 471-9626 (Ext. 9626)</p> <p>F: (04) 471-1250</p>	<p>Caution: This Digest was prepared to assist consideration of the Bill by members of Parliament. It has no official status.</p> <p>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.</p>

### Purpose

The aim of this Bill is to amend the Domestic Violence Act 1995, the Care of Children Act 2004 and the Adoption Act 1955 and to make consequential amendments to the Summary Proceedings Act 1957, the Extradition Act 1999, and the Mutual Assistance in Criminal Matters Act 1992. The Bill arises from the fact that " ...issues have been identified with [the] current legislation that restrict the ability of the State to protect the welfare and best interests of children and their families"<sup>1</sup>.

### Background

" ... [I]ssues have been identified with current legislation that restrict the ability of the State to protect the welfare and best interests of children and their families. New Zealand continues to have high rates of domestic violence. In 2007, 6 400 children were involved in applications for protection orders. Most of these children had witnessed violence and some had been subjected to violence directly". " ... There has also been an increase in the international movement of children for adoption purposes". " ... Current powers are inadequate to deal with the modern day international movement of children for

<sup>1</sup> Child and Family Protection Bill, 2009 No 72-1, Explanatory note, General policy statement, p. 1.

adoption purposes. New provisions are required to fulfil New Zealand's commitment to protecting the welfare and best interests of children, and to make it easier to prosecute offences relating to intercountry adoptions"<sup>2</sup>.

## Main Provisions

---

### Extended protection under the Domestic Violence Act 1995

The Bill makes it clear that a protection order applies for the benefit of a child of an applicant until the age of 17, unless the order is sooner discharged. The Bill also clarifies that a protection order that has not lapsed or been discharged continues for the benefit of any child of a deceased applicant until the age of 17 (*Part 1, Clause 6, amending Section 16 of the Domestic Violence Act 1995*).

### Psychological abuse under the Care of Children Act 2004

The Bill amends the Care of Children Act 2004 by providing that where a protection order has been made against a party to an application for a parenting order, the Court may only make an order allowing that party day-to-day care, or contact with, a child if the Court is satisfied that the child will be safe. If the Court is not satisfied that the child will be safe, it may make an order for supervised contact between the child and the party. This ensures that where a protection order has been made on the ground of psychological abuse, children who have been subject to, or witnessed, that abuse will be afforded additional protection (*Part 2, Clauses 17-28*).

### Adoptions under the Adoption Act 1955

In order to ensure that New Zealand legislation fully complies with the Optional Protocol to the United Nations Convention on the Rights of the Child on the sale of children, child prostitution and child pornography so that it may be ratified, the Bill includes a new offence under the Adoption Act 1955 of improperly inducing consent for the adoption of a child to be punishable by a term of imprisonment of up to 7 years. Consequential amendments are also made to the Extradition Act 1999 and the Mutual Assistance in Criminal Matters Act 1992, to ensure that New Zealand can carry out its international obligations in relation to the Optional Protocol. A consequential amendment is also made to the Summary Proceedings Act 1957 (*Part 3, Clauses 29-35*).

**Copyright: © NZ Parliamentary Library, 2009**

Except for educational purposes permitted under the Copyright Act 1994, no part of this document may be reproduced or transmitted in any form or by any means, including information storage and retrieval systems, other than by Members of Parliament in the course of their official duties, without the consent of the Parliamentary Librarian, Parliament Buildings, Wellington, New Zealand.

This document may also be available through commercial online services and may be viewed and reproduced in accordance with the conditions applicable to those services.

---

<sup>2</sup> Child and Family Protection Bill, 2009 No 72-1, Explanatory note, General policy statement, pp. 1 and 2.