

**Children, Young Persons, and
Their Families Amendment Bill
(No 2)**

Government Bill

As reported from the committee of the whole
House

This bill was formerly part of the Family Court Proceedings Reform Bill as reported from the Justice and Electoral Committee. The committee of the whole House has further amended the bill and divided it into the following bills:

- Care of Children Amendment Bill (No 2) comprising clauses 1 and 2 and Part 1
- Child Support Amendment Bill (No 3) comprising subpart 1 of Part 5
- this bill comprising subpart 2 of Part 5
- Domestic Violence Amendment Bill (No 2) comprising Part 2
- Family Courts Amendment Bill comprising subpart 2A of Part 5
- Family Dispute Resolution Bill comprising Part 3
- Family Proceedings Amendment Bill (No 2) comprising subpart 3 of Part 5
- Legal Services Amendment Bill (No 2) comprising Part 4

- Property (Relationships) Amendment Bill (No 2) comprising subpart 4 of Part 5
 - Protection of Personal and Property Rights Amendment Bill comprising subpart 5 of Part 5
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**Children, Young Persons, and Their
Families Amendment Bill (No 2)**

Key to symbols used in reprinted bill

**As reported from the committee of the whole
House**

text inserted

~~text deleted~~

Hon Judith Collins

**Children, Young Persons, and
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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Children, Young Persons, and Their Families Amendment Act **2013**.
- 2 Commencement** 5
This Act comes into force on **1 October 2014** unless it is earlier brought into force on a date appointed by the Governor-General by Order in Council.
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- 75 Principal Act** 10
This subpart amends the Children, Young Persons, and Their Families Act 1989 (the **principal Act**).
- 76 Section 137 amended (Court to consider report and make directions)**
- (1) In section 137(1), delete “, after giving such persons (if any) as it thinks fit an opportunity to be heard,”. 15
- (2) After section 137(1), insert:
“(1A) When considering the report and revised plan, the court may, but need not, give to any person the opportunity to be heard.”
- 77 Section 159 amended (Appointment of barrister or solicitor to represent child or young person)** 20
- (1) Replace the heading to section 159 with “**Appointment of lawyer to represent child or young person in proceedings**”.
- (2) In section 159, replace “barrister or solicitor” with “lawyer” in each place.
- (3) In section 159(3)(a), replace “barrister’s or solicitor’s” with “lawyer’s”. 25

78 Sections 160 and 161 replaced

Replace sections 160 and 161 with:

“160 Appointment of lawyer to assist court

In any proceedings in a Family Court under Part 2 or 3A, the court may— 5

- “(a) appoint a lawyer to assist the court; or
- “(b) direct the Registrar of the court to appoint a lawyer to assist the court.

“161 Further provisions relating to appointment under section 159 or 160 10

“(1) A lawyer appointed under section 159—

“(a) must be served with all documents required to be served on the parties to the proceedings; and

“(b) may—

“(i) request the court to obtain any report that the court is empowered to obtain for the purposes of the proceedings: 15

“(ii) act on behalf of the child or young person in respect of any matter relating to the detention of that child or young person in secure care, or the care of that child or young person in a residence. 20

“(2) A lawyer appointed under **section 160**—

“(a) must be served with all documents required to be served on the parties to the proceedings; and

“(b) may request the court to obtain any report that the court is empowered to obtain for the purposes of the proceedings.” 25

79 Section 162 replaced (Payment of barrister or solicitor appointed under section 159 or section 160)

Replace section 162 with: 30

“162 Payment of lawyer appointed under section 159 or 160

“(1) The fees and expenses of any lawyer appointed under section 159 or **160** must—

“(a) be determined in accordance with regulations made under **section 16D** of the Family Courts Act 1980 or, if no such regulations are made, by the Registrar of the court; and 35

- “(b) be paid in accordance with that determination out of public money appropriated by Parliament for the purpose.
- “(2) An invoice rendered by a lawyer appointed under section 159 or **160** for fees and expenses must be given to the Registrar of the court in which the proceedings were heard, and the Registrar may ~~tax~~ decide to adjust the amount of the invoice. 5
- “(3) A lawyer who is dissatisfied with the decision of the Registrar as to the amount of the invoice may, within 14 days after the date of the decision, apply to a Family Court Judge to review 10 the decision, and the Judge may on the application make any order varying or confirming the decision that the Judge considers fair and reasonable.
- “(4) Where the fees and expenses of a lawyer appointed under section 159 or **160** have been paid under **subsection (1)(b)**, the 15 court may, if it thinks it is appropriate, order a party to the proceedings to refund to the Crown an amount that the court specifies in respect of those fees and expenses, and the amount ordered to be refunded is a debt due to the Crown by that party 20 and, in default of payment of that amount, payment may be enforced, by order of a District Court or the High Court, as the case may require, in the same manner as a judgment of that court.”
- 80 New sections 206A and 206B inserted** 25
After section 206, insert:
- “206A Leave required in certain cases to commence substantially similar proceedings**
- “(1) A proceeding (a new proceeding) may not be commenced under Part 2 without the leave of the court if that new proceeding— 30
- “(a) is substantially similar to a proceeding previously filed in a Family Court by any person (a **previous proceeding**); and
- “(b) is to be commenced less than 2 years after the final direction or order was given in the previous proceeding. 35
- “(2) The leave of the court may only be given under **subclause subsection (1)** if, since ~~final judgment~~ the final direction or

- order was given in the previous proceeding, there has been a material change in the circumstances of—
- “(a) any party to the previous proceeding;
 - “(b) any child or young person who was the subject of the previous proceeding. 5
- “(3) In this section, a new proceeding is **substantially similar** to a previous proceeding if—
- “(a) the party commencing the new proceeding was a party to the previous proceeding; and
 - “(b) a child who is the subject of the new proceeding was the subject of the previous proceeding; and 10
 - “(c) the new proceeding—
 - “(i) is commenced under the same provision of this Act as the previous proceeding; or
 - “(ii) is for an order varying the order made in the previous proceeding; or 15
 - “(iii) is for an order discharging the order made in the previous proceeding.
- “(4) This section does not apply if—
- “(a) every party to the new proceeding consents to its commencement; or 20
 - “(b) the new proceeding is commenced by—
 - “(i) the chief executive; or
 - “(ii) a social worker; or
 - ~~“(iii) a constable.~~ 25
 - “(iii) an iwi social service; or
 - “(iv) a cultural social service; or
 - “(v) the director of a child and family support service;
 - or
 - “(vi) a constable. 30
- “**206B Power to dismiss proceedings**
- The court may dismiss proceedings before it under Part 2 if it is satisfied—
- “(a) that the proceedings relate to a specified child and that the continuation of the proceedings is, in the particular circumstances, clearly contrary to the welfare and best interests of the child; or 35

“(b) that the proceedings are frivolous or vexatious or an abuse of the procedure of the court.”

81 Section 447 amended (Regulations)

Repeal section 447(e)(i).

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Legislative history

18 September 2013

Divided from the Family Court Proceedings Reform Bill (Bill 90–2) by committee of the whole House as Bill 90–3C
