

[Act 1996 No 116]



New South Wales

Children (Care and Protection) Amendment (Disclosure of Information) Bill 1996

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Children (Care and Protection) Act 1987* so as to enable the Director-General of the Department of Community Services to exchange with certain other agencies information relating to the welfare of:

- any children who are believed, on reasonable grounds, to have been (or to be in danger of being) abused, and
- children under the age of 16 who are believed, on reasonable grounds, to be in need of care (within the meaning of the Act).

The Bill also provides for notifications to the Director-General of suspected abuse of a child aged 16 or 17. (The Act currently provides only for notifications in respect of children aged 15 or less.)

The Bill also provides that the provisions of the Act that afford protection from liability for defamation and certain other proceedings in relation to notifications of suspected child abuse also apply to the exchange of information permitted by the proposed Act.

The Bill also inserts a provision permitting the making of savings and transitional regulations consequent on the enactment of the proposed Act.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 is a formal provision giving effect to the amendments to the *Children (Care and Protection) Act 1987* set out in Schedule 1.

Schedule 1 [1] inserts proposed Subsection (1A) in section 22 (Notification of child abuse) of the Act. The proposed subsection allows a person who forms the belief on reasonable grounds that a child aged 16 or 17 has been, or is in danger of being, abused to notify the Director-General accordingly.

Schedule 1 [2] inserts proposed subsections (7A), (7B) and (7C) in section 22.

Proposed subsection (7A) allows the Director-General to investigate a notification of suspected child abuse relating to a child aged 16 or 17 and to take action on it in the same way as he or she may take action on such notifications relating to children aged 15 or less.

Proposed subsection (7B) permits the Director-General, for the purposes of any investigation into a notification of suspected child abuse (or of any action arising out of an investigation), to furnish a prescribed body (which is defined to include the Police Service, a Government Department, a public authority, a school, hospitals of various kinds and an area health service) with information concerning the welfare of a particular child or class of children, and to direct such a body to furnish the Director-General with information of that kind.

Proposed subsection (7C) requires a person to whom such a direction is given to comply with it.

Schedule 1 [3]–[6] extends the application of section 22 (8) (a), (b) and (c) to cover notifications made under proposed section 22 (1A) and information furnished under proposed section 22 (7B) or (7C). Section 22 (8) (a), (b) and (c) currently afford certain protections (such as protection from liability for defamation) to persons who notify the Director-General, under section 22 (1) or (4), of suspected child abuse. **Schedule 1 [3]** and **[6]** make it clear that section 22 (d) and (e), which currently provide that notifications under section 22 (1) or (4) are not admissible (and the persons who made them cannot be compelled to produce them or give evidence of their contents) in legal proceedings, extend to notifications made under proposed section 22 (1A), but not to information furnished under proposed section 22 (7B) or (7C).

Schedule 1 [7] inserts proposed subsection (8A) in section 22. The proposed subsection makes it clear that the protections afforded by section 22 (8) in relation to information furnished under section 22 (7B) or (7C) extend to any information furnished under the relevant subsection in good faith and with reasonable care.

Schedule 1 [8] inserts proposed subsections (12) and (13) in section 22.

Proposed subsection (12) overrides any other provision of an Act or law that prohibits or restricts the disclosure of information, but only to the extent that the other provision would prevent the disclosure of information permitted or required to be furnished under section 22.

Proposed subsection (13) defines the term *prescribed body* that is used in proposed section 22 (7B).

Schedule 1 [9] permits the making of savings and transitional regulations consequent on the enactment of the proposed Act.