South Australia

Children and Young People (Safety and Support) Bill 2024

Amendment No 1 [Franks–3]—

Clause 1, page 12, line 4—

Delete "(Safety and Support)" and substitute:

(Best Interests)

Amendment No 2 [Franks–3]—

Clause 3, page 12, lines 21 and 22 [clause 3(1), definition of ***active efforts***]—

Delete the definition and substitute:

active efforts or ***principle of active efforts***—see section 11A;

Amendment No 3 [Franks–3]—

Clause 3, page 13, line 7 [clause 3(1), definition of best interests]—

Delete the definition

Amendment No 4 [Franks–3]—

Clause 10, page 21, lines 2 to 6—

Delete clause 10 and substitute:

10—Best interests of children and young people paramount

(1) For the purposes of this Act, the best interests of children and young people must always be paramount.

(2) In determining whether a decision or action is in the best interests of a child or young person, the need to protect them from harm, to protect their rights and to promote their development (taking into account their age and stage of development) must always be considered.

(3) In considering what is in the best interests of a particular Aboriginal or Torres Strait Islander child or young person, regard should be given to such of the following as may be relevant in the circumstances:

(a) the need to comply with the Aboriginal and Torres Strait Islander Child Placement Principle;

(b) the child rearing practices of Aboriginal or Torres Strait Islander people;

(c) the need to provide the child or young person with the opportunity to maintain and build their identity, as well as their connections to their Aboriginal or Torres Strait Islander family, community, culture and Country;

(d) the child or young person's need to have an environment in which they—

(i) feel safe and supported to express their culture and spiritual and other belief systems; and

(ii) are supported by a carer who respects their identity as an Aboriginal or Torres Strait Islander child or young person and who nurtures and encourages their sense of self and identity in respect to their family, community, culture and Country;

(e) any other matter prescribed by the regulations.

(4) In addition to subsection (1) and (2), in determining what decision to make or action to take in the best interests of a child or young person, consideration must be given to the following, where they are relevant to the decision or action:

(a) the need to give the widest possible protection and assistance to the parent and child or young person as the fundamental group unit of society and to ensure that intervention into that relationship is limited to that necessary to secure the safety and wellbeing of the child or young person;

(b) the need to strengthen, preserve and promote positive relationships between the child or young person and their parents, family members and other persons significant to them;

(c) the need, in relation to an Aboriginal or Torres Strait Islander child or young person, to protect and promote their cultural and spiritual identity and development by, wherever possible, maintaining and building their connections to their Aboriginal or Torres Strait Islander family and community;

(d) the child or young person's views and wishes, if they can be reasonably ascertained, and they should be given such weight as is appropriate in the circumstances;

(e) the effects of cumulative patterns of harm on a child or young person's safety and development;

(f) the desirability of continuity and permanency in the child or young person's care;

(g) the desirability of making decisions as expeditiously as possible and the possible harmful effect of delay in making a decision or taking an action;

(h) that a child or young person is only to be removed from the care of their parent if there is an unacceptable risk of harm to the child or young person;

(i) if a child or young person is to be removed from the care of their parent, that consideration is to be given first to the child or young person being placed with an appropriate family member or other appropriate person significant to them, before any other placement option is considered;

(j) the desirability, when a child or young person is removed from the care of their parent, to plan the reunification of the child or young person with their parent;

(k) the capacity of each parent or other adult relative or potential care giver to provide for a child or young person's needs and any action taken by the parent to give effect to the goals set out in the case plan relating to the child or young person;

(l) contact arrangements between the child or young person and their parents, siblings, family members and other persons significant to them;

(m) the child or young person's social, individual and cultural identity and religious faith (if any) and their age, maturity, sex and sexual identity;

(n) where a child or young person with a particular cultural identity is placed in out of home care with a care giver who is not a member of that cultural community, the desirability of the child or young person retaining a connection with their culture;

(o) the desirability of a child or young person being supported to gain access to appropriate educational services, health services and accommodation and to participate in appropriate social opportunities;

(p) the desirability of allowing the education, training or employment of the child or young person to continue without interruption or disturbance;

(q) the desirability of siblings being placed together when they are placed in out of home care;

(r) any other relevant consideration.

Amendment No 5 [Franks–3]—

Clause 11, page 21, line 7 to page 22, line 22—

This clause will be opposed

Amendment No 6 [Franks–3]—

New clause, page 22, after line 22—

Insert:

11A—Principle of active efforts

(1) Each person or body involved in the operation and administration of this Act must act in accordance with the principle of active efforts in performing functions under this Act.

(2) For the purposes of this Act, the principle set out in this section constitutes the ***principle of active efforts*** (and a reference to a person or body making active efforts will be taken to be a reference to the person or body acting in accordance with that principle).

(3) The principle of active efforts means—

(a) in taking action to safeguard or promote the safety, welfare and wellbeing of a child or young person—making active efforts to prevent the child or young person from entering care; and

(b) for a child or young person who has been removed from their parents or family—

(i) making active efforts to restore the child or young person to their parents; or

(ii) for a child or young person for whom it is not practicable or not in their best interests to be restored to their parents—to place the child or young person with family, kin or community.

Note—

See also the Aboriginal and Torres Strait Islander Child Placement Principle set out in section 44.

(4) Under the principle of active efforts, active efforts must—

(a) be timely; and

(b) be practicable, thorough and purposeful; and

(c) address the grounds on which a child or young person is considered to be at risk of harm; and

(d) conducted, to the greatest extent possible, in partnership with the child or young person and the family, kin and community of the child or young person; and

(e) be culturally appropriate; and

(f) comply with any other requirements prescribed by the regulations.

(5) Without limiting a preceding subsection, active efforts include—

(a) providing, facilitating or assisting with access to support services and other resources; and

(b) if appropriate services or resources do not exist or are not available—considering alternative ways of addressing the relevant needs of the child or young person and their family, kin or community; and

(c) activities directed at finding and contacting the family, kin and community of the child or young person.

(6) The requirements under this section do not limit any other ways in which active efforts can be made when making a decision under this Act.

Amendment No 7 [Franks–3]—

New clause, page 22, after line 27—

Insert:

12A—Principle of early intervention

It is a principle of this Act (the ***principle of early intervention***) that State authorities whose functions and powers include matters relating to the safety and welfare of children and young people must have regard to the fact that early intervention in matters where children and young people may be at risk is a priority.

Amendment No 8 [Franks–3]—

Clause 13, page 22, after line 37—

Insert:

(1a) Without otherwise limiting subsection (1), a person or body referred to in that subsection must—

(a) offer the child or young person a reasonable opportunity to present their views in person to the decision maker; and

(b) if the child or young person wishes to present their views in person, take reasonable steps to facilitate that prior to the prescribed decision being made.

Amendment No 9 [Franks–3]—

Clause 13, page 23, line 15 [clause 13(6)]—

Delete "do not wish to do so" and substitute:

express a desire to not do so

Amendment No 10 [Franks–3]—

Clause 13, page 23, line 20 [clause 13(7), definition of ***prescribed decision***, (b)]—

After "preparation" insert:

or review

Amendment No 11 [Franks–3]—

Clause 14, page 24, line 1 [clause 14(3)]—

After "preparing" insert:

, altering

Amendment No 12 [Franks–3]—

Clause 14, page 24, lines 8 to 11 [clause 14(5)]—

Delete subclause (5) and substitute:

(5) The Minister may, on receiving the Charter for approval and after consultation with the Guardian for Children and Young People, require an alteration to the Charter before approval (however, such alteration must be consistent with Part 2).

(5a) The Minister must, within 30 days after receiving the Charter, or the Charter as altered, (whichever is the later) approve the Charter.

Amendment No 13 [Franks–3]—

Clause 14, page 24, line 21 [clause 14(10)]—

Delete subclause (10)

Amendment No 14 [Franks–3]—

Clause 15, page 24, lines 27 to 36 —

Delete clause 15 and substitute:

15—Chief Executive must provide copy of Charter etc to children and young people in care

(1) The Chief Executive must, as soon as is reasonably practicable after a child or young person is placed in the custody, or under the guardianship, of the Chief Executive under this Act, provide to the child or young person—

(a) a copy of the Charter; and

(b) an explanation of the content and effect of the Charter; and

(c) information about, and the contact details of, the Guardian for Children and Young People.

(2) If a child or young person is unlikely to be understand the information and documents referred to in subsection (1) (whether by reason of cognitive or physical disabilities, language differences or difficulties, literacy challenges or otherwise), the Chief Executive must make such alternative arrangements as may be necessary to ensure that the information is, if it is reasonably practicable to do so, communicated to the child or young person in a way they are capable of understanding.

(3) However, the Chief Executive need not comply with this section if the Chief Executive is of the opinion that the child or young person is not reasonably capable of understanding the information referred to in subsection (1).

Amendment No 15 [Franks–3]—

Clause 19, page 27, after line 35 [clause 19(4), definition of ***prescribed State authority***]—

Insert:

(da) the administrative unit of the Public Service that is responsible for assisting a Minister in the administration of the *Courts Administration Act 1993*; and

(db) the administrative unit of the Public Service that is responsible for assisting a Minister in the administration of the *South Australian Housing Trust Act 1995*; and

(dc) South Australia Police; and

Amendment No 16 [Franks–3]—

Clause 26, page 31, after line 41 [clause 26(1)]—

Insert:

(ab) the following information in respect of Aboriginal and Torres Strait Islander children and young people:

(i) the extent to which case planning in relation to such children and young people includes the development of cultural maintenance plans with input from local Aboriginal and Torres Strait Islander communities and organisations;

(ii) the extent to which agreements made in case planning relating to supporting the cultural needs of such children and young people are being met (being support such as transport to cultural events, respect for religious laws, attendance at funerals, providing appropriate food and access to religious celebrations);

(iii) the extent to which such children and young people have access to a case worker, community, relative or other person from the same Aboriginal or Torres Strait Islander community as the child or young person; and

Amendment No 17 [Franks–3]—

Clause 28, page 33, lines 23 and 24 [clause 28(1)(d)]—

Delete paragraph (d)

Amendment No 18 [Franks–3]—

Clause 28, page 33, lines 25 to 27 [clause 28(1)(e)]—

Delete paragraph (e)

Amendment No 19 [Franks–3]—

Clause 28, page 33, line 28 [clause 28(2)]—

Delete ", (d) or (e)"

Amendment No 20 [Franks–3]—

Clause 28, page 33, line 31 [clause 28(3)]—

Delete "(d) or (e)"

Amendment No 21 [Franks–3]—

Clause 28, page 33, line 33 [clause 28(4)]—

Delete ", (d) or (e)"

Amendment No 22 [Franks–3]—

Clause 39, page 40, line 32—

Delete "to the standard of active efforts" and substitute:

in accordance with the principle of active efforts

Amendment No 23 [Franks–3]—

Clause 40, page 41, line 9 [clause 40(b)]—

After "families" insert:UN Declaration on the Rights of Indigenous Peoples

Amendment No 24 [Franks–3]—

New clause, page 42, after line 11—

Insert:

41A—Right of legal representation and cultural support in proceedings and meetings etc

(1) This section applies to the following matters (however described) relating to an Aboriginal or Torres Strait Islander child or young person:

(a) family group conferences;

(b) meetings relating to the preparation of the case plan of the Aboriginal or Torres Strait Islander child or young person held for the purposes of—

(i) ascertaining the views of the Aboriginal or Torres Strait Islander child or young person, and their parents and family; or

(ii) allowing the participation of such persons in the preparation of the case plan;

(c) meetings relating to the determination of contact arrangements in respect of the Aboriginal or Torres Strait Islander child or young person;

(d) reviews of a determination of the Chief Executive in respect of the contact arrangements of the Aboriginal or Torres Strait Islander child or young person by a panel under section 141;

(e) reviews of the circumstances of the Aboriginal or Torres Strait Islander child or young person under section 142;

(f) meetings relating to the preparation of a leaving care plan under section 169;

(g) internal reviews under section 198; or

(h) proceedings before the Court or SACAT under this Act; and

(i) any other matter prescribed by the regulations,

(2) Subject to this Act, an Aboriginal or Torres Strait Islander child or young person, and their parents and family, are entitled to be represented in matters to which this section applies by a legal practitioner engaged by or on behalf of the family to do so.

(3) The reasonable legal costs of the legal practitioner in representing an Aboriginal or Torres Strait Islander child or young person, and their parents and family, under this section may be the subject of an application for legal assistance under the *Legal Services Commission Act 1977* which is to be determined in accordance with that Act.

(4) An Aboriginal or Torres Strait Islander child or young person, and their parents and family, are, in any matters to which this section applies, entitled to be supported by a cultural support person chosen by them (and, to avoid doubt, the cultural support person is entitled to be present at the proceedings).

(5) This section is in addition to, and does not derogate from, any other provision of this Act.

Amendment No 25 [Franks–3]—

Clause 44, page 42, lines 34 and 35 [clause 44(1)]—

Delete "to the standard of active efforts" and substitute:

in accordance with the principle of active efforts

Amendment No 26 [Franks–3]—

Clause 44, page 43, line 5 [clause 44(2)(a)]—

Delete "should" and substitute:

must

Amendment No 27 [Franks–3]—

Clause 44, page 43, line 10 [clause 44(2)(b)]—

Delete "should" and substitute:

must

Amendment No 28 [Franks–3]—

Clause 44, page 43, line 18 [clause 44(2)(c)]—

Delete "should" and substitute:

must

Amendment No 29 [Franks–3]—

Clause 44, page 43, line 31 [clause 44(2)(d)]—

Delete "should" and substitute:

must

Amendment No 30 [Franks–3]—

Clause 44, page 43, line 37 [clause 44(2)(e)]—

Delete "should" and substitute:

must

Amendment No 31 [Franks–3]—

Clause 44, page 43, line 45 [clause 44(3)]—

Delete "to the standard of active efforts" and substitute:

in accordance with the principle of active efforts

Amendment No 32 [Franks–3]—

Clause 44, page 44, lines 2 and 3 [clause 44(4)]—

Delete "to the standard of active efforts" and substitute:

in accordance with the principle of active efforts

Amendment No 33 [Franks–3]—

Clause 44, page 44, line 28 [clause 44(5)(a)]—

Delete "should" and substitute:

must

Amendment No 34 [Franks–3]—

Clause 44, page 44, line 33 [clause 44(5)(b)]—

Delete "should" and substitute:

must

Amendment No 35 [Franks–3]—

Clause 44, page 44, line 38 [clause 44(5)(c)]—

Delete "should" and substitute:

must

Amendment No 36 [Franks–3]—

Clause 44, page 45, lines 1 to 8 [clause 44(5)(d)]—

Delete paragraph (d)

Amendment No 37 [Franks–3]—

Clause 44, page 45, lines 9 to 15 [clause 44(5)(e)]—

Delete paragraph (e)

Amendment No 38 [Franks–3]—

Clause 45, page 45, lines 18 to 31—

This clause will be opposed

Amendment No 39 [Franks–3]—

Clause 48, page 46, line 39 to page 47, line 12—

This clause will be opposed

Amendment No 40 [Franks–3]—

Clause 49, page 48, lines 16 to 34 [clause 49(6), definition of eligible entity, (b) and (c)]—

Delete paragraphs (b) and (c) and substitute:

(b) an entity that provides services to Aboriginal or Torres Strait Islander people in this State where—

(i) the chief executive of the entity (however described) is a person with the attributes set out in paragraph (a); and

(ii) the governing body of the entity consists of a majority of—

(A) Aboriginal or Torres Strait Islander people; and

(B) people who have relevant knowledge of, or expertise in, child protection; and

Note—

For example, an Aboriginal community controlled organisation providing services in the area of child protection.

(iii) in the case of a body corporate—each director of the entity (however described) is a person—

(A) who is not a prohibited person under the *Child Safety (Prohibited Persons) Act 2016*; and

(B) in relation to whom a working with children check has been conducted within the preceding 5 years; and

(iv) the entity complies with any other requirements set out in the regulations; or

Amendment No 41 [Franks–3]—

Clause 53, page 51, lines 5 to 36—

This clause will be opposed

Amendment No 42 [Franks–3]—

Clause 56, page 53, lines 17 and 18 [clause 56(4)]—

Delete subclause (4)

Amendment No 43 [Franks–3]—

Clause 56, page 53, line 6 [clause 56(1)]—

Delete "to the standard of active efforts" and substitute:

in accordance with the principle of active efforts

Amendment No 44 [Franks–3]—

Clause 57, page 53, lines 19 to 37—

This clause will be opposed

Amendment No 45 [Franks–3]—

Clause 58, page 54, lines 9 and 10 [clause 58(1)(a)]—

Delete "the standard of active efforts has been met in doing so" and substitute:

active efforts were made in doing so

Amendment No 46 [Franks–3]—

Clause 61, page 55, after line 33 —

Insert:

(ba) the panel must—

(i) notify each parent of the child or young person of the review and give them a reasonable opportunity to make submissions to the panel for the purposes of the review; and

(ii) have regard to the submissions of the parents in respect of the care of the child or young person;

Amendment No 47 [Franks–3]—

Clause 85, page 71, lines 15 to 17 [clause 85, definition of ***parent***]—

Delete the definition

Amendment No 48 [Franks–3]—

Clause 94, page 75, lines 9 to 26—

Delete clause 94 and substitute:

94—Chief Executive to convene family group conference

(1) The Chief Executive must convene a family group conference in respect of a child or young person—

(a) if the Chief Executive—

(i) —

(A) causes an assessment of the circumstances of the child or young person to be carried out under section 75; or

(B) otherwise suspects that the child or young person is at risk of harm; and

(ii) is of the opinion that it would be appropriate in all of the circumstances to make arrangements in relation to the care of the child or young person by means of a family group conference; or

(b) if a family member of the child or young person in care requests that a family group conference (however described) be convened; or

(c) in any other circumstances prescribed by the regulations.

(2) However, the Chief Executive need not comply with subsection (1)—

(a) if a particular person refuses to participate in the family group conference and the Chief Executive is satisfied that the person's participation is required for a decision at the conference to be valid; or

(b) in any other circumstances prescribed by the regulations.

(3) The Chief Executive may convene a family group conference in respect of an unborn child if—

(a) the Chief Executive suspects that there is a risk of harm to the physical or psychological development of the unborn child (whether due to an act or omission of a parent or otherwise); and

(b) the Chief Executive is of the opinion that it would be appropriate in all of the circumstances to make arrangements in relation to the care of the unborn child once born by means of a family group conference.

(4) A family group conference is to be conducted by a coordinator nominated by the Chief Executive.

Amendment No 49 [Franks–3]—

Clause 99, page 78, after line 8—

Insert:

(1a) Without limiting subsection (1), an application for an order under this Part relating to the placement of, or the contact arrangements in respect of, a child or young person who is under the guardianship, or in the custody of, the Chief Executive or other person under this or a repealed Act, or any other order of a kind prescribed by the regulations, may also be made by—

(a) the child or young person; or

(b) a parent of the child or young person.

Amendment No 50 [Franks–3]—

Clause 99, page 79, lines 10 and 11 [clause 99(6), definition of ***prescribed Court order***, (a)]—

Delete "(except a specified person guardianship order made under section 124)"

Amendment No 51 [Franks–3]—

Clause 100, page 79, lines 22 to 26 [clause 100(1)(d)]—

Delete paragraph (d)

Amendment No 52 [Franks–3]—

Clause 100, page 79, after line 33—

Insert:

(3) Without limiting subsection (2), the Court should, unless the Court is of the opinion that it would not be in the best interests of the child or young person to do so, allow—

(a) in the case of an application for the placement of a child or young person under the guardianship of a person or persons other than the Chief Executive—the person or persons; or

(b) if the child or young person is in the care of an approved carer—the approved carer,

a reasonable opportunity to make representations to the Court in any relevant proceedings.

Amendment No 53 [Franks–3]—

Clause 106, page 81, after line 4 [clause 106(1)]—

Before paragraph (a) insert:

(aa) the legal practitioner must, in the case of a child or young person who is 10 or more years of age, take reasonable steps to meet with the child or young person;

Amendment No 54 [Franks–3]—

Clause 106, page 81, after line [clause 106(1)]—

Insert:

(ca) the legal practitioner must, in a manner appropriate to the capacity of the child or young person to understand, explain to the child or young person the contents and effect of any documents given to, or orders relating to, the child or young person under this Act;

Amendment No 55 [Franks–3]—

Clause 107, page 81, after line 28 [clause 107(2)]—

Insert:

or

(c) the child or young person has expressed a desire to not do so.

Amendment No 56 [Franks–3]—

New clause, page 85, after line 8—

Insert:

112A—Court not to make certain orders unless family group conference convened

(1) Subject to this section, a prescribed order must not be made by the Court in relation to a child or young person unless at least 1 family group conference has been convened in relation to the child or young person (whether the conference was convened by the Chief Executive or the Court, and whether or not valid decisions were made at the conference).

(2) Subsection (1) does not apply—

(a) if the Chief Executive has not complied with section 94 in the circumstances referred to in section 94(2); or

(b) in any other circumstances prescribed by the regulations.

(3) In this section—

prescribed order means an order made by the Court under section 112(1)(e), (f), (g), (h), (i) or (j).

Note—

A prescribed order does not include an assessment order or an interim order.

Amendment No 57 [Franks–3]—

Clause 132, page 93, lines 9 to 12 [clause 132(3)]—

Delete subclause (3)

Amendment No 58 [Franks–3]—

Clause 142, page 99, after line 5 [clause 142(4)]—

Insert:

(ab) the panel must—

(i) notify the child or young person of the review; and

(ii) in accordance with section 13, give the child or young person a reasonable opportunity to make submissions to the panel; and

(iii) have regard to the views of the child or young person in respect their care;

Amendment No 59 [Franks–3]—

Clause 142, page 99, after line 16 [clause 142(4)(b)]—

Insert:

(iiia) notify each parent of the child or young person of the review and give them a reasonable opportunity to make submissions to the panel for the purposes of the review; and

Amendment No 60 [Franks–3]—

Clause 170, page 114, lines 9 to 13 [clause 170(6), definition of ***eligible care leaver***]—

Delete the definition and substitute:

eligible care leaver means a person who—

(a) is more than 15, but less than 26, years of age; and

(b) was at any stage under the guardianship or in the custody of the Chief Executive or another person or persons pursuant to this Act or a repealed Act for a period of 6 months or more (or such lesser period as may be allowed by the Chief Executive).

Amendment No 61 [Franks–3]—

Schedule 1, page 139, line 30 [Schedule 1, table, item 1, column 4]—

Delete "The proposed guardian" and substitute:

The following persons:

(a) the proposed guardian;

(b) a parent or guardian of the child or young person to whom the decision relates;

(c) the child or young person to whom the decision relates

Amendment No 62 [Franks–3]—

Schedule 1, page 139, after line 32 [Schedule 1, table, after item 1]—

Insert:

1a	A determination of contact arrangements in respect of a child or young person	Section 139 of this Act	The following persons: (a) the proposed guardian; (b) a parent or guardian of the child or young person to whom the decision relates; (c) the child or young person to whom the decision relates

Amendment No 63 [Franks–3]—

Schedule 2, page 142, after line 25 [Schedule 2 Part 5]—

Insert:

5A—Amendment of section 3—Interpretation

(1) Section 3(1)—after the definition of ***Child Development Council*** insert:

Children and Young People's Advocate means the person for the time being holding or acting in the office of Children and Young People's Advocate under Part 3A;

(2) Section 3(1)—after the definition of ***Child Development Council*** insert:

Foster and Kinship Carers' Advocate means the person for the time being holding or acting in the office of Foster and Kinship Carers' Advocate under Part 3B;

Amendment No 64 [Franks–3]—

Schedule 2, page 142, after line 25 [Schedule 2 Part 5]—

Insert:

5A—Amendment of section 3—Interpretation

Section 3(1)—after the definition of ***Guardian for Children and Young People*** insert:

Independent Children and Young People Investigations Agency or ***Agency*** means the Independent Children and Young People Investigations Agency constituted under Part 5A;

Amendment No 65 [Franks–3]—

Schedule 2, page 142, after line 29 [Schedule 2 Part 5]—

Insert:

6A—Insertion of Part 3A

After section 29 insert:

Part 3A—Children and Young People's Advocate

29A—Children and Young People's Advocate

(1) There will be a Children and Young People's Advocate.

(2) The Children and Young People's Advocate is independent of direction or control by the Crown or any Minister or officer of the Crown.

29B—Appointment of Children and Young People's Advocate

(1) The Governor may, by notice in the Gazette, appoint a person to be the Children and Young People's Advocate on conditions, and for a term (not exceeding 5 years), determined by the Governor and specified in the instrument of appointment.

(2) The Children and Young People's Advocate is, at the end of a term of appointment, eligible for reappointment for a further term.

(3) The office of Children and Young People's Advocate becomes vacant if the Children and Young People's Advocate—

(a) dies; or

(b) completes a term of office and is not reappointed; or

(c) resigns by notice in writing to the Governor; or

(d) is removed from office by the Governor under subsection (4).

(4) The Governor may terminate the appointment of the Children and Young People's Advocate for—

(a) contravention of a condition of appointment; or

(b) failure or incapacity to carry out official duties satisfactorily; or

(c) misconduct or conduct that may bring the office of the Children and Young People's Advocate into disrepute.

29C—Functions

(1) The Children and Young People's Advocate has the following functions:

(a) to support, promote and advocate for the interests of children and young people;

(b) to regularly review all programs designed to meet the needs of children and young people in the public and private sector;

(c) to identify areas of unmet needs or inappropriately met needs of children and young people in care and to recommend to the Minister the development of programs for meeting those needs or the improvement of existing programs;

(d) to make recommendations to the Minister for legislative change in respect of unmet needs or inappropriately met needs of children and young people in care;

(e) to advocate for and negotiate on behalf of children and young people in care in the resolution of any problem faced by them arising out such care;

(f) to advise children and young people on the application and operation of this Act and the *Children and Young People (Safety and Support) Act 2025*;

(g) any other functions assigned to the Children and Young People's Advocate under this or any other Act.

(2) In performing their functions, the Children and Young People's Advocate must regularly consult with children and young people, foster carers, kinship carers, their families and other relevant entities.

29D—Delegation

(1) The Children and Young People's Advocate may delegate a functions under this Act to a specified person (including, to avoid doubt, a person acting in a specified position or office).

(2) A delegation under this section—

(a) must be by instrument in writing; and

(b) may be conditional or unconditional; and

(c) is revocable at will; and

(d) does not prevent the delegator from acting in any matter.

(3) A function delegated under this section may, if the instrument of delegation so provides, be further delegated.

29E—Reporting requirements

(1) The Children and Young People's Advocate may, at any time, submit a report to the Minister outlining any concerns they have over matters arising out of or in relation to the performance of their functions under this or any other Act.

(2) If the Children and Young People's Advocate so requests, the Minister must, within 6 sitting days after receiving a report under subsection (1), cause copies of the report to be laid before each House of Parliament.

(3) The Children and Young People's Advocate must, on or before 30 September in each year, present a report to the Minister on the performance of their functions during the previous financial year.

(4) The Minister must, within 6 sitting days after receiving a report under subsection (3), cause copies of the report to be laid before each House of Parliament.

(5) The report under subsection (3) must include a summary of the matters contained in any report under subsection (1).

Part 3B—Foster and Kinship Carers' Advocate

29F—Foster and Kinship Carers' Advocate

(1) There will be a Foster and Kinship Carers' Advocate.

(2) The Foster and Kinship Carers' Advocate is independent of direction or control by the Crown or any Minister or officer of the Crown.

29G—Appointment of Foster and Kinship Carers' Advocate

(1) The Governor may, by notice in the Gazette, appoint a person to be the Foster and Kinship Carers' Advocate on conditions, and for a term (not exceeding 5 years), determined by the Governor and specified in the instrument of appointment.

(2) The Foster and Kinship Carers' Advocate is, at the end of a term of appointment, eligible for reappointment for a further term.

(3) The office of Foster and Kinship Carers' Advocate becomes vacant if the Foster and Kinship Carers' Advocate—

(a) dies; or

(b) completes a term of office and is not reappointed; or

(c) resigns by notice in writing to the Governor; or

(d) is removed from office by the Governor under subsection (4).

(4) The Governor may terminate the appointment of the Foster and Kinship Carers' Advocate for—

(a) contravention of a condition of appointment; or

(b) failure or incapacity to carry out official duties satisfactorily; or

(c) misconduct or conduct that may bring the office of the Foster and Kinship Carers' Advocate into disrepute.

29H—Functions

(1) The Foster and Kinship Carers' Advocate has the following functions:

(a) to support, promote and advocate for the interests of foster carers and kinship carers;

(b) to regularly review all programs designed to meet the needs of foster carers and kinship carers in the public and private sector;

(c) to identify areas of unmet needs or inappropriately met needs of foster carers and kinship carers and to recommend to the Minister the development of programs for meeting those needs or the improvement of existing programs;

(d) to make recommendations to the Minister for legislative change in respect of unmet needs or inappropriately met needs of foster carers and kinship carers;

(e) to advocate for and negotiate on behalf of foster carers and kinship carers in the resolution of any problem faced by them arising out of their role as a foster carer or a kinship carer (as the case may be);

(f) to advise foster carers and kinship carers on the application and operation of this Act and the *Children and Young People (Safety and Support) Act 2025* in relation to foster carers and kinship carers;

(g) any other functions assigned to the Foster and Kinship Carers' Advocate under this or any other Act.

(2) In performing their functions, the Foster and Kinship Carers' Advocate must regularly consult with foster carers, kinship carers, their families and other groups and persons representative of foster carers and kinship carers.

29I—Delegation

(1) The Foster and Kinship Carers' Advocate may delegate a function under this Act to a specified person (including, to avoid doubt, a person acting in a specified position or office).

(2) A delegation under this section—

(a) must by instrument in writing;

(b) may be conditional or unconditional; and

(c) is revocable at will; and

(d) does not prevent the delegator from acting in any matter.

(3) A function delegated under this section may, if the instrument of delegation so provides, be further delegated.

29J—Reporting requirements

(1) The Foster and Kinship Carers' Advocate may, at any time, submit a report to the Minister outlining any concerns they have over matters arising out of or in relation to the performance of their functions under this or any other Act.

(2) If the Foster and Kinship Carers' Advocate so requests, the Minister must, within sitting 6 days after receiving a report under subsection (1), cause copies of the report to be laid before each House of Parliament.

(3) The Foster and Kinship Carers' Advocate must, on or before 30 September in each year, present a report to the Minister on the performance of their functions during the previous financial year.

(4) The Minister must, within 6 sitting days after receiving a report under subsection (3), cause copies of the report to be laid before each House of Parliament.

(5) The report under subsection (3) must include a summary of the matters contained in any report under subsection (1).

Amendment No 66 [Franks–3]—

Schedule 2, page 142, after line 33 [Schedule 2 Part 5]—

Insert:

7A—Insertion of Part 4A

After section 45 insert:

Part 5A—Independent Children and Young People Investigations Agency

45A—Interpretation

In this Part—

Department means—

(a) if the administration of this Act is committed to the Minister for Child Protection—the administrative unit responsible for assisting a Minister in the administration of the *Education and Children's Services Act 2019*; or

(b) in any other case—the administrative unit responsible for assisting a Minister in the administration of this Act;

Minister means—

(a) if the administration of this Act is committed to the Minister for Child Protection—the Minister to whom the administration of the *Education and Children's Services Act 2019* is committed; or

(b) in any other case—the Minister to whom the administration of this Act is committed;

Minister for Child Protection the Minister to whom the administration of the *Children and Young People (Safety and Support) Act 2025* is committed.

45B—Independent investigation agency to be constituted

(1) The Minister must ensure that a separate agency (the ***Independent Children and Young People Investigations Agency***) is constituted within the Department.

(2) The Agency consists of—

(a) the Principal Investigator; and

(b) such number of investigators as the Minister considers necessary for the proper performance of functions under this Part.

(3) The Agency is independent of direction or control by the Crown or any Minister or officer of the Crown.

45C—Functions of Agency

(1) The Agency has the following functions:

(a) to investigate complaints relating to the operation of the *Children and Young People (Safety and Support) Act 2025*;

(b) to administer the complaint management system;

(c) to refer matters of concern to the Minister, the Minister for Child Protection, the Chief Executive or any other appropriate person or body;

(d) any other functions assigned to the Agency by this Act or any other Act.

(2) Subject to this section, the Agency, or an investigator, may, for the purposes of an investigation under this Part, require a specified person (whether or not the person is a State authority, or an officer or employee of a State authority) to provide to the Agency such information or documents as may be specified in the notice (being information or documents in the possession of the person that the Agency reasonably requires for the review).

(3) A person must not refuse or fail to comply with a requirement under subsection (2).

Maximum penalty: $10 000.

(4) Subsection (3) does not apply to a prescribed person in respect of a child or young person to whom the investigation relates.

(5) Nothing in this section authorises the Agency to require a person to disclose or allow access to information or documents subject to the operation of Part 7 or 8 of the *Health Care Act 2008*.

(6) If a State authority refuses or fails to comply with a requirement under subsection (2), the Agency may, after consultation with the State authority—

(a) report the refusal or failure to the Minister and to the Minister responsible for the State authority (if any); and

(b) include details of the refusal or failure in the annual report of the Agency.

(7) In this section—

prescribed person, in respect of a child or young person, means a parent, step-parent, foster parent, brother, sister, uncle, aunt, grandfather or grandmother of the child or young person.

45D—Complaint management system

(1) The Minister must establish a system to record information relating to the making, assessment, investigation and resolution of complaints made under this Part (the ***complaint management system***).

(2) The complaint management system—

(a) must, in relation to each complaint or report entered on the system, contain such information as may be required by or under this Act; and

(b) must comply with any requirements set out in the regulations.

45E—Delegation

(1) The Principle Investigator may delegate a function of the Agency under this Act to a specified person (including, to avoid doubt, a person acting in a specified position or office).

(2) A delegation under this section—

(a) must be by instrument in writing; and

(b) may be conditional or unconditional; and

(c) is revocable at will; and

(d) does not derogate from the ability of the Chief Executive or the Agency (as the case requires) to act in any matter.

(3) A function delegated under this section may, if the instrument of delegation so provides, be further delegated.

45F—Reporting

(1) The Agency must, on or before 31 October in each year, report to the Minister on the performance of its functions during the preceding financial year.

(2) The Agency may, at any time, prepare a special report to the Minister on any matter arising out of the performance of the Agency's functions.

(3) The Minister must, within 6 sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

7B—Amendment of section 59—No obligation to maintain secrecy

Section 59—after "CACYP," insert:

the Agency,

7C—Amendment of section 62—Sharing of information between certain persons and bodies

Section 62(1)—after paragraph (ab) insert:

(ac) the Agency;

7D—Amendment of section 64—Obstruction etc

Section 64—after "CACYP," insert:

the Agency,

7E—Amendment of section 68—Protections, privileges and immunities

Section 68(1)—after "CACYP," insert:

a member of the Agency,

Amendment No 67 [Franks–3]—

Schedule 2, page 142, after line 33 [Schedule 2 Part 5]—

Insert:

7A—Amendment of section 59—No obligation to maintain secrecy

Section 59—after "Guardian" insert:

, the Children and Young People's Advocate, the Foster and Kinship Carers' Advocate,

7B—Amendment of section 62—Sharing of information between certain persons and bodies

Section 62(1)—after paragraph (b) insert:

(ba) Children and Young People's Advocate;

(bb) the Foster and Kinship Carers' Advocate;

7C—Amendment of section 64—Obstruction etc

Section 64—after "Guardian," insert:

, the Children and Young People's Advocate, the Foster and Kinship Carers' Advocate,

7D—Amendment of section 68—Protections, privileges and immunities

Section 68(1)—after "Guardian," insert:

, the Children and Young People's Advocate, the Foster and Kinship Carers' Advocate,

Amendment No 68 [Franks–3]—

Long title, page 1—

Delete "and keep them safe from harm" and substitute:

by ensuring that their best interests are paramount, to keep them safe from harm