

CHILD WELFARE (AMENDMENT) BILL 2014
LUKEN AUT FE LETL SALAN (CHIENJEN) BIL 2014
EXPLANATORY MEMORANDUM

The purpose of this Bill is to update the law of Norfolk Island concerning the welfare of children and young persons and bring it more in line with that of the States and Territories.

The Bill consists of a number of amendments to existing provisions and a major addition concerning support provisions for children in crisis.

The Bills provisions are –

Clauses 1 through 3 set out the usual short title for the Bill, its commencement, and the formal reference to the principal Act.

Clause 4 provides that the provisions of each Item in the Schedule are to have effect.

The Schedule is divided into 11 Items as follows –

Item 1 amends subsection 12(1), that is a statement of general principles to guide in the making of decisions or taking action and is subject to the overriding principle that the welfare of the child is of paramount importance.

Subsection 12(1) is amended by adding a paragraph (k) to provide protection for children and young persons who may be required to be interviewed for the purposes of the Act and requires that the child or young person must–

- have been the subject of a report under section 40 or 41 that are concerned with reports of abuse or other behaviour dealt with by the Act;
- consent to the interview;
- not be interviewed except in the presence of a person chosen by the child or young person (but if no such person is chosen the child welfare officer must appoint an adult person to be present),

and that a person with parental responsibility for the child or young person has been notified of the interview and been given the opportunity to attend. However a child being interviewed would not be allowed to nominate nor would an interviewer invite a person to be present with the child if that person is the subject of an issue the subject of the interview or whose presence may adversely affect the child's ability to be frank in discussion and the general rule is overridden by the requirement to give priority to the child's best interests and welfare.

Item 2 repeals section 27 and substitutes a new section dealing with the provision and exchange of information and in particular with information that concerns an unborn child that may be in danger, that child's family and the child's expected date of birth. The child welfare officer is able to provide the information to a defined entity (being defined in the proposed new subsection (11)). The information that may be provided must only be used to provide information that may assist in providing for the safety, welfare and well-being of the child or young person. The requirement to provide information under these provisions overrides the provision of other laws and exempts the provider from liability for civil or

criminal proceedings. If a defined entity has information under the Act, then it is not required to divulge that information in the circumstances set out in subsection (8) and if it does refuse must give its reasons in writing.

Item 3 substitutes a new paragraph 33(1)(c) to define the meaning of “emotional abuse” and a new subsection (3) to define when a child or young person is considered at a risk of significant harm.

Item 4 inserts a new section 40A to deal with the reporting of pre-natal risk that may be reported to the child welfare officer. The issue of pre-natal risk refers to the risk of harm that the child may be in after its birth so that potential problems are made known (such as birth into a violent or drug-addicted home life) but does not, for example, include a desire of the mother to lawfully terminate a pregnancy. The amendment also inserts reference to this new section in sections 42, 43, 44 and 45.

Item 5 amends the mandatory reporting requirements of section 41 by widening the class of persons required to make reports and to make it clear that a report must also be made where there is a risk of suffering sexual abuse or non-accidental physical injury.

Item 6 amends section 45 to provided added protection to persons making reports under the Act.

Item 7 amends section 85 to empower the court to require a person responsible for a child or young person to contribute to the cost of assessment or appraisal of a child or young person by the court.

Item 8 amends section 92 to empower the court to require a person responsible for a child or young person to contribute to the cost of required emergency action involving the child or young person.

Item 9 amends section 103 to empower the court where a therapeutic order has been made to order a person with parental control to contribute to the cost of care and protection of the child or young person.

Item 10 amends section 114 to empower the court where a specific issues order has been made to order a person with parental control to contribute to the cost of care and protection of the child or young person.

Item 11 inserts a new Division 5.3.11 that deals with the support for children and young persons in crisis.

Part 1 deals with serious and persistent conflict between a child or young person and his or her parents. Section 143C establishes that the basic principle is the primary responsibility of the parents unless that is not in the best interests of the child or young person. Section 143D provides that a parent, child or young person or any other person may ask the child welfare officer to provide assistance. Section 143E requires the child welfare officer to try to resolve

the issue before any approach is made to the court. Sections 143F to 143J sets out the basis for approaching the court to establish an alternative parenting plan, and empowers the court to adjourn as it sees fit and to make and register various kinds of order.

Part 2 deals with the issue of homelessness and how it is to be reported and treated.

12 February 2014