

Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Bill

Government Bill

Explanatory note

General policy statement

This Bill is an omnibus Bill introduced under Standing Order 263(a). That Standing Order provides that an omnibus Bill to amend more than 1 Act may be introduced if amendments deal with an interrelated topic that can be regarded as implementing a single broad policy.

Introduction

The provisions contained in this omnibus Bill cover a wide range of legislative reforms to support the new operating model for the Ministry for Vulnerable Children, Oranga Tamariki. The Bill follows on from the Children, Young Persons, and Their Families (Advocacy, Workforce, and Age Settings) Amendment Bill and will establish the statutory framework required to create a more child-centred operating model to meet the needs of vulnerable children and young persons. Proposals that support the establishment of the new operating model reflect the Government's objectives for a child-centred care and protection system and a balanced youth justice system.

The objectives of this Bill are to support each of the 5 service areas of the new operating model for the Ministry for Vulnerable Children, Oranga Tamariki (namely, prevention, intensive intervention, care support, youth justice services, and transition support) and to support change across the wider system.

Features of the reform programme include—

- updated objects and general principles in the Children, Young Persons, and Their Families Act 1989 (the **CYPF Act**):
- measures to empower the Ministry for Vulnerable Children, Oranga Tamariki to respond more flexibly to reports of concern:

- revised principles to support an early intervention response and help ensure safe, stable, and loving care for children and young persons at home or in care:
- the development of National Care Standards and provision of financial support for caregivers that is more responsive to the changing needs of children in care:
- amendments to extend the youth justice jurisdiction to include 17-year-olds and strengthen the system's response to serious and recidivist offenders:
- increased legal representation for young persons in the youth justice system and strengthened support for community-based remand options:
- a new entitlement for young persons transitioning out of care to remain or return to living with a caregiver up to age 21:
- measures to help ensure that the transition needs of young persons transitioning out of care or a youth justice facility are addressed:
- a bespoke information sharing framework within the CYPF Act:
- accountability arrangements to ensure the co-ordination of prevention activity across government and to address the needs of children and young persons in need of care or protection (but not in care), in the youth justice system and in care:
- amendments to the purposes and principles in the CYPF Act to recognise mana tamaiti (tamariki), whakapapa, and the practice of whanaungatanga for Māori children and young persons who come to the attention of the department:
- amendments to the duties of the chief executive in the CYPF Act to provide for a practical commitment to the principles of the Treaty of Waitangi.

These changes require amendments to the CYPF Act and the Vulnerable Children Act 2014. The Bill also makes minor amendments to the Criminal Procedure Act 2011, the Income Tax Act 2007, and the Social Security Act 1964.

Context

The Bill is a response to Government decisions following recommendations from the Modernising Child, Youth and Family Expert Panel, which was established in April 2015 to develop a plan for the modernisation of the statutory care, protection, and youth justice systems in New Zealand.

Foundations for child-centred system

Updating purposes of CYPF Act

The Bill reframes the objects of the CYPF Act as purposes by updating the wording of the existing purposes to reflect the intent of creating a more child-centred system. It gives prominence to preventing vulnerability before it occurs, and to intervening at the earliest available opportunity to support positive life outcomes for those who need the intervention or protection of the State.

New purposes in the Bill also recognise mana tamaiti (tamariki), whakapapa, and whanaungatanga of Māori children and young persons, and promote approaches that support capability building at a whānau level.

Definition of young person

The Bill updates the definition of young person in the CYPF Act so that young persons who are (or have been) married or in civil unions can access the protections in the CYPF Act when appropriate. This will help to address any inequities that might result from marital status, and increase available protections for victims of forced marriage. It will also prevent unnecessary disadvantage for young persons who may separate from a civil union or marriage and are not able to return to a family home.

Making the general principles of the CYPF Act more child-centred

The Bill promotes a holistic approach to understanding what is in the interests of the child or young person by replacing “welfare” with “well-being”. General principles of the CYPF Act reflect the following concepts:

- *making the well-being and interests of the child or young person a primary (but not paramount) consideration in youth justice matters*—this recognises the vulnerability of young persons within the youth justice system, as shown by the high rate of neuro-developmental disorders within this sector of the population:
- *updating the general principles to take a more child-centred approach*—this places all children and young persons (including children with disabilities) at the centre of decision-making, considers them within the context of their families, whānau, hapū, iwi, and broader networks and communities, and includes specific recognition and respect for a child’s or young person’s mana tamaiti (tamariki) and the whakapapa and whanaungatanga responsibilities of whānau, hapū, and iwi:
- *having a new and separate principle of child and young person participation*—this clearly recognises the importance of the voice of the child, elevates its status, and more firmly embeds this aspect of child-centred practice. It also provides clear direction for social workers and other practitioners as to what it means to take the child or young person’s voice into account.

Public reporting mechanism

The Bill creates a legislative requirement on the responsible Minister (or a delegate) to report to Parliament, no later than 1 July 2022 and at least once every 3 years thereafter, on the extent to which accountability settings are meeting the needs of the children and young persons with whom the Ministry for Vulnerable Children, Oranga Tamariki is concerned. This will include reporting specifically on outcomes for Māori, and on whether further legislative change is recommended.

Providing for practical commitment to principles of Treaty of Waitangi

To better address the over-representation of Māori children and young persons in the care, protection, and youth justice systems, the Bill proposes new duties to ensure that

the new operating model realises a child-centred approach that is culturally authentic and successful in delivering improved outcomes for Māori children, young persons and whānau.

The Bill broadens and clarifies the duties on the chief executive to provide a practical commitment to the principles of the Treaty of Waitangi. By requiring measurable outcomes to be set for Māori children and young persons who come to the attention of the Ministry, and reporting publicly on those measures on an annual basis, the new duties explicitly recognise and reinforce accountability for the system's impact on Māori children and young persons.

The duties also provide a requirement to seek to develop strategic partnerships with iwi and Māori organisations to contribute to setting and achieving these expectations and targets. Strategic partnerships that are developed will seek to enable innovation, information exchange, opportunities for delegation of functions, and provision and review of guidance to support cultural competency as a best practice feature of the responsible department's workforce.

Rights of complaint and review

It is essential to the credibility of responses to vulnerable children and young persons that checks and balances be put in place that promote transparent, effective, and timely consideration of concerns raised about individual cases. The Bill places a duty on the chief executive to ensure that complaint mechanisms are established that enable any child or young person affected by actions taken under the CYPF Act, and family members or caregivers of that child or young person, to raise concerns. The chief executive will be required to ensure that departmental policies and services have regard to the outcomes of cases considered through the complaints process. The Bill also provides for regulations to be made establishing independent mechanisms to review the chief executive's response to complaints.

Prevention

To support the focus of the new operating model on intervening earlier to prevent escalation into the statutory systems, the Bill places a duty on the chief executive to ensure that services to reduce the impact of early risk factors are co-ordinated with government-funded activities (of the kind set out in the vulnerable children's plan) for improving outcomes for children, young persons, and families, or reducing the impact of early risk factors. The social investment approach will be an essential building block of the new operating model. The Bill amends the existing duty to promote the establishment of services in the CYPF Act so that it refers to services to improve the long-term outcomes of children and young persons rather than services to advance welfare.

Responding to concerns

Section 14 of the CYPF Act sets out the definition of a child or young person in need of care or protection, and establishes the threshold for State intervention. The Bill updates and simplifies the wording of the section to make it clearer and easier to apply

in practice, without further changing the content and substance of the section. The updated section clarifies that a child or young person is in need of care or protection if they have suffered, or are likely to suffer, serious harm. The Bill also specifically recognises the effect of cumulative harm in this section.

The Bill amends the care and protection principles in the CYPF Act to support an early intervention response, with a focus on safe, stable, and loving care for children and young persons. These principles will help to ensure that interventions properly involve children, young persons, families, and whānau and, as a first step, assist and support families and whānau to nurture and care for their children and young persons. By requiring early consideration and planning for the possibility that alternative care arrangements may be needed for a child, the revised principles aim to reduce the instability and disruption a child or young person can experience when a decision is made to remove them from their home.

There is a new mandate for the department administering the CYPF Act to respond in more flexible ways to reports of concern, which will embed a focus of addressing a child or young person's needs and well-being at an early stage of their contact with the Ministry. The Bill enables a person who has concerns about the well-being of a child or young person (which allows a broader range of concerns than currently) to report the matter to a constable or the department responsible for discharging functions under the CYPF Act. It also enables the chief executive to respond to reports of concern through a range of service pathways, including, but not limited to, referral to universal or targeted services provided by the Ministry for Vulnerable Children, Oranga Tamariki or any other agency.

In response to a report of concern, the Bill provides that the chief executive may take no further action if they determine that the report discloses no identifiable risk of harm or that appropriate action has already been taken.

The family group conference process is the primary vehicle for family decision-making and planning for any child or young person in need of care or protection. Family group conferences are currently available only where a child or young person is believed to be in need of care or protection. The Bill allows the chief executive to make a family group conference available to any child or young person about whom a report of concern has been received and where the chief executive considers that holding a conference will best assist in formulating a plan to help the child or young person. This makes the family group conference process an option for children, young persons and their families who have support needs, but who do not meet the statutory definition of being in need of care or protection.

The Bill creates a new duty on the chief executive to develop and publish policies and practice standards in relation to the chief executive's role in family group conferences and to give effect to their outcomes. It clarifies that the purpose of care or protection family group conferences is to make recommendations, decisions, and plans that meet the care, protection, or well-being needs of the child or young person.

Care support

The Bill contains new and amended principles for a more child-centred care system, to help practitioners make more child-centred placement decisions by strengthening the requirement for a child's or young person's views to be sought, and focusing on preserving key relationships (including with siblings).

In order to best meet the needs of children and young persons in care, the Bill places an explicit duty on the chief executive to comply with National Care Standards.

There are new provisions that require care standards to be set by regulation. These will set out the rights of children and young persons in care, the standard of care that they can expect, and standards for caregiver training, monitoring, and support. The aim of these standards will be to ensure children and young persons in care and in youth justice residences are cared for in a way that improves their outcomes and meets their needs, expectations, and fundamental rights.

The Bill enables regulations to be made that set out the circumstances in which and the levels at which financial assistance can be paid, so that financial support is responsive to the changing needs of children and young persons and their particular care needs. This will help to provide the foundation for a proactive and transparent financial support system that assists caregiving families to manage through critical times and cope with challenging behaviours.

The tax treatment of foster care payments is not explicit in law, which can give rise to some inconsistencies, particularly when higher discretionary payments are made. The Bill will prevent these inconsistencies by providing that foster care payments made under section 363 of the CYPF Act in respect of the care of children and young persons are exempt income for tax purposes.

Youth justice

Extending youth justice jurisdiction

The Bill expands the age settings for the youth justice system to include 17-year-olds. However, for 17-year-olds charged with serious offences (such as aggravated robbery, wounding with intent to cause grievous bodily harm, and arson), the Bill requires that they be immediately transferred to an adult court on their first appearance in the Youth Court.

The Bill contains additional provisions to deal with 17-year-olds who present serious risk to the safety of others in the youth justice system. The Bill provides for the Youth Court to be able to cancel a supervision with residence order and substitute it with another order (such as an order for conviction and transfer to the District Court) as a consequence of a 17-year-old's behaviour and failure to comply with the terms of the order or their plan.

The Bill also allows the department responsible for administering the CYPF Act and the Department of Corrections to jointly apply to the Youth Court for a 17-year-old to be detained in a youth unit of an adult facility when necessary to ensure the safety of young persons in youth justice residences.

The existing discretion of Youth Court Judges to transfer serious or recidivist young offenders to an adult court for sentencing will be strengthened, requiring Judges to give priority to the seriousness of the offending, past criminal history, the interests of the victim, and the risk to others.

The Bill also provides for non-imprisonable traffic offences that can result in a conviction to be dealt with in the youth justice system.

Enhancing youth justice provisions

While there are existing provisions in the CYPF Act to address the causes of the offending behaviour of children and young persons who come to the attention of authorities for alleged offending, it is important that their broader unmet needs are also addressed. The Bill requires a person performing a function or exercising a power under Part 4 to consider whether any child or young person whose offending (whether alleged, admitted or proved) is being resolved through the youth justice system would benefit from being referred to care, protection, or well-being services under the CYPF Act.

The Bill enhances the rights of young persons in the youth justice system by increasing the availability of legal representation to children and young persons before Youth Court proceedings are commenced. State-funded legal representatives must be appointed for those young persons who are alleged to have committed serious offences that carry a penalty of 10 years imprisonment or more at intention to charge family group conferences. This proposal is targeted at those young persons who are most likely to face escalation through the Youth Court.

The Bill also makes several amendments to strengthen the use of community-based options as an alternative to being detained in youth justice residences on remand. The Bill amends principles in the CYPF Act to the effect that children or young persons alleged to have committed offences should be kept in the community so far as is practicable and consonant with the need to ensure public safety. It also requires that the placement of children and young persons who have been detained in custody pending further appearance before the court in youth justice residences be reviewed every 14 days, unless special circumstances apply. It is anticipated that a mandatory review process will help reduce the detention of children and young persons in youth justice residences for long periods. In addition, the court must review orders to detain young persons in Police custody every 24 hours.

The Bill amends the requirements around youth justice family group conferences so that they consider achieving restorative justice outcomes and consider the support needed by children or young persons on completion of a family group conference plan or court order.

Transition support

Young persons leaving care are among the most vulnerable people in New Zealand. The Bill includes a series of amendments to strengthen the system that will support

vulnerable young persons to successfully take up the opportunities of adulthood, including new purpose statements and principles to guide decision making.

These proposals will provide strong direction in the CYPF Act to ensure that the new operating model for the Ministry for Vulnerable Children, Oranga Tamariki supports young persons to gradually transition to independence and increasingly lead decision making on matters that are important to them.

For young persons up to age 21 who have been in care, the Bill creates an entitlement to receive support from the chief executive to remain (or return to) living with a caregiver.

This entitlement will have the following components:

- the young person will receive support to decide whether to continue, or return to, living with their former caregiver and negotiate an arrangement with them:
- financial assistance to meet the necessary costs of the ongoing living arrangement:
- the caregiver will assist the young person to gradually become more independent:
- the department responsible for administering the CYPF Act will monitor the living arrangement against specific standards.

Transitions to independence are not linear. Many young adults in their early twenties are in unsettled circumstances, including moving between flats, jobs, and relationships, and entering the labour force. The Bill extends the existing provision to enable the chief executive, where required, to provide transition advice and assistance to young persons leaving care or a youth justice facility up to age 25.

The Bill also requires the chief executive to make reasonable efforts to remain in contact with a young person who has been in care or a youth justice residence up to age 21. Eligibility criteria for this, and other new transition supports, are contained in the Bill.

The Bill allows regulations to be made to cover detailed policy settings for these amendments, in particular to tailor any financial assistance and to focus transition assistance for young persons aged 21 to 25 on those with higher and more complex needs.

Information sharing

The Bill creates a new framework to facilitate the timely and consistent exchange of personal information about individual vulnerable children and young persons to promote their safety and well-being.

The Bill amends the CYPF Act to incorporate the child welfare and protection sector for the specific purpose of collecting, holding, using, and disclosing personal information under Part 2 of the CYPF Act. The sector includes child welfare and protection agencies and independent persons, as defined by the Bill. Provision is made for

other organisations or persons, or classes of organisations or persons, to be included by Order in Council.

The Bill makes clear that the welfare and interests of any child or young person take precedence over any pre-existing professional duty of confidentiality (other than legal professional privilege). The Bill also provides immunity from civil, criminal, or disciplinary proceedings to any person or agency disclosing or supplying information in good faith.

The information covered by the new provisions relates to a child or young person, a family member, or someone in a domestic relationship with the child or young person, or someone likely to reside with the child or young person.

The scope of coverage for the mandatory supply of information regarding an individual vulnerable child or young person has been broadened so that information for investigations and statutory responses under the CYPF Act must be provided by a wider range of agencies and individuals. The Bill also extends the powers that the department responsible for administering the CYPF Act will have to require any person or agency, as defined in the Privacy Act 1993, to provide information for investigations and other statutory responses.

Enabling provisions allow any agency or person in the sector to use and share personal information it holds for the specific child welfare and safety purposes specified in Part 2 of the CYPF Act (which covers care and protection).

The Bill includes a presumptive provision that child welfare and protection agencies and independent persons must share personal information about a child or young person when requested to do so by another authorised agency or independent person, unless there are good grounds for not doing so. This is a key element of the framework designed to shift the behaviour of practitioners towards the active exchange of information.

The new provisions also require agencies that use linked datasets of identifiable personal information to publicly notify, on a website, specified information about the use of this data at least once each year.

The Bill provides that whenever a child welfare and protection agency or independent person intends to disclose personal information about a child or young person, including about a family member or anyone in a domestic relationship with them, that agency or independent person should engage with the child or young person unless impractical or undesirable to do so. Engaging with the child or young person in this instance involves informing them of the intended disclosure, giving the child or young person an opportunity to express views on the intended disclosure, and taking into account any expressed views.

The Bill also allows the responsible Minister to issue codes that provide guidance to child welfare and protection agencies and independent persons about the application of the information sharing provisions of the CYPF Act.

Strengthening cross-agency action

The Ministry for Vulnerable Children, Oranga Tamariki will require services from other agencies to help address the needs of vulnerable children. The Bill amends Part 1 of the Vulnerable Children Act 2014 to place responsibility for co-ordination of the vulnerable children's plan on the chief executive of the department responsible for administering the CYPF Act. It also amends the requirements around the development of a vulnerable children's plan to ensure children's agencies work together strategically around populations of interest to the Ministry for Vulnerable Children, Oranga Tamariki. To create a greater focus on prevention, the vulnerable children's plan will be required to set out outcomes to be achieved with respect to children and young persons with early risk factors for entry into the statutory care, protection, or youth justice systems. The Bill also creates a requirement to report on progress against these outcomes.

Departmental disclosure statement

The Ministry of Social Development is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2016&no=224>.

Regulatory impact statement

Between August and October 2016, the Ministry of Social Development produced 7 regulatory impact statements and the Ministry of Justice produced 3 regulatory impact statements to help inform the main policy decisions taken by the Government relating to the contents of this Bill. These are as follows:

- Investing in Children: Foundations for a child-centred system:
- Investing in Children: Intensive intervention:
- Investing in Children: Care support:
- Investing in Children: Enhancing youth justice provisions:
- Investing in Children: Transition to independence:
- Investing in Children: Information Sharing:
- Investing in Children: Legislative support for accountabilities in the new operating model:
- Investing in Children: Legislative support for improving outcomes for Māori children and young persons:
- Investing in Children: Including 17-year-olds and convictable traffic offences not punishable by imprisonment in the youth justice system:

- Investing in Children: Including 17-year-olds and convictable traffic offences not punishable by imprisonment in the youth justice system (Addendum RIS).

Copies of these regulatory impact statements can be found at—

- <http://www.msd.govt.nz/about-msd-and-our-work/publications-resources/regulatory-impact-statements/>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause and provides that some provisions of the Bill come into force on the day after the date on which it receives the Royal assent. The rest of the Bill comes into force on a date appointed by Order in Council, and 1 or more Orders in Council may be made appointing different dates. Any provision not earlier brought into force comes into force on **1 July 2019**. Additional time is needed to commence some clauses so that the development of the operating models to which they relate can occur, including the development of administrative systems and staff training.

Part 1

Amendments to Children, Young Persons, and Their Families Act 1989

Clause 3 states that this Part amends the Children, Young Persons, and Their Families Act 1989 (the **principal Act**).

Clause 4 amends section 2(1) by inserting 10 new definitions of care or protection order, child welfare and protection agency, DHB, held, independent person, mana tamaiti (tamariki), UNCROC, whakapapa, whanaungatanga, and youth justice residence.

Clause 4 also amends the definition of young person in section 2(1) by including persons aged 17 years to the definition of young person, by removing the qualification relating to a person who is or has been married or in a civil union, and by including a reference to an extended definition of the term, which is contained in *new section 386AAA*. In *new section 386AAA*, the extended definition of the term young person includes young adults who are aged up to 21 or 25 (as relevant) for the purposes of *new sections 386AAA to 386C*. These new sections relate to supporting young persons (which under the extended definition includes young adults) to move to living independently.

Clause 5 replaces the Part 1 heading to read “**Purposes**”.

Clause 6 replaces section 4 and the cross-heading above section 4. *New section 4* lists the purposes of the principal Act and the new cross-heading reads “*Purposes*”.

Clause 7 inserts *new section 4A*, which provides that the well-being and best interests of a child or young person must be considered in all matters relating to the administration or application of the Act.

Clause 8 amends section 5 by replacing and updating the principles to be applied in the exercise of powers conferred by the principal Act.

Clause 9 inserts *new section 5A*, which provides for principles of participation.

Clause 10 repeals section 6 and its subject matter is dealt with in *new section 4A*.

Clause 11 amends section 7, which sets out the duties of the chief executive. A number of new duties are added.

Clause 12 inserts *new section 7A*, which imposes further duties on the chief executive in relation to the improvement of Māori outcomes.

Clause 13 amends section 13 by replacing and updating the principles to be applied to specified Parts and provisions relating to the care or protection of children.

Clause 14 replaces section 14, which provides a definition of a child or young person in need of care or protection.

Clause 15 replaces section 15, which relates to reporting the ill-treatment or neglect of children. It extends the existing wording of the section so that any person who has concerns about the well-being of a child or young person may report the matter to a constable or social worker.

Clause 16 amends section 16 so that the protection against proceedings afforded by section 16 to persons disclosing or supplying information extends to persons doing so under any provision of Part 2.

Clause 17 amends section 17 to provide further options to the chief executive following an investigation into the ill-treatment or neglect of a child or young person.

Clause 18 inserts a *new section 18AAA*, which gives the chief executive the power to refer a case to a care or protection co-ordinator for the purpose of convening a family group conference for a child or young person even if the chief executive is not satisfied the child or young person is in need of care or protection. The chief executive may do so if the chief executive believes that holding a family group conference would best assist in formulating a plan to help the child or young person.

Clause 19 amends section 18 to update a reference as a consequence of care or protection orders being dealt with under section 83 rather than as a declaration under section 67. The declaration procedure under section 67 is abolished.

Clause 20 amends section 18A to update 3 references as a consequence of care or protection orders being dealt with under section 83 rather than as a declaration under section 67. Section 18A(6) is also amended to clarify that a family group conference must be held before a care or protection order is made.

Clause 21 amends section 18B to update 2 references as a consequence of care or protection orders being made under section 83 rather than a declaration under section 67.

Clause 22 amends section 18C to update 3 references as a consequence of care or protection orders being dealt with under section 83 rather than a declaration under section 67.

Clause 23 amends section 18D to update a reference as a consequence of care or protection orders being dealt with under section 83 rather than a declaration under section 67.

Clause 24 consequentially amends section 19 to update a cross-reference.

Clause 25 amends section 21 to provide that a care or protection co-ordinator does not need to consult a care or protection resource panel before convening a family group conference if a conference is convened under *new section 18AAA*.

Clause 26 amends section 22 to clarify that the chief executive of the department or the chief executive's delegate may attend a family group conference convened under specified sections.

Clause 27 consequentially amends section 26 to remove a cross-reference.

Clause 28 amends section 28 to make 3 consequential amendments to terminology and to update a reference as a consequence of the content of existing section 6 being moved to *new section 4A*.

Clause 29 amends section 29 to make a consequential amendment to terminology.

Clause 30 amends section 30 to provide for the communication of a decision, recommendation, or plan of a family group conference under *new section 18AAA* to the chief executive and to every other person who will be involved in its implementation and for the agreement of all those persons to the decision, recommendation, or plan.

Clauses 31 and 32 amend sections 34 and 35, respectively, to update cross-references.

Clause 33 amends section 40 to update a reference as a consequence of care or protection orders being dealt with under section 83 rather than a declaration under section 67.

Clauses 34 and 35 amend sections 46 and 48, respectively, to update a reference as a consequence of care or protection orders being dealt with under section 83 rather than a declaration under section 67.

Clause 36 amends section 59 to make changes consequential on the insertion of *new section 17(2A)*.

Clause 37 amends section 61 to make a change consequential on the insertion of *new section 17(2A)*.

Clause 38 replaces section 66 with a new cross-heading and *new sections 65A to 66O*, which relate to information sharing.

New section 65A requires persons exercising powers under the information sharing provisions to have regard to the principle in *new section 13(2)(j)* to the extent relevant. *New section 13(2)(j)* provides that the well-being and interests of any child or young person generally take precedence over some duties of confidentiality.

New section 66 sets out the circumstances in which an agency (as defined in section 2(1) of the Privacy Act 1993) must, on request, supply information to the chief executive of the department, a care and protection co-ordinator, or a constable.

New section 66A provides for the disclosure of information obtained by a chief executive or a constable under *new section 66*.

New section 66B sets out restrictions on the disclosure of information under *new section 66A*.

New section 66C regulates the use and disclosure of information about a child or young person that is held by a child welfare and protection agency or an independent person.

New section 66D requires the public notification of information about datasets linked or analysed or combined by a child welfare and protection agency.

New section 66E provides for requests for information by child welfare and protection agencies or independent persons from other child welfare and protection agencies or independent persons.

New section 66F creates a duty for a child welfare and protection agency or an independent person on receiving a request from another such agency or body to evaluate the request.

New section 66G sets out when a request under *new section 66E* may be declined.

New section 66H requires reasons to be provided for declining a request.

New section 66I sets out the requirements for consultation with a child or young person by a child welfare and protection agency or an independent person if information about that child or young person is proposed to be disclosed.

New sections 66J to 66N make provision for the Minister to issue a Code about information sharing under *new sections 66 to 66I*.

New section 66O describes the relationship between *new sections 66 to 66N* and other enactments.

Clause 39 repeals section 67. It will no longer be necessary to obtain a declaration that a child or young person is in need of care or protection before applying for an order in relation to that child or young person. Rather an application will be made under section 83 for a care or protection order on the grounds that the child or young person is in need of care or protection. This simplifies proceedings under Part 2 by turning what was a 2-step process into a 1-step process.

Clause 40 amends section 68 to update 2 references as a consequence of care or protection orders being dealt with under section 83 rather than a declaration under section 67.

Clause 41 amends section 69 to update a reference as a consequence of care or protection orders being dealt with under section 83 rather than a declaration under section 67.

Clause 42 amends section 70 to update 3 references as a consequence of care or protection orders being dealt with under section 83 rather than a declaration under section 67.

Clause 43 amends section 71 to update 3 references as a consequence of care or protection orders being dealt with under section 83 rather than a declaration under section 67.

Clause 44 amends section 72 to update 3 references as a consequence of care or protection orders being dealt with under section 83 rather than a declaration under section 67.

Clause 45 amends section 73 to update 3 references as a consequence of care or protection orders being dealt with under section 83 rather than a declaration under section 67.

Clause 46 amends section 74 to update a reference as a consequence of care or protection orders being dealt with under section 83 rather than a declaration under section 67.

Clause 47 amends section 78 to update 2 references as a consequence of care or protection orders being dealt with under section 83 rather than a declaration under section 67. *Clause 47* also amends section 78 to provide for interim custody orders to be made urgently in certain circumstances.

Clause 48 replaces the cross-heading above section 83 to read “*Care or protection orders*”.

Clause 49 amends section 83 so that a care or protection order can be made by a court without a prior declaration that a child or young person is in need of care or protection.

Clause 50 amends section 84 to update 2 references as a consequence of care or protection orders being dealt with under section 83 rather than a declaration under section 67.

Clause 51 amends section 86 to update a reference as a consequence of care or protection orders being dealt with under section 83 rather than a declaration under section 67.

Clause 52 amends section 86A to update a reference as a consequence of care or protection orders being dealt with under section 83 rather than a declaration under section 67.

Clause 53 amends section 87 to update a reference as a consequence of care or protection orders being dealt with under section 83 rather than a declaration under section 67.

Clause 54 amends section 88 to update a reference as a consequence of care or protection orders being dealt with under section 83 rather than a declaration under section 67. *Clause 54* also amends section 88 to provide for interim restraining orders to be made urgently in certain circumstances.

Clause 55 amends section 91 to update a reference as a consequence of care or protection orders being dealt with under section 83 rather than a declaration under section 67.

Clause 56 amends section 92 to update a reference as a consequence of care or protection orders being dealt with under section 83 rather than a declaration under section 67.

Clause 57 amends section 95 to update a reference as a consequence of care or protection orders being dealt with under section 83 rather than a declaration under section 67.

Clause 58 amends section 96 to update 2 references as a consequence of care or protection orders being dealt with under section 83 rather than a declaration under section 67.

Clause 59 amends section 101 to update a reference as a consequence of care or protection orders being dealt with under section 83 rather than a declaration under section 67.

Clause 60 amends section 102 to update a reference as a consequence of care or protection orders being dealt with under section 83 rather than a declaration under section 67.

Clause 61 amends section 110 to update a reference as a consequence of care or protection orders being dealt with under section 83 rather than a declaration under section 67.

Clause 62 inserts *new section 110AA*, which provides for interim guardianship orders, including for these to be made urgently in certain circumstances.

Clause 63 amends section 121 by adding a reference to *new section 110AA*.

Clause 64 amends section 125 by adding a reference to an interim guardianship order (*see new section 110AA*).

Clause 65 amends section 131, which relates to court adjournments for the purpose of obtaining a plan under section 128. A new requirement is added to the section. The person responsible for preparing the plan must make all reasonable endeavours to ensure that the plan is filed with the court and sent to the parties at least 7 working days before the date set for the hearing.

Clause 66 amends section 132 to replace the requirement to supply copies of a plan to specified persons no later than 1 working day before the sitting of the court with a requirement to do so no later than 5 working days before the sitting.

Clause 67 amends section 137 to require the court to give the parties an opportunity to make submissions on a revised plan before considering the report on the revised plan and the revised plan and doing any of the things listed in the section.

Clause 68 repeals sections 141 and 142, which relate to agreements for extended care of severely disabled children and young persons and agreements with persons providing residential disability care.

Clause 69 amends section 143 by deleting references to sections 141 and 142, because these sections will be repealed.

Clause 70 amends section 144 by deleting references to sections 141 and 142 and by repealing subsection (2) which relates to section 142, because sections 141 and 142 will be repealed.

Clause 71 amends section 145(1)(d) to allow a youth justice co-ordinator, in certain circumstances, to exercise the powers of a care and protection co-ordinator in relation to the issue of certificates about agreements for extended care agreements for children and young persons. *Clause 71* also amends section 145 by deleting references to sections 141 and 142 and by repealing paragraphs that relate to those sections.

Clause 72 amends section 146 by deleting references to sections 141 and 142, which will be repealed.

Clause 73 amends section 147 by deleting a reference to sections 141 and 142, which will be repealed.

Clause 74 amends section 148 by deleting a reference to sections 141 and 142, which will be repealed.

Clause 75 amends section 149 by deleting a reference to sections 141 and 142, which will be repealed.

Clauses 76 to 88 amend sections 152, 153, 154, 158, 170, 185, 186, 187, 198, 199, 200, 205, and 206, respectively, to update a reference as a consequence of care or protection orders being dealt with under section 83 rather than a declaration under section 67.

Clauses 89, 90, and 91 amend sections 207E, 207M, and 207S, respectively, to update cross-references.

Clause 92 amends section 208 so that the principle in section 208(d) applies both when a child or young person has committed an offence (which is the case at present) and when they are alleged to have committed an offence. That principle is that a child or young person should be kept in the community so far as is practicable and consonant with the need to ensure the safety of the public. The principle must be applied by a court or person exercising powers under specified Parts and provisions of the principal Act relating to youth justice.

Section 208 is also amended by inserting a *new subsection (2)* that adds a new requirement for a person performing a function or exercising a power under specified Parts and provisions relating to youth justice. The person must consider what reasonable and practical measures or assistance could be taken or provided to support the child or young person to prevent or reduce reoffending.

Clause 93 amends section 238 to allow the Youth Court to order that a young person aged 17 years be detained in a prison pending a hearing before the court subject to *new section 239(2A)*.

Clause 94 amends section 239, which provides for restrictions on the power of the court to order detention of a child or a young person pending a hearing in the court

under section 238. The amendment relates specifically to the new power to order that a young person aged 17 years be detained in a prison pending a hearing. This power can be exercised only if certain criteria are met, as specified in *new section 239(2A)*.

Clause 95 amends section 241, which permits the Youth Court or the High Court to review orders made under section 238. A new requirement is added so that, as well as that general power to review orders under section 238, the Youth Court must also review orders made under section 238(1)(e) at least once every 24 hours. Those orders relate to a young person detained in Police custody.

Clause 96 amends section 242 by adding *new subsection (1A)*, which relates to reviewing the detention of a child or young person in a residence under an order made by the Youth Court under section 238(1)(d). The chief executive must undertake a review at least once every 14 days, unless special circumstances apply.

Clause 97 inserts *new section 248A*, which provides for the appointment of youth advocates to represent children and young persons at “intention to charge” family group conferences if the relevant offence is punishable by imprisonment of 10 years or more. The chief executive must appoint a youth advocate before a conference of this kind is convened. The appointment and payment of youth advocates under the section must be made in accordance with regulations made under *new section 447(2)(db)*.

Clause 98 amends section 250 to update a reference as a consequence of care or protection orders being dealt with under section 83 rather than a declaration under section 67.

Clause 99 amends section 256 to update a cross-reference.

Clause 100 amends section 258 by inserting *new subsections (2) and (3)*, which relate to the functions of a family group conference. *New subsection (2)* requires that a family group conference convened under section 247(a), (b), (d), or (e) to consider if restorative justice actions could be undertaken. *New subsection (3)* requires a family group conference, when performing its functions, to consider what reasonable and practical measures or assistance could be taken or provided to support the child or young person—

- to implement a plan:
- to comply with an order made or that may be made by a Youth Court.

Clause 101 inserts *new section 260(3)(ba)*, which specifies that a family group conference may recommend that restorative justice actions be undertaken. This amendment corresponds with the amendment to section 258 which, requires a family group conference to consider whether actions of this kind can be undertaken in any case.

Clause 102 amends section 272, which relates to the Youth Court’s jurisdiction and the liability of children and young persons to be prosecuted for criminal offences. The amendments relate to 3 separate matters. First, amendments are made to recognise that, for certain specified offences, a young person aged 17 years will not be prosecuted in the Youth Court. Rather, under *new section 276A*, proceedings for those offences will be automatically transferred into the District Court. In some cases, a proceeding will then be transferred by the District Court to the High Court, if required

by the Criminal Procedure Act 2011. Secondly, an amendment is made to provide that certain traffic offences will be dealt with by the Youth Court. Thirdly, references are updated as a consequence of care or protection orders being dealt with under section 83 rather than a declaration under section 67.

Clause 103 consequentially amends section 273 to provide that charges transferred out of the Youth Court under *new section 276A* will not be heard and determined by the court.

Clause 104 inserts *new section 276A*, which provides for the automatic transfer of proceedings into the District Court where a young person aged 17 years is charged with certain specified offences. In some cases, a proceeding will then be transferred by the District Court to the High Court, if required by the Criminal Procedure Act 2011. The specified offences that trigger the automatic transfer are listed in *new Schedule 1A*. This list of offences sets out offences currently imprisonable by a maximum term of imprisonment of 14 years or more. An amendment is also made to provide that certain traffic offences will be dealt with by the Youth Court.

Clauses 105 and 106 amend sections 280 and 280A, respectively, to update references as a consequence of care or protection orders being dealt with under section 83 rather than a declaration under section 67.

Clause 107 amends section 284 to add additional factors to be taken into account on sentencing if the Youth Court is considering making an order under section 283(o) to send a young person to the District Court or the High Court for sentencing. The 4 new factors must be considered in addition to the existing factors in section 284(1) and given greater weight than those factors.

Clause 108 amends section 316 to add a new power for the court to cancel a supervision with residence order relating to a young person aged 17 years. The court will be able to do so if satisfied that a young person's behaviour and compliance with any obligations under the order or a plan (under section 335) have been unsatisfactory to a more than minor extent.

Clause 109 amends section 323, which relates to the appointment of youth advocates by the Youth Court. Section 323(3) provides for a particular youth advocate to be appointed to represent a child or young person (where possible) if the youth advocate has been appointed to represent them in any previous proceedings. The amendment adds a reference to a family group conference under *new section 248A* so the court must (where possible) appoint a particular youth advocate in proceedings if the youth advocate has previously been appointed to represent a child or young person at a family group conference under that section.

Clause 110 amends section 361 to delete a superseded cross-reference.

Clause 111 amends section 363 to include a purpose statement for payments made for children and young persons in "out of home care". The purpose of the payment is to meet the reasonable needs of the child or young person.

Clause 112 amends section 364, which gives authority to the chief executive to establish residences. A new requirement is added in *new subsection (1A)* so that the chief

executive must consider establishing a sufficient range and number of community-based residences for children and young persons detained in the chief executive's custody under section 238(1)(d).

Clause 113 amends section 365 to update cross-references.

Clause 114 replaces the cross-heading above section 386A to read “*Moving to living independently*”.

Clause 115 inserts *new sections 386AAA to 386AAG*, which relate to young persons moving to living independently.

New section 386AAA provides new definitions of caregiver and young person for the purposes of *new sections 386AAB to 386C*. The term young person is given an extended meaning compared with how it is used elsewhere in the Act and includes both young persons as currently defined in section 2(1) and young adults aged over 18 years but under 21 years (for the purposes of *new sections 386AAD and 386C*) or over 18 years but under 25 years (for the purposes of *new section 386A*). The term caregiver includes persons who are providing care and a home for either young persons under 18 years or young adults aged up to 21 years under *new section 386AAD*.

New section 386AAB sets out the purposes of *new sections 386AAC to 386C*.

New section 386AAC sets out principles to guide a person who is performing functions or exercising powers under Part 7 to assist a young person to move to living independently.

New section 386AAD provides a new entitlement for a young person to live with a caregiver up to the age of 21 years. That young person must have been in either of the following circumstances for a period of at least 3 months after the age of 14 years and 9 months:

- in the care of the chief executive or a body or organisation under an order or agreement under section 361(a), (c), or (d);
- the care and custody of the chief executive as an agent of the court under section 33(1)(c)(ii) of the Care of Children Act 2004.

The young person may, at any time up to the age of 21 years, request support from the chief executive to remain or return to living with a caregiver. The young person is entitled to be supported by the chief executive to remain or return to living with the caregiver with whom they are or were living before they turn or turned 18, unless the caregiver or the young person does not agree, or the chief executive considers that living with that caregiver is likely to be detrimental to the well-being of the young person. In any of those circumstances or if a caregiver is no longer able or available to have the young person living with them, the young person is entitled to be supported by the chief executive to live with another caregiver.

New section 386AAE sets out requirements relating to the entitlement to live with a caregiver under *new section 386AAD*. The chief executive must provide—

- advice to young persons about the entitlement under *new section 386AAD*:

- support to a young person to negotiate and agree the terms on which they will live with a caregiver (the **support arrangement**).

The support arrangement must be consistent with the purposes in *new section 386AAB*, give effect to the principles in *new section 386AAC*, meet the standards set in regulations, and be approved by the chief executive. The chief executive is also required to monitor the operation of all support arrangements against the standards set in regulations made under *new section 447(cb)*.

New section 386AAF sets out expectations for caregivers.

New section 386AAG sets out requirements for the payment of financial assistance by the chief executive to young persons who live with caregivers under *new section 386AAD*. Financial assistance is available for young persons for necessary living costs associated with living with the caregiver. The chief executive must first consider what other financial assistance is available to the young person and the personal circumstances of the young person. It must be paid directly to the young person unless the chief executive considers it appropriate to pay all or any of it to the caregiver or other person. Financial assistance must be paid in accordance with regulations made under *new section 447(da)*. A transitional provision inserted into Schedule 1AA of the principal Act (by *clause 122*) applies and financial assistance is not income for the purposes of the Social Security Act 1964 (*see the amendment in clause 130*).

Clause 116 replaces section 386A with *new sections 386A and 386B*. These new provisions also relate to young persons moving to living independently. *New section 386A* provides for a new entitlement of young persons of or over 18 years but under 25 years, who have been in one of the circumstances listed in *new section 386A(1)* for a period of at least 3 months after the age of 14 years and 9 months, to be given support by way of advice and assistance. If a young person is currently in one of the circumstances listed in *new section 386A(1)*, the person or organisation that has the care and custody of them must—

- consider what advice or assistance the young person will require to become and remain independent after they are no longer in those circumstances:
- provide or arrange for that support to be provided to them.

If a young person has previously been in any of the circumstances listed in *new subsection (1)* and requests support or further support, the person or organisation that receives the request must refer it to the chief executive.

New section 386B sets out requirements relating to the entitlement to advice and assistance under *new section 386A*. The chief executive must advise young persons about the entitlement to request support or further support up to the age of 25 years before the young person leaves care or turns 18 years. Advice and assistance are to be provided in accordance with regulations made under *new section 447(cc) and (da)*. The chief executive—

- must provide or arrange the provision of advice and non-financial assistance:
- may provide or arrange the provision of financial assistance.

The advice and assistance can be provided only if the chief executive considers it is necessary to enable the young person to achieve independence, and in the case of financial assistance, the chief executive must first consider what other financial assistance is available to the young person. When deciding whether to provide financial assistance, the chief executive must give particular consideration to whether a young person has high or complex needs. Examples of the types of advice and assistance that may be provided are listed in *new subsection (4)*. Financial assistance must be paid directly to the young person unless the chief executive considers it appropriate to pay all or any of it to the caregiver or other person. Financial assistance that includes a contribution or grant for a course of education or training may continue to be made after the young person reaches the age of 25 years and the chief executive may disregard any interruption in the young person's attendance at the course if they resume it as soon as practicable.

Clause 117 inserts *new section 386C*, which requires the chief executive to maintain contact with a specified group of young persons aged 18 years or over but under 21 years. These are young persons who have been in the circumstances listed in *new section 386A(1)*. Even if a young person is being supported under *new section 386A*, the chief executive must take reasonable steps to maintain contact with the young person. The following factors must be taken into account when decisions are made about the extent to which contact is made with the young person:

- whether the young person wishes contact to be made with them;
- the young person's particular needs;
- the young person's age, maturity, and the desirability of them moving to living independently when they are able to do so.

Clause 118 inserts *new sections 445E and 445F* and a new cross-heading relating to limits on proceedings and Crown liability.

Clause 119 amends section 447, which provides powers to make regulations.

Clause 120 inserts *new section 447A*, which requires the Minister to appoint an agency or a body to monitor compliance by the chief executive, the chief executive's delegates, or bodies or organisations approved under section 396 with standards of care to be prescribed by regulations under section 447 and to report on the operation of those prescribed standards to the Minister.

Clause 121 inserts *new section 448B* and a new cross-heading relating to a periodic review of accountability documents. The Minister must report to Parliament on matters specified in the section by 1 July 2022 and then on at least 1 occasion in each 3-year period after that date.

Clause 122 amends Schedule 1AA of the principal Act by inserting *new clause 3* into Schedule 1AA, which provides that the entitlement under *new section 386AAD* does not apply to persons who are no longer living with a caregiver when that section commences.

Clause 123 inserts *new Schedule 1A*, which lists specified offences for the purpose of *new section 276A*.

Part 2

Amendments to other Acts

Subpart 1—Amendments to Criminal Procedure Act 2011

Clause 124 states that this subpart amends the Criminal Procedure Act (the **principal Act**).

Clause 125 amends section 174 (dealing with the remand of defendants for assessment) so that it applies to defendants aged under 18 years rather than under 17 years.

Clause 126 amends section 175 to provide new rules about the remand in custody of defendants aged 17 years.

Subpart 2—Amendment to Income Tax Act 2007

Clause 127 states that this subpart amends the Income Tax Act 2007 (the **principal Act**).

Clause 128 amends section CW 33 to provide that payments under section 363 of the Children, Young Persons, and Their Families Act 1989 are exempt income under the principal Act.

Subpart 3—Amendment to Social Security Act 1964

Clause 129 states that this subpart amends the Social Security Act 1964 (the **principal Act**).

Clause 130 amends section 3(1) by amending the definition of income to clarify that any money received by a young person, a caregiver, or any other person under *new section 386AAG or 386B* of the Children, Young Persons, and Their Families Act 1989 is not income for the purposes of the principal Act.

Subpart 4—Amendments to Vulnerable Children Act 2014

Clause 131 states that this subpart amends the Vulnerable Children Act 2014 (the **principal Act**).

Clause 132 amends section 8, which relates to the preparation of a vulnerable children's plan. A new requirement is added to the section so that the chief executives of children's agencies are to work together under the co-ordination of the chief executive of the Ministry for Vulnerable Children, Oranga Tamariki.

Clause 133 amends section 9 to add particular requirements for the contents of the vulnerable children's plan.

Clause 134 amends section 11 to add a further reporting requirement for chief executives. This is to report on progress that has been made in achieving the outcomes set out in the plan.

Clause 135 amends section 15 to replace the definition of child with a new definition providing that a child is a person under the age of 18 years.

Clause 136 amends section 23 to include the department responsible for the administration of the Children, Young Persons, and Their Families Act 1989.

Clause 137 amends Schedule 2 to provide that an accessory after the fact to any offence referred to in clause 1 or 2 of that schedule is a specified offence.

Hon Anne Tolley

Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act **2016**.

2 Commencement

5

- (1) **Sections 111, 119 to 121, 127, 128, and 131 to 136** come into force on the day after the date on which this Act receives the Royal assent.
- (2) The rest of this Act comes into force on a date appointed by Order in Council, and 1 or more Orders in Council may be made bringing different provisions into force on different dates.
- (3) Any provisions of this Act that have not earlier been brought into force come into force on **1 July 2019**.

10

Part 1

**Amendments to Children, Young Persons, and Their Families Act
1989**

15

3 Principal Act

This Part amends the Children, Young Persons, and Their Families Act 1989 (the **principal Act**).

4 Section 2 amended (Interpretation)

- (1) In section 2(1), insert in their appropriate alphabetical order:
care or protection order means 1 or more of the following:

- (a) the order referred to in section 83(1)(a):
 - (b) the order described in section 83(1)(b):
 - (c) the order described in section 83(1)(c):
 - (d) a services order under section 86:
 - (e) a restraining order under section 87: 5
 - (f) a support order under section 91:
 - (g) a custody order under section 101:
 - (h) an order under section 110 appointing a guardian of a child or young person
- child welfare and protection agency** means— 10
- (a) the department:
 - (b) the Department of Corrections:
 - (c) the Ministry of Health:
 - (d) the Ministry of Social Development:
 - (e) the Ministry of Education: 15
 - (f) the Ministry of Justice:
 - (g) the New Zealand Police:
 - (h) Housing New Zealand Corporation:
 - (i) every registered community housing provider (as defined in section 2(1) of the Housing Restructuring and Tenancy Matters Act 1992): 20
 - (j) every DHB:
 - (k) every school board (as defined in section 15(1) of the Vulnerable Children Act 2014):
 - (l) every early childhood service (as defined in section 309 of the Education Act 1989): 25
 - (m) any agency that provides regulated services (as specified in Schedule 1 of the Vulnerable Children Act 2014):
 - (n) any organisation or class of organisation designated as a child welfare and protection agency by regulations made under **section 447(ga)(i)**
- DHB** means an organisation established as a DHB (that is to say, as a district health board) by or under section 19 of the New Zealand Public Health and Disability Act 2000 30
- held** includes deemed for the purposes of the Official Information Act 1982 to be held (*see* section 2(4) and (5) of that Act)
- independent person** means— 35
- (a) a practitioner registered under the Health Practitioners Competence Assurance Act 2003 who provides health or disability support services:

(b)	a children’s worker (as defined in section 23(1) of the Vulnerable Children Act 2014):	
(c)	a person or class of persons designated as an independent person by regulations made under section 447(ga)(ii)	
5	mana tamaiti (tamariki) , in relation to a person who is Māori, means their intrinsic worth, well-being, and capacity and ability to make decisions about their own life	5
	UNCROC means the United Nations Convention on the Rights of the Child	
	whakapapa , in relation to a person, means the multi-generational kinship relationships that help to describe who the person is in terms of their mātua (parents), and tūpuna (ancestors), from whom they descend	10
	whanaungatanga , in relation to a person, means—	
(a)	the purposeful carrying out of responsibilities based on obligations to whakapapa:	
(b)	the kinship that provides the foundations for reciprocal obligations and responsibilities to be met:	15
(c)	the wider kinship ties that need to be protected and maintained to ensure the maintenance and protection of their sense of belonging, identity, and connection	
	youth justice residence has the same meaning as in section 365(4).	20
(2)	In section 2(1), replace the definition of young person with:	
	young person means a boy or a girl of or over the age of 14 years but under 18 years, and, for the purposes of sections 386AAA to 386C and 447(cb), (cc), and (da) , has the meaning given in section 386AAA .	
5	Part 1 heading amended	25
	In the Part 1 heading, replace “ General objects, ” with “ Purposes, ”.	
6	Section 4 and cross-heading replaced	
	Replace section 4 and the cross-heading above section 4 with:	
	<i>Purposes</i>	
4	Purposes	30
	The purposes of this Act are to promote the well-being of children, young persons, and their families and family groups by—	
(a)	promoting the provision of services that advance positive long-term health, educational, economic, and social outcomes for children and young persons:	35
(b)	preventing and responding to the suffering of, or risk of harm to, children and young persons (including to their well-being and development),	

and preventing and responding to ill-treatment, abuse, neglect, and deprivation of children and young persons, and offending by them:

- (c) ensuring that children and young persons who come to the attention of the department have a safe, stable, and loving home from the earliest opportunity: 5
- (d) supporting families, whānau, hapū, iwi, and usual caregivers to enable them to provide a safe, stable, and loving home for, and meet the needs of, their children and young persons:
- (e) strengthening the relationships between children and young persons and their family, whānau, hapū, and iwi (including the relationships between siblings): 10
- (f) protecting children and young persons who are not safe from harm or whose needs are not being met in their usual caregiving arrangement:
- (g) supporting children and young persons who are or have been in care or custody under this Act or in a youth justice residence so that they have the best opportunity to successfully transition to adulthood: 15
- (h) responding to offending by children and young persons in a way that prevents or reduces future offending, responding to the rights and interests of the victims of offending, promoting the rights and best interests of children and young persons, and holding children and young persons accountable for their offending and encouraging them to accept responsibility for their behaviour: 20
- (i) providing and co-ordinating services that are—
 - (i) culturally appropriate; and
 - (ii) centred on the rights, well-being, and best interests of children and young persons: 25
- (j) enabling co-operation, and enabling and where necessary requiring information-sharing, among agencies to enable the purposes in **paragraphs (a) to (i)** to be achieved:
- (k) recognising mana tamaiti (tamariki), whakapapa, and the practice of whanaungatanga for Māori children and young persons who come to the attention of the department: 30
- (l) promoting an approach that supports capability building at the whānau level to improve life course outcomes for Māori children and young persons and their whānau. 35

7 New section 4A inserted (Well-being and best interests of child or young person)

After section 4, insert:

4A	Well-being and best interests of child or young person	
(1)	In all matters relating to the administration or application of this Act (other than Parts 4 and 5 and sections 351 to 360), the well-being and best interests of the child or young person are the first and paramount consideration, having regard to the principles set out in sections 5, 5A , and 13.	5
(2)	In all matters relating to the administration or application of Parts 4 and 5 and sections 351 to 360, the court or other persons exercising powers under those provisions must, having regard to the principles set out in sections 5, 5A , and 13, be guided by the principle that the well-being and best interests of the child or young person are a primary consideration that must be weighed with other primary considerations, including—	10
	(a) the public interest (which includes public safety):	
	(b) the interests of any victim of offending by a child or young person:	
	(c) the accountability of the child or young person for their behaviour.	
8	Section 5 amended (Principles to be applied in exercise of powers conferred by this Act)	15
	Replace section 5(a) to (g) with:	
(a)	the child or young person is at the centre of decision making that affects them, and, in particular,—	
	(i) the child’s or young person’s rights (including those rights set out in UNCROC and the United Nations Convention on the Rights of Persons with Disabilities, which New Zealand has affirmed) must be respected and upheld and the child or young person must be treated with dignity and respect at all times:	20
	(ii) the child or young person must be protected from harm:	25
	(iii) the child or young person has a safe, stable, and loving home:	
	(iv) the child or young person has a sense of belonging, and their identity is respected and taken into account, including (but not limited to) their cultural identity, gender identity, sexual orientation, and any disability:	30
	(v) the child or young person is supported to achieve their developmental potential:	
	(vi) the current harm and risk of future harm to the well-being and development of a child or young person (including the risk of offending) are identified, prevented, and responded to at the earliest opportunity:	35
	(vii) the impact of harm to the child or young person is addressed and steps are taken to enable their recovery:	

- (viii) decisions are made promptly and in a time frame appropriate to the age and development of the child or young person:
- (ix) a holistic approach is taken that sees the child or young person as a whole person and takes into account the elements that make them who they are as a person (including, but not limited to, their age, cultural connections, education, development, and health): 5
- (x) for disabled children or young persons, the impact of their disability and any disadvantage resulting from that disability is considered and any impact mitigated; and
- (b) when making a decision about a child or young person, the child’s or young person’s place within their family is recognised, and, in particular,— 10
 - (i) the primary responsibility for caring for and nurturing the well-being and development of the child or young person lies with their immediate family, whānau, or usual caregiver: 15
 - (ii) their family, whānau, and usual caregiver are strengthened and supported to enable them to care for the child or young person, nurture their well-being and development, and reduce the likelihood of harm or offending:
 - (iii) whenever possible, the relationship between the child or young person and their family, whānau, and usual caregiver is respected, supported, and strengthened: 20
 - (iv) the relationship between the child or young person and their siblings is respected, supported, and strengthened:
 - (v) their family, whānau, hapū, iwi, and usual caregiver can participate in decisions made about the child or young person; and 25
- (c) when making a decision about a child or young person, the child’s or young person’s place within their community is recognised, and, in particular,—
 - (i) consideration is given to the significance of the child’s or young person’s wider whānau, hapū, and iwi, and links to whakapapa or the equivalents in the culture of the child or young person: 30
 - (ii) consideration is given to how a decision affects the stability of a child or young person (including their educational stability and connections to community and local networks), and the impact of disruption to this stability: 35
 - (iii) informal networks and supports of the child or young person and their family are acknowledged and, where practicable, utilised; and
- (d) when making a decision about a child or a young person who is Māori,— 40

<ul style="list-style-type: none"> (i) the mana and well-being of the child or young person are protected by recognising the whakapapa and whanaungatanga responsibilities of their whānau, hapū, and iwi: (ii) the importance of whakapapa and whanaungatanga is recognised by ensuring that wherever possible, their whānau, hapū, and iwi can participate in those decisions. 	5
9	New section 5A inserted (Principles of participation)
	After section 5, insert:
5A	Principles of participation
(1)	The following principles apply whenever a decision is made under this Act or regulations made under this Act: 10
(a)	so far as is practicable, when a person makes a decision affecting a child or young person, the child or young person must be encouraged and assisted to participate in the decision-making process and the child's or young person's views must be taken into account by the decision maker: 15
(b)	decision makers making written decisions must set out the child's or young person's views in their decision and, if those views were not followed, include the reasons for not doing so:
(c)	so far as is practicable, a decision affecting a child or young person, and the reasons for that decision, must be explained to them. 20
(2)	A person who complies with section 11 or section 66I , as the case requires, must be treated as having complied with the principles set out in subsection (1) .
10	Section 6 repealed (Welfare and interests of child or young person paramount) 25
	Repeal section 6.
11	Section 7 amended (Duties of chief executive)
(1)	In section 7(1)(b), replace “sections 5 and 6” with “sections 4A , 5, and 5A ”.
(2)	Replace section 7(2)(b)(i) with: 30
(i)	the establishment of services (including social work services, family support services, and community-based services) designed to improve the well-being of and long-term outcomes for children and young persons; and
(3)	After section 7(2)(b), insert: 35
(bab)	ensure, where practicable, that any services funded by the department to reduce the impact of early risk factors are co-ordinated with other government-funded activities for improving outcomes for children, young persons, and families, or reducing the impact of early risk factors (for

- example, the kind set out in any vulnerable children’s plan under the Vulnerable Children Act 2014) so that those services and activities—
- (i) are unified under a shared strategy and set of outcomes with respect to children and young persons with early risk factors for future involvement in the care, protection, or youth justice systems under this Act; and 5
 - (ii) adopt a common approach to evaluating the set of outcomes sought and, where possible, determining the return on investment by the Government in those services and activities; and
 - (iii) are available to meet the needs of children and young persons of different ages and at different developmental stages, and include processes to support children and young persons to move between services and activities as they get older and develop: 10
- (bac) comply with the standards of care prescribed in regulations made under **section 447(fa)**: 15
- (bad) establish, amend, or replace, after consulting the State Services Commissioner, complaints mechanisms to enable children and young persons, parents, families, and caregivers—
- (i) to complain about actions taken by the chief executive, the chief executive’s delegates, and employees of the department under this Act or regulations made under this Act in relation to children and young persons; and 20
 - (ii) to receive timely, fair, and child-centred responses to those complaints:
- (bae) ensure that the policies and services provided by the department are informed by the outcomes of cases considered by the complaints process: 25
- (baf) develop and publish policies and practice standards in relation to the chief executive’s role in—
- (i) managing, and participating in, family group conferences; and
 - (ii) giving effect to the conferences’ outcomes. 30

12 New section 7A inserted (Further duties of chief executive in relation to improvement of Māori outcomes)

After section 7, insert:

- 7A Further duties of chief executive in relation to improvement of Māori outcomes** 35
- (1) The duties of the chief executive set out in **subsection (2)** are imposed in order to recognise and provide a practical commitment to the principles of the Treaty of Waitangi.
 - (2) The chief executive must ensure that—

- (a) the policies and practices of the department that impact on the well-being of children have the objective of reducing disparities by setting measurable outcomes for Māori children and young persons who come to the attention of the department:
- (b) the policies, practices, and services of the department must have regard to the mana and whakapapa of Māori children and young persons and the whanaungatanga responsibilities of their whānau, hapū, and iwi: 5
- (c) the department seeks to develop strategic partnerships with iwi and Māori organisations in order to—
- (i) provide opportunities to, and invite innovative proposals from, iwi and Māori organisations to improve outcomes for Māori children, young persons, and their whānau who come to the attention of the department: 10
- (ii) contribute to setting expectations and targets to improve outcomes for Māori children and young persons who come to the attention of the department: 15
- (iii) enable the robust, regular, and genuine exchange of information between the department and iwi and Māori organisations:
- (iv) provide opportunities for the chief executive to delegate functions under this Act or regulations made under this Act to appropriately qualified people within iwi and other Māori organisations: 20
- (v) provide, and regularly review, guidance to persons discharging functions under this Act and regulations made under this Act to support cultural competency as a best-practice feature of the Oranga Tamariki workforce. 25
- (3) The chief executive must report to the public at least once a year on the measures taken by the chief executive to carry out the duties in **subsection (2)**, including the impact of those measures in improving outcomes for Māori children and young persons in care or protection under this Act and the steps to be taken in the immediate future. 30
- (4) A copy of each annual report under **subsection (3)** must be published on an Internet site maintained by the department.

13 Section 13 amended (Principles)

- (1) In section 13(1), replace “section 6” with “**section 4A**”.
- (2) Replace section 13(2) with: 35
- (2) In determining the well-being and best interests of the child or young person, the court or person exercising powers referred to in subsection (1) must be guided by, in addition to the principles in sections **4A(1)**, 5, and **5A**, the following principles:

- (a) intervention should occur early to improve the safety and well-being of children, young persons, and their families and to address risk of future harm (including the risk that a child or young person may offend or re-offend, or not achieve their developmental potential):
- (b) interventions with families should, where possible, occur with the consent of the child or young person concerned and their parents, guardians, or usual caregivers, and should reflect the child's or young person's views and input: 5
- (c) where a child or young person is at risk of being removed from their immediate family, whānau, or usual caregivers, the child's or young person's usual caregivers, family, whānau, hapū, iwi, and family group should, unless it is unreasonable or impracticable in the circumstances, be assisted to enable them to provide a safe, stable, and loving home to the child or young person in accordance with whakapapa and whanaungatanga: 10
- (d) where there is a risk that a child's or young person's needs for a safe, stable, and loving home may not be met by their usual caregivers, those needs should be considered and addressed concurrently with interventions to support the child or young person to remain with those caregivers: 15
- (e) powers to intervene under this Part without the consent of the persons concerned should be exercised only when necessary and when there is no other reasonable way to safeguard and promote a child's or young person's well-being: 20
- (f) a child or young person should be removed from the care of their usual caregivers only if there is a serious risk of physical or emotional harm to them: 25
- (g) if a child or young person is removed from the care of their usual caregivers and cannot be returned to those caregivers,—
 - (i) decisions about placement should be guided by the child's or young person's best interests, and the court or person making the decision should seek the views and understand the needs of the child or young person: 30
 - (ii) children or young persons should be in a placement in which they will be safe and protected from harm: 35
 - (iii) stability and continuity of placement are important considerations when making placement decisions:
 - (iv) if practicable, a child or young person should be placed with their siblings:

	(v) children or young persons should be placed where they can develop a sense of belonging and attachment, and where their personal identity and cultural identity are maintained:	
	(h) preserving and strengthening connections (including cultural connections) with family, whānau, hapū, iwi, and the family group is important and should occur, having regard to the views of the child or young person, even if the child lives in a different location:	5
	(i) where a child is considered to be in need of care or protection on the ground specified in section 14(1)(e) , the principle set out in section 208(g):	10
	(j) the well-being and interests of any child or young person, in general, take precedence over any duty of confidentiality owed by any person in relation to that child or young person or to any person who is a family member of that child or young person or in a domestic relationship with that child or young person (within the meaning of section 4 of the Domestic Violence Act 1995):	15
	(k) any intervention with the whānau of a child or young person who is Māori should recognise and promote the mana tamaiti (tamariki) and the whakapapa of that child or young person and relevant whanaungatanga rights and responsibilities:	20
	(l) when determining where to place a child or young person who is Māori, if the child or young person is, or is to be, removed from their immediate family, whānau, or usual caregivers, the following principles apply:	
	(i) decisions in relation to children and young persons should recognise and promote the importance of mana tamaiti (tamariki), whakapapa, and whanaungatanga:	25
	(ii) the whanaungatanga and the whakapapa of the child or young person are important and should continue to be honoured on an ongoing basis wherever the child or young person lives.	
14	Section 14 replaced (Definition of child or young person in need of care or protection)	30
	Replace section 14 with:	
14	Definition of child or young person in need of care or protection	
(1)	A child or young person is in need of care or protection if the child or young person has suffered, or is likely to suffer, serious harm. Circumstances that may result in serious harm or the likelihood of serious harm include (but are not limited to)—	35
	(a) the child or young person is being, or is likely to be, abused, deprived, ill-treated (whether physically, emotionally, or sexually), or neglected:	

- (b) the child's or young person's development or physical or mental or emotional well-being (including their ability to form a significant psychological attachment to a caregiver (other than a person referred to in **subsection (4))**) is being, or is likely to be, impaired or neglected, and that impairment or neglect is, or is likely to be, avoidable: 5
- (c) the child or young person has been exposed to domestic violence (within the meaning of section 3 of the Domestic Violence Act 1995):
- (d) the child or young person has behaved, or is behaving, in a manner that—
- (i) is, or is likely to be, harmful to the physical, mental, or emotional well-being of the child or young person or to the well-being of others; and 10
- (ii) the child's or young person's parents or guardians, or the persons who have the care of the child or young person, are unable or unwilling to control them: 15
- (e) in the case of a child of or over the age of 10 years and under 14 years, the child has committed an offence or offences of sufficient number, nature, or magnitude to cause serious concern for the well-being of the child:
- (f) the parents or guardians or other persons who have the care of the child or young person are unwilling to care for, or have abandoned, them: 20
- (g) serious differences exist between the child or young person and the parents or guardians or other persons who have the care of them:
- (h) serious differences exist between a parent, guardian, or other person who has the care of the child or young person and any other parent, guardian, or other person who has the care of them. 25
- (2) A child or young person is also in need of care or protection within the meaning of this Part if—
- (a) the child is a subsequent child of a parent to whom section 18A applies and the parent has not demonstrated to the satisfaction of the chief executive (under section 18A) or the court (under section 18A(4)(a) or 18C) that they meet the requirements of section 18A(3); or 30
- (b) the parents or guardians or other persons who have the care of the child or young person are unable to care for them.
- (3) For the purposes of applying **subsection (1)**, **serious harm** may occur (without limitation) as a result of— 35
- (a) cumulative incidents; or
- (b) the co-existence of different circumstances.
- (4) The persons referred to in **subsection (1)(b)** are as follows:

(a)	any person who has care of the child or young person under the order of any court, whether or not that court is a court within the meaning of this Act:	
(b)	any person who has the care of a child or young person—	
(i)	under an agreement under section 139 or 140; or	5
(ii)	under an agreement made under section 141 or 142 (before the repeal of those provisions); or	
(iii)	for the purpose of adoption, if the requirements of section 6 of the Adoption Act 1955 are being complied with:	
(c)	any person who is caring for the child or young person in—	10
(i)	any residential accommodation provided for children or young persons attending a registered school within the meaning of the Education Act 1989; or	
(ii)	a hospital care institution within the meaning of section 58(4) of the Health and Disability Services (Safety) Act 2001.	15
15	Section 15 replaced (Reporting of ill-treatment or neglect of child or young person)	
	Replace section 15 with:	
15	Reporting of concerns to constable or social worker	
	Any person who believes that a child or young person has been, or is likely to be, harmed (whether physically, emotionally, or sexually), ill-treated, abused, neglected, or deprived, or who has concerns about the well-being of a child or young person, may report the matter to a constable or social worker.	20
16	Section 16 amended (Protection of person reporting ill-treatment or neglect of child or young person)	25
	In section 16, replace “pursuant to section 15” with “under this Part,”.	
17	Section 17 amended (Investigation of report of ill-treatment or neglect of child or young person)	
	After section 17(2), insert:	
(2A)	If, after an investigation under subsection (1), a care and protection co-ordinator is not notified under subsection (2), the chief executive may, nevertheless,—	30
(a)	undertake a further assessment or provide services to the child or young person, their family, or usual caregivers; or	
(b)	refer the child or young person, their family, or usual caregivers to other services provided by agencies or in the community; or	35

- (c) take no further action, if the investigation under subsection (1) discloses no identifiable risk of harm that could be dealt with under this Act or if appropriate action has already been taken.

18 New section 18AAA inserted (Chief executive may make family group conference available in certain circumstances) 5

After section 17, insert:

18AAA Chief executive may make family group conference available in certain circumstances

If the chief executive is not satisfied that a child or young person is in need of care or protection but believes that holding a family group conference would best assist in formulating a plan to help the child or young person, the chief executive may refer the case to a care and protection co-ordinator, who must convene a family group conference under section 20. 10

19 Section 18 amended (Referral of care or protection cases to care and protection co-ordinator or youth justice co-ordinator by social workers or constables) 15

- (1) In section 18(1), replace “section 14(1)(ba) or (e)” with “**section 14(1)(e)**”.
- (2) In section 18(3), replace “declaration under section 67” with “care or protection order”.

20 Section 18A amended (Assessment of parent of subsequent child) 20

- (1) In section 18A(4)(a), replace “declaration under section 67 that the subsequent child is in need of care or protection on the grounds in section 14(1)(ba)” with “care or protection order because the subsequent child is in need of care or protection on the ground in **section 14(2)(a)**”.
- (2) In section 18A(4)(b), replace “under section 67” with “for a care or protection order”. 25
- (3) In section 18A(6), after “section 70 applies”, insert “, but a family group conference must be held before a care or protection order is made”.
- (4) In section 18A(7)(a)(ii), replace “declaration under section 67 that the child was in need of care or protection on the ground in section 14(1)(ba)” with “care or protection order because the child was in need of care or protection on the ground in **section 14(2)(a)**”. 30

21 Section 18B amended (Person described in this section)

In section 18B(2)(a), replace “declared under section 67” with “decided”.

- 22 Section 18C amended (Confirmation of decision not to apply for declaration under section 67)**
- (1) In the heading to section 18C, replace “**declaration under section 67**” with “**care or protection order**”.
- (2) In section 18C(2), replace “declaration under section 67” with “care or protection order”. 5
- (3) In section 18C(4)(a), replace “declaration under section 67” with “care or protection order”.
- 23 Section 18D amended (Court declining to confirm decision)**
- In section 18D(a), replace “declaration under section 67 made by the chief executive on the ground in section 14(1)(ba)” with “care or protection order made by the chief executive on the ground in **section 14(2)(a)**”. 10
- 24 Section 19 amended (Referral of care or protection cases to care and protection co-ordinator by other persons or by court)**
- In section 19(1), replace “section 14(1)(ba)” with “**section 14(2)(a)**”. 15
- 25 Section 21 amended (Care and protection co-ordinator to consult family, whanau, or family group on convening of family group conference)**
- In section 21, insert as subsection (2):
- (2) **Subsection (1)(a)** does not apply if the family group conference is convened under **section 18AAA**. 20
- 26 Sections 22 amended (Persons entitled to attend family group conference)**
- After section 22(1)(d), insert:
- (da) if the conference is convened under any other provision of this Part (or under sections 207D(3), 207K(2), or 207Q(2)), the chief executive or the chief executive’s delegate: 25
- 27 Section 26 amended (Procedure of family group conference)**
- In section 26(2), replace “Subject to section 5(f), a” with “A”.
- 28 Section 28 amended (Functions of family group conference)**
- (1) In section 28(a), after “care or protection”, insert “or well-being”.
- (2) In section 28(b), after “care or protection,”, insert “or is in need of assistance”. 30
- (3) In section 28(b), replace “necessary or desirable, having regard to the principles set out in sections 5, 6, and 13” with “necessary or desirable to meet the need for the child’s or young person’s care, protection, or well-being, having regard to the principles set out in sections **4A**, **5**, **5A**, and 13”.

- 29 Section 29 amended (Family group conference may make decisions and recommendations and formulate plans)**
- (1) In section 29(1), after “care or protection”, insert “or well-being”.
- (2) In section 29(2), replace “sections 5, 6, and 13” with “sections **4A**, 5, **5A**, and 13”.
- 30 Section 30 amended (Care and protection co-ordinator to seek agreement to decisions, recommendations, and plans of family group conference)**
- Before section 30(1)(a), insert:
- (aaa) if the conference was convened under **section 18AAA**,—
- (i) communicate that decision, recommendation, or plan to the chief executive and to every person who will be directly involved in its implementation; and
- (ii) seek the agreement of the chief executive, and every other person, organisation, or body to whom that decision, recommendation, or plan is communicated under **subparagraph (i)**, to that decision, recommendation, or plan.
- 31 Section 34 amended (Chief executive to give effect to decisions, recommendations, and plans of family group conference)**
- In section 34(1), replace “sections 5, 6, and 13” with “sections **4A**, 5, **5A**, and 13”.
- 32 Section 35 amended (Police to comply with decisions, recommendations, and plans of family group conference)**
- In section 35, replace “sections 5, 6, and 13” with “sections **4A**, 5, **5A**, and 13”.
- 33 Section 40 amended (Warrant to remove child or young person)**
- In section 40(1), replace “declaration under section 67” with “care or protection order”.
- 34 Section 46 amended (Powers of court where application made under section 44 or child or young person brought before court under section 45)**
- In section 46(b), replace “declaration under section 67” with “care or protection order”.
- 35 Section 48 amended (Unaccompanied children and young persons)**
- In section 48(2)(b), replace “declaration under section 67” with “care or protection order”.

- 36 Section 59 amended (Application for production of documents relevant to investigation of whether child or young person in need of care or protection)**
- (1) In the heading to section 59, after “**protection**”, insert “**or assistance under section 17(2A)**”. 5
- (2) In section 59(1)(a), after “section 14(1)(e)”, insert “or is in need of assistance under **section 17(2A)**”.
- 37 Section 61 amended (Court may order document to be produced)**
- In section 61(1), after “section 14(1)(e)”, insert “or is in need of assistance under **section 17(2A)**”. 10
- 38 Section 66 replaced (Government departments may be required to supply information)**
- Replace section 66 with:
- Information sharing*
- 65A Principle to be applied to information sharing decisions** 15
- Persons exercising powers under **sections 66 to 66O** must have regard to the principle in **section 13(2)(j)**, to the extent relevant.
- 66 Agencies may be required to supply information**
- (1) Every agency (within the meaning of section 2(1) of the Privacy Act 1993, which includes a person) must on request supply to the chief executive, a care and protection co-ordinator, or a constable any information held by the agency relating to a child or young person if the information is— 20
- (a) required to determine whether a child or young person is in need of care or protection or assistance under section 17(2) and **(2A)**; or
- (b) required for the purposes of any proceedings under this Part (including a family group conference). 25
- (2) Despite **subsection (1)**, an agency may refuse to disclose any information that may be withheld on the grounds of legal professional privilege.
- (3) Information obtained under **subsection (1)**— 30
- (a) must not be used for the purposes of investigating any offence; and
- (b) is not admissible in any proceedings other than proceedings under this Part.
- (4) In this section and **sections 66A to 66O**, **information relating to a child or young person** includes information— 35
- (a) about a member of the family of that child or young person; or

- (b) about any other person in a domestic relationship (as defined in section 2 of the Domestic Violence Act 1995) with that child or young person; or
- (c) about any person who is likely to reside with the child or young person.

66A Disclosure of information obtained under section 66

- (1) The chief executive or a constable may disclose any information relating to a child or young person obtained under **section 66** to a child welfare and protection agency or an independent person if the chief executive or constable reasonably believes that providing the information will fulfil any of the following purposes:
 - (a) preventing or lessening the risk of a child or young person being subject to harm, ill-treatment, abuse, neglect, or deprivation: 10
 - (b) making or contributing to an assessment of risk or need in relation to a child or young person, or a class of children or young persons:
 - (c) making, contributing to, or monitoring any support plan for a child or young person where the plan relates to the activities and functions of the department: 15
 - (d) preparing, implementing, or reviewing any prevention plan or strategy issued by the department:
 - (e) arranging, providing, or reviewing services facilitated by the department for a child or young person, or their family or whānau: 20
 - (f) exercising any power or performing any function in relation to family group conferences, children or young persons in care, or other functions relating to care or protection under this Part.
- (2) **Section 66(3)** applies in respect of any information disclosed under this section as if it were disclosed under **section 66(1)**. 25

66B Restrictions on disclosure of information under section 66A

The chief executive or a constable may not disclose information to a child welfare and protection agency under **section 66A** if—

- (a) the information was disclosed to the chief executive or constable in circumstances that would otherwise have put the person who disclosed the information in breach of the person's duty of confidence under the rules of the profession in which they practise; and 30
- (b) the chief executive or constable is aware, after making reasonable inquiries, that the disclosure would otherwise involve a breach of a duty of confidence of the kind referred to in **paragraph (a)** (whether as a result of being advised by the person disclosing the information or otherwise); and 35
- (c) the person to whom the information relates or their representative has not consented to the disclosure.

66C	Use and disclosure of personal information relating to child or young person	
	A child welfare and protection agency or an independent person that holds information relating to a child or young person may, irrespective of the purpose for which that information was collected,—	5
	(a) use that information for the purposes of—	
	(i) preventing or lessening the risk of a child or young person being subject to harm, ill-treatment, abuse, neglect, or deprivation; or	
	(ii) making or contributing to an assessment of risk or need in relation to a child or young person, or class of children or young persons; or	10
	(iii) making, contributing to, or monitoring any support plan for a child or young person, where the plan relates to the activities and functions of the department; or	
	(iv) preparing, implementing, or reviewing any prevention plan or strategy issued by the department; or	15
	(v) arranging, providing, or reviewing services facilitated by the department for a child or young person and their family or whānau; or	
	(vi) exercising any power or performing any function in relation to family group conferences, children or young persons in care, or other functions relating to care or protection under this Part; or	20
	(b) disclose (whether on request or on the agency's or independent person's own initiative) that information to another child welfare and protection agency or an independent person if the agency or independent person disclosing the information reasonably believes that disclosing the information will assist the agency or independent person receiving the information to carry out any of the purposes described in paragraph (a) .	25
66D	Public notification of information about combined datasets	
	If a child welfare and protection agency uses information relating to a child or young person to link or analyse datasets of information and produce combined datasets, it must notify, at least once a year, on an Internet site maintained by the agency,—	30
	(a) the types of information used in the combined datasets:	
	(b) the sources of those types of information:	35
	(c) the purpose or purposes served by creating or analysing the combined datasets:	
	(d) the privacy safeguards relating to the use of the combined datasets.	

66E Requests for information by child welfare and protection agencies or independent persons from other child welfare and protection agencies or independent persons

A child welfare and protection agency or an independent person (the **requestor**) may request another child welfare and protection agency or an independent person (the **provider**) to disclose to the requestor any information that the provider holds relating to the safety, welfare, or well-being of—

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- (a) a particular child or young person and their family; or
- (b) a class of children or young persons and their families.

66F Duty of child welfare and protection agency or independent person receiving request under section 66E

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A child welfare and protection agency or an independent person—

- (a) must comply with a request under **section 66E** if, after receiving sufficient information from the requestor to make a decision, the provider reasonably believes that the information will assist the requestor to fulfil any of the purposes set out in **section 66A(1)**; but
- (b) may decline the request if **section 66G** applies.

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66G When request under section 66E may be declined

A child welfare and protection agency or an independent person may decline a request under **section 66E** if that agency or person—

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- (a) is not satisfied that disclosure of the information will help to fulfil any of the purposes in **section 66A(1)**; or
- (b) reasonably believes that—
 - (i) disclosure is likely to increase the risk of the child or young person being subject to harm, ill-treatment, abuse, neglect, or deprivation, and that risk outweighs the benefits of disclosure; or
 - (ii) disclosure will prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial, and that prejudice is likely to outweigh the benefits of disclosure; or
 - (iii) disclosure will prejudice the conduct of proceedings before any court or tribunal (being proceedings that have been commenced or are reasonably in contemplation); or
 - (iv) disclosure will breach legal professional privilege; or
 - (v) disclosure will be contrary to the express wishes of the child or young person (expressed either directly or through their representative) and disclosure is not in the best interests of the child or young person.

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66H Reasons for declining request

A child welfare and protection agency or an independent person who declines a request under **section 66E** must give the requestor notice of the decision to decline the request and the reasons for the decision.

66I Consultation to be undertaken when information is requested or proposed to be disclosed under sections 66A to 66F 5

If a child welfare and protection agency or an independent person proposes to disclose information under any of **sections 66A to 66F**, the agency or person must, unless it is impracticable for any reason (including the difficulty of consulting with large numbers of persons) or inappropriate to do so,— 10

- (a) inform the child or young person concerned, or their representative, of the purposes and likely recipients of any disclosure:
- (b) give the child or young person or their representative a reasonable opportunity to express their views about the proposed disclosure:
- (c) take into account any view expressed about the proposed disclosure before deciding whether to disclose the information. 15

*Code of practice for information sharing***66J Purpose of Code for information sharing**

The purpose of a code of practice for information sharing (a **Code**) is to provide guidance to child welfare and protection agencies and independent persons about the application of the information sharing provisions in **sections 66 to 66I** and how disputes about the interpretation and application of those provisions should be resolved. 20

66K Consultation on draft Code by Minister

- (1) If the Minister decides to issue a Code, the Minister must, as soon as practicable, arrange for the draft Code to be notified— 25
 - (a) in the *Gazette*; and
 - (b) on an Internet site maintained by the Government.
- (2) Notification of the draft Code must state— 30
 - (a) that written submissions on the draft Code are invited from members of the public and interested organisations; and
 - (b) where copies of the draft Code may be obtained; and
 - (c) the closing date for submissions; and
 - (d) the address to which submissions are to be sent.

66L Approval of draft Code by Minister

- (1) After considering a summary of issues and concerns raised by submitters and making any amendments to the draft Code, the Minister must,—
- (a) by notice in the *Gazette*, approve the Code; and
 - (b) arrange for the Code to be published on an Internet site maintained by the Government; and
 - (c) arrange for a notice stating where copies of the Code may be obtained to be published on an Internet site maintained by the Government.
- (2) The Code comes into force—
- (a) on the date specified for that purpose in the Code, being a date after the date on which the Code is approved; or
 - (b) if no such date is specified, the day after the date on which the Code is approved.

66M Application of Legislation Act 2012 to Code

The Code is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

66N Amendments to Code

- (1) The Code may be amended by the Minister approving, by notice in the *Gazette*, 1 or more amendments to the Code.
- (2) **Sections 66K to 66M** apply, with all necessary modifications, in relation to an amendment to the Code as if the amendment were the preparation of a draft Code.
- (3) However, those provisions do not apply to an amendment if—
- (a) the amendment is a minor or technical amendment; and
 - (b) the Minister considers that compliance with those provisions is unnecessary.

66O Relationship with other enactments

- (1) **Sections 66 to 66N**—
- (a) override section 344(2) of the Education Act 1989 (which relates to the use of national student numbers);
 - (b) do not affect the Official Information Act 1982.
- (2) If there is any inconsistency between **sections 66 to 66N** of this Act and **sections 6 to 10** of the Privacy Act 1993, **sections 66 to 66N** prevail.
- (3) To avoid doubt, the chief executive of the Ministry of Education may use national student numbers, and a child welfare and protection agency may use information so gathered, in accordance with **sections 66 to 66I**.

- 39 Section 67 repealed (Grounds for declaration that child or young person is in need of care or protection)**
Repeal section 67.
- 40 Section 68 amended (Application for declaration that child or young person is in need of care or protection)** 5
- (1) In the heading to section 68, replace “**declaration that child or young person is in need of care or protection**” with “**care or protection order**”.
- (2) In section 68, replace “declaration that a child or young person is in need of care or protection” with “care or protection order (as defined in section 2)”.
- 41 Section 69 amended (Joint applications)** 10
- In section 69, replace “declaration that a child or young person is in need of care or protection” with “care or protection order”.
- 42 Section 70 amended (No application to be made unless family group conference has been held)**
- (1) In the heading to section 70, after “**application**”, insert “**for care or protection order**”. 15
- (2) In section 70(1), replace “declaration that a child or young person is in need of care or protection” with “care or protection order”.
- (3) In section 70(2)(c), replace “section 14(1)(g)” with “**section 14(2)(b)**”.
- (4) In section 70(3), replace “declaration under section 67” with “care or protection order”. 20
- 43 Section 71 amended (Court may make declaration in absence of proof of responsibility for neglect or ill-treatment of child or young person)**
- (1) In the heading to section 71, replace “**declaration**” with “**care or protection order**”. 25
- (2) In section 71(a), replace “declaration that a child or young person is in need of care or protection” with “care or protection order”.
- (3) In section 71(b), replace “for making the declaration” with “specified in **section 14(1)(a) or (b)**”.
- 44 Section 72 amended (Court not to make declaration unless family group conference held)** 30
- (1) In the heading to section 72, replace “**declaration**” with “**care or protection order**”.
- (2) In section 72(1), replace “declaration under section 67 that a child or young person is in need of care or protection” with “care or protection order”. 35
- (3) In section 72(3), replace “declaration under section 67” with “care or protection order”.

- 45 Section 73 amended (Court not to make declaration unless satisfied that child’s or young person’s need for care or protection cannot be met by other means)**
- (1) In the heading to section 73, replace “**declaration**” with “**care or protection order**”. 5
- (2) In section 73(1), replace “declaration under section 67 that a child or young person is in need of care or protection” with “care or protection order”.
- (3) In section 73(2), replace “declaration under section 67 that a child or young person is in need of care or protection on” with “care or protection order on the basis of”. 10
- 46 Section 74 amended (Court may require parties to undergo counselling)**
- In section 74(1), replace “declaration under section 67” with “care or protection order”.
- 47 Section 78 amended (Custody of child or young person pending determination of proceedings)** 15
- (1) In the heading to section 78, after “**proceedings**”, insert “**or in urgent cases**”.
- (2) After section 78(1), insert:
- (1A) Even if there are no proceedings under this Part in relation to a child or a young person, the court may, on application by the applicant or a lawyer representing the child or young person, or on its own motion, if it is satisfied that **subsection (1B)** applies, make an interim custody order in relation to the child or young person. 20
- (1B) This subsection applies if it is in the interests of the child or young person or in the public interest that an interim custody order be made as a matter of urgency.
- (3) In section 78(2)(c), replace “declaration under section 67” with “care or protection order”. 25
- (4) Replace section 78(2)(d) with:
- (d) if an application has been made for a care or protection order and the court has adjourned the proceedings pending their disposition:
- (5) After section 78(3), insert: 30
- (4) An order under **subsection (1A)** may be made—
- (a) for a period of 28 days; or
- (b) if the matter is to be referred to a family group conference, until a later date that the court considers allows sufficient time for a family group conference to be held and an application for a care or protection order to be made. 35
- 48 Cross-heading above section 83 replaced**
- Replace the cross-heading above section 83 with:

Care or protection orders

- 49 Section 83 amended (Orders of court on making of declaration)**
- (1) Replace the heading to section 83 with “**Care or protection orders**”.
- (2) In section 83(1), replace “Where the court makes a declaration under section 67 relating to a child or young person, it may do 1 or more of the following things:” with “If the court, on application made under section 68, is satisfied that a child or young person is in need of care or protection, the court may do 1 or more of the following things (irrespective of whether the thing or things were sought in the application):”.
- (3) After section 83(1), insert:
- (1A) However, on an application under section 18A(4)(a) or 18D in relation to a person to whom section 18A applies, if the court is satisfied that the subsequent child is in need of care or protection on the ground in **section 14(2)(a)**, the court must make a care or protection order referred to in subsection (1), unless it is satisfied that the person has demonstrated that they meet the requirements of section 18A(3).
- 50 Section 84 amended (Power to make other orders where declaration made on ground of child’s offending)**
- (1) In the heading to section 84, replace “**where declaration made on ground of child’s offending**” with “**on ground of child’s offending**”.
- (2) In section 84(1), replace “Where the court makes a declaration under section 67 in relation to a child, and the declaration is made” with “If, on an application under section 68, a court is satisfied that a child is in need of care or protection”.
- 51 Section 86 amended (Services orders)**
- In section 86(1), replace “Where the court makes a declaration under section 67 in relation to a child or young person” with “If, on an application under section 68, the court is satisfied that a child or young person is in need of care or protection”.
- 52 Section 86A amended (Interim services orders)**
- In section 86A, replace “declaration under section 67 in relation to” with “care or protection order in respect of”.
- 53 Section 87 amended (Restraining orders)**
- In section 87(1), replace “Where the court makes a declaration under section 67 in relation to a child or young person” with “If, on an application under section 68, the court is satisfied that a child or young person is in need of care or protection”.

54 Section 88 amended (Interim restraining orders)

- (1) In section 88, replace “declaration under section 67 in relation to” with “care or protection order in respect of”.
- (2) In section 88, insert as subsections (2) to (4):
 - (2) Even if an application has not been made for a care or protection order, the court may, on application by the applicant or a lawyer representing the child or young person, or on its own motion, if it is satisfied that **subsection (3)** applies, make any order that it is empowered to make under section 87. 5
 - (3) This subsection applies if it is in the interests of the child or young person or in the public interest that an interim restraining order be granted as a matter of urgency. 10
 - (4) An order under **subsection (2)** may be made—
 - (a) for a maximum period of 28 days; or
 - (b) if the matter is to be referred to a family group conference, until a later date that the court considers allows sufficient time for a family group conference to be held and an application for a care or protection order to be made. 15

55 Section 91 amended (Support orders)

- (1) In section 91(1), replace “Where the court makes a declaration under section 67 in relation to a child or young person” with “If, on an application under section 68, the court is satisfied that a child or young person is in need of care or protection”. 20
- (2) In section 91(3)(b), replace “sections 5, 6, and 13” with “sections **4A**, 5, **5A**, and 13”.

56 Section 92 amended (Interim support orders) 25

In section 92, replace “declaration under section 67” with “care or protection order”.

57 Section 95 amended (Conditions of support order or interim support order)

In section 95(d), replace “in respect of whom a declaration is made” with “who the court is satisfied is in need of care or protection”. 30

58 Section 96 amended (Power of court to impose additional conditions)

- (1) In section 96(1)(a), replace “in respect of whom a declaration is made” with “who the court is satisfied, on an application made under section 68, is in need of care or protection”. 35
- (2) In section 96(1)(a)(iii), replace “in respect of whom a declaration is made” with “who the court is satisfied, on an application made under section 68, is in need of care or protection”.

59 Section 101 amended (Custody orders)

In section 101(1), replace “Where the court makes a declaration under section 67 in relation to a child or young person” with “If a court, on application under section 68, is satisfied that a child or young person is in need of care or protection”.

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60 Section 102 amended (Interim custody orders)

In section 102(1), replace “makes a declaration under section 67” with “is satisfied that a child or young person is in need of care or protection”.

61 Section 110 amended (Guardianship orders)

In section 110(1), replace “makes a declaration under section 67 in relation to any child or young person” with “is satisfied that a child or young person is in need of care or protection”.

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62 New section 110AA inserted (Interim guardianship orders)

After section 110, insert:

110AA Interim guardianship orders

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(1) In any proceedings in a court under this Part in relation to a child or young person, the court may, on the application of any party to the proceedings, or on its own motion, make an order relating to the guardianship of the child or young person pending the determination of the proceedings.

(2) An order for interim guardianship may be made under **subsection (1)** only if the immediate needs of the child or young person cannot be dealt with without making the order.

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(3) An interim guardianship order made under **subsection (1)** must not continue in force for more than 6 months after the date on which it is made.

(4) If an interim guardianship order is made under **subsection (1)**, the court may, on application by any person who was the applicant in the proceedings in which the order was made, or any person on whom the application in those proceedings was served in accordance with section 152, or the person in whose custody the child or young person was placed,—

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(a) make 1, but only 1, further interim guardianship order under this section; or

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(b) make a final order under section 110; or

(c) make any other order referred to in section 83(1) or 84(1) that the court considers appropriate; or

(d) dismiss the application.

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(5) Even if there are no proceedings under this Part in relation to a child or young person, the court may, on application by the applicant or a lawyer representing

- the child or young person, or on its own motion, if it is satisfied that **subsection (6)** applies, make an interim guardianship order.
- (6) This subsection applies if it is in the interests of the child or young person or in the public interest that an interim guardianship order be granted as a matter of urgency. 5
- (7) An order under **subsection (5)** may be made for a maximum period of—
- (a) 28 days; or
- (b) if the matter is to be referred to a family group conference, until a later date that the court considers allows sufficient time for a family group conference to be held and an application for a care or protection order to be made. 10
- 63 Section 121 amended (Court may make orders for access and exercise of other rights by parents and other persons)**
- (1) In section 121(2)(c), replace “person,—” with “person; or”.
- (2) After section 121(2)(c), insert: 15
- (ca) makes an order under **section 110AA** relating to the guardianship of a child or young person, pending the determination of the proceedings,—
- 64 Section 125 amended (Application for variation or discharge of orders made under this Part)**
- In section 125(1)(g), after “section 110”, insert “or interim guardianship order made under **section 110AA**”. 20
- 65 Section 131 amended (Adjournment for purposes of obtaining plan)**
- Replace section 131(2) with:
- (2) If any proceedings are adjourned for the purposes of obtaining any plan under section 128, the person responsible for preparing the plan must make all reasonable endeavours to ensure that the plan is, at least 7 working days before the date set for the hearing,— 25
- (a) filed with the court:
- (b) sent to all the parties to the proceedings.
- 66 Section 132 amended (Access to plans)** 30
- In section 132(2), replace “1 working day” with “5 working days”.
- 67 Section 137 amended (Court to consider report and make directions)**
- In section 137(1), after “the court shall”, insert “, after giving the parties an opportunity to make submissions on the revised plan,”.
- 68 Sections 141 and 142 repealed** 35
- Repeal sections 141 and 142.

- 69 Section 143 amended (All parents or guardians not required to be party to agreement)**
In section 143, delete “or section 141 or section 142”.
- 70 Section 144 amended (Agreement not to be made without consent of child or young person)** 5
(1) In section 144(1), delete “or section 142”.
(2) Repeal section 144(2).
(3) In section 144(3), delete “or section 141 or section 142”.
- 71 Section 145 amended (Agreement not to be made without approval of family group conference)** 10
(1) In section 145(1), delete “or section 141 or section 142”.
(2) Repeal section 145(1)(b) and (d)(ii).
(3) In section 145(1)(d), after “a care and protection co-ordinator”, insert “(or if section 261 applies, a youth justice co-ordinator)”.
(4) In section 145(2)(a), delete “or section 141 or section 142”. 15
(5) Repeal section 145(2)(b).
- 72 Section 146 amended (Form and terms of agreements)**
(1) In section 146(1), delete “or section 141 or section 142”.
(2) In section 146(2), delete “or section 141 or section 142”.
- 73 Section 147 amended (Further restrictions on making of agreements)** 20
In section 147(2), delete “or section 141 or section 142”.
- 74 Section 148 amended (Effect of agreements)**
In section 148, delete “or section 141 or section 142”.
- 75 Section 149 amended (Agreement may provide for consent to medical treatment)** 25
In section 149, delete “or section 141 or section 142”.
- 76 Section 152 amended (Service of application for declaration)**
In section 152(1), replace “declaration under section 67 that a child or young person is in need of care or protection” with “care or protection order”.
- 77 Section 153 amended (Notice of application for declaration to be given to child or young person)** 30
In section 153, replace “declaration under section 67” with “care or protection order”.

- 78 Section 154 amended (Service of application for variation or discharge of order)**
Replace section 154(1)(b) with:
(b) the applicant for a care or protection order in respect of which the order was made: 5
- 79 Section 158 amended (Applications may be heard together)**
In section 158, replace “declaration under section 67” with “care or protection order”.
- 80 Section 170 amended (Calling of mediation conference)**
In section 170(1), replace “declaration under section 67” with “care or protection order”. 10
- 81 Section 185 amended (Sections to have effect in place of sections 38 to 44 of Criminal Procedure (Mentally Impaired Persons) Act 2003)**
In section 185, replace “declaration under section 67” with “care or protection order”. 15
- 82 Section 186 amended (Report by social worker)**
(1) In section 186(1), replace “Where the court makes a declaration under section 67” with “If the court makes a care or protection order”.
(2) In section 186(2), replace “the declaration under section 67” with “the care or protection order”. 20
(3) In section 186(2A), replace “declaration under section 67” with “care or protection order”.
- 83 Section 187 amended (Cultural and community reports)**
In section 187(1), replace “declaration under section 67” with “care or protection order”. 25
- 84 Section 198 amended (Special provisions applying to applications for declaration on ground of child’s offending)**
(1) In the heading to section 198, replace “**declaration**” with “**care or protection order**”.
(2) In section 198(1), replace “declaration under section 67” with “care or protection order”. 30
- 85 Section 199 amended (Power of court to call witnesses)**
In section 199(1), replace “declaration under section 67” with “care or protection order”.

- 86 Section 200 amended (Court to ensure that application for declaration that child or young person in need of care or protection dealt with promptly)**
- (1) Replace the heading to section 200 with “**Court to ensure that application for care or protection order dealt with promptly**”.
- (2) In section 200, replace “declaration under section 67” with “care or protection order”. 5
- 87 Section 205 amended (Preventing removal of child or young person from New Zealand)**
- In section 205(1)(a), replace “declaration under section 67” with “care or protection order”. 10
- 88 Section 206 amended (Offence to take child or young person out of New Zealand where proceedings pending)**
- In section 206(1), replace “declaration under section 67” with “care or protection order”.
- 89 Section 207E amended (Chief executive to have regard to certain matters)** 15
- In section 207E(a), replace “sections 5, 6, and 13” with “sections **4A**, 5, **5A**, and 13”.
- 90 Section 207M amended (Court to have regard to certain matters)**
- In section 207M(a), replace “sections 5, 6, and 13” with “sections **4A**, 5, **5A**, and 13”. 20
- 91 Section 207S amended (Court to have regard to certain matters)**
- In section 207S(d), replace “sections 5, 6, and 13” with “sections **4A**, 5, **5A**, and 13”.
- 92 Section 208 amended (Principles)**
- (1) In section 208(d), after “offence”, insert “or is alleged to have committed an offence”. 25
- (2) In section 208, insert as subsection (2):
- (2) If a person is performing a function or exercising a power under this Part in relation to a child or young person who commits an offence or is alleged to have committed an offence, they must, when doing so, consider— 30
- (a) what reasonable and practical measures or assistance could be taken or provided to support the child or young person to prevent or reduce reoffending; and
- (b) whether the child or young person would benefit from being referred to care, protection, or well-being services under this Act. 35

- 93 Section 238 amended (Custody of child or young person pending hearing)**
- (1) In section 238(1), after “young person”, insert “(who for the purpose of **paragraph (f)** is limited to a young person who is aged 17 years)”.
- (2) Replace section 238(1)(e) with:
- (e) subject to section 239(2), order that the young person (but cannot under this paragraph order that the child) be detained in Police custody; or
 - (f) subject to **section 239(2A)**, order that the young person (aged 17 years) be detained in a youth unit of a prison.
- 94 Section 239 amended (Restrictions on power of court to order child or young person to be detained in custody)**
- After section 239(2), insert:
- (2A) The court must not make an order under **section 238(1)(f)** for the detention of a young person (aged 17 years) in a prison unless—
- (a) a joint application has been made by the chief executive and the chief executive of the Department of Corrections for the order; and
 - (b) the court is satisfied that the order is necessary to ensure the safety of any young person (as defined in section 2(1)) who is in the custody of the chief executive; and
 - (c) the court is satisfied that a youth unit within a prison is available for the young person to stay in.
- 95 Section 241 amended (Review of orders made under section 238)**
- In section 241, insert as subsection (2):
- (2) Despite **subsection (1)**, unless clearly impracticable, an order made under section 238(1)(e) must be reviewed by the Youth Court at least once every 24 hours.
- 96 Section 242 amended (Order under section 238 sufficient authority for detention of child or young person)**
- After section 242(1), insert:
- (1A) The detention of a child or young person in a residence under subsection (1)(a) must be reviewed by the chief executive at least once every 14 days, unless special circumstances apply.
- 97 New section 248A inserted (Chief executive to appoint youth advocate to represent child or young person if offence punishable by imprisonment of 10 years or more)**
- After section 248, insert:

- 248A Chief executive to appoint youth advocate to represent child or young person if offence punishable by imprisonment of 10 years or more**
- (1) This section applies if an offence referred to in section 245(1) is an offence punishable by imprisonment of 10 years or more and a youth justice co-ordinator has received a notification under section 247(b) relating to that offence that requires a family group conference to be convened. 5
- (2) Before the family group conference is convened, the chief executive must appoint a youth advocate to represent the child or young person at the family group conference.
- (3) The appointment of (including any eligibility criteria that will apply) and payment of a youth advocate must be made in accordance with any regulations made under **section 447(db)**. 10
- 98 Section 250 amended (Consultation on convening of family group conference)**
- In section 250(2)(b)(i), replace “declaration under section 67” with “care or protection order”. 15
- 99 Section 256 amended (Procedure at family group conference)**
- In section 256(2), replace “sections 5(f) and 249(6)” with “section 249(6)”.
- 100 Section 258 amended (Functions of family group conference)**
- (1) In section 258(a)(ii), replace “sections 5, 6, and 13” with “sections **4A**, 5, **5A**, and 13”. 20
- (2) In section 258(ba)(ii), replace “declaration under section 67” with “care or protection order”.
- (3) In section 258, insert as subsections (2) and (3):
- (2) If a family group conference is convened under section 247(a), (b), (d), or (e), it must, when considering whether the matter can be dealt with in some other way under **subsection (1)(b) or (d)**, consider what restorative justice actions could be undertaken. 25
- (3) The family group conference must, when performing its functions, consider what reasonable and practical measures or assistance could be taken or provided to support the child or young person— 30
- (a) with the implementation of a plan; or
- (b) in complying with an order made or that may be made by the Youth Court.
- 101 Section 260 amended (Family group conference may make decisions and recommendations and formulate plans)** 35
- (1) After section 260(3)(b), insert:
- (ba) recommend that a restorative justice action or actions be undertaken:

- (2) In section 260(3)(c), replace “declaration under section 67” with “care or protection order”.

102 Section 272 amended (Jurisdiction of Youth Courts and children’s liability to be prosecuted for criminal offences)

- (1) In section 272(1A)(a), replace “under section 67 for a declaration that the child is in need of care or protection” with “care or protection order”. 5

- (2) In section 272(1A)(b)(ii), replace “declaration that the child is in need of care or protection” with “care or protection order”.

- (3) After section 272(3)(b), insert:

(baa) if the young person is aged 17 years, an offence specified in **Schedule 1A**; or 10

- (4) Replace section 272(3)(c) with:

(c) a traffic offence that is an infringement offence; or

- (5) After section 272(4), insert:

(4A) If a young person aged 17 years is charged with an offence specified in **Schedule 1A**,— 15

(a) **section 276A** applies; and

(b) sections 274 to 276 do not apply.

- (6) In section 272(5), replace “not punishable by imprisonment” with “that is an infringement offence”. 20

103 Section 273 amended (Manner of dealing with offences (other than murder or manslaughter))

Replace section 273(2)(c) with:

(c) the charge is removed out of the Youth Court under section 277; or

(d) the charge is transferred out of the Youth Court under **section 276A**. 25

104 New section 276A inserted (Transfer of young persons aged 17 years to District Court or High Court for specified offences)

After section 276, insert:

276A Transfer of young persons aged 17 years to District Court or High Court for specified offences 30

- (1) This section applies if a young person aged 17 years is charged with an offence specified in **Schedule 1A**.

- (2) The Youth Court must transfer the proceeding to the District Court at the time that the young person first appears before the Youth Court.

- (3) The District Court must transfer the proceeding to the High Court if the offence is an offence that must be transferred to the High Court under the Criminal Pro- 35

cedure Act 2011, after complying with any requirements under that Act relevant to the particular offence.

- 105 Section 280 amended (Court may refer case to care and protection coordinator to determine whether matter should be dealt with under Part 2)** 5
- In section 280(1)(b), replace “declaration under section 67” with “care or protection order”.
- 106 Section 280A amended (Court may refer case to person who commenced proceeding to be dealt with as child offending care or protection proceeding under Part 2)**
- (1) In section 280A(1)(b), replace “declaration under section 67” with “care or protection order”. 10
- (2) In section 280A(2)(a), replace “declaration under section 67” with “care or protection order”.
- (3) In section 280A(3)(b), replace “declaration under section 67” with “care or protection order”. 15
- (4) In section 280A(4)(a), replace “declaration under section 67” with “care or protection order”.
- (5) In section 280A(5)(a), replace “declaration under section 67” with “care or protection order”.
- 107 Section 284 amended (Factors to be taken into account on sentencing)** 20
- After section 284(1), insert:
- (1A) If a court is considering whether to transfer a proceeding to another court for sentence or decision under section 283(o), in addition to the factors in subsection (1), the court must consider and give greater weight to all of the following: 25
- (a) the seriousness of the offending: 25
- (b) the criminal history of the young person:
- (c) the interests of the victim:
- (d) the risk posed by the young person to other people.
- 108 Section 316 amended (Court may cancel supervision with residence order if young person absconds)** 30
- (1) In the heading to section 316, after “absconds”, insert “or fails to comply with order or plan”.
- (2) After section 316(1), insert:
- (1A) The Youth Court may, on the application of the chief executive, cancel an order made under section 311 placing a young person aged 17 years in the custody of the chief executive, if the court is satisfied that the young person’s behaviour 35

	and compliance with any obligations placed on them by a plan prepared under section 335 or the order have been unsatisfactory to a more than minor extent.	
109	Section 323 amended (Appointment of youth advocate to represent child or young person) In section 323(3)(b), after “previous proceedings”, insert “or at a family group conference under section 248A ”.	5
110	Section 361 amended (Application of sections 362, 364, 365, 387, 390 to 392, 394, and 395) In section 361(a), delete “or section 141”.	
111	Section 363 amended (Payment to person or organisation providing care) After section 363(1), insert: (1A) The purpose of a payment is to meet the reasonable needs of the child or young person.	10
112	Section 364 amended (Authority to establish residences) After section 364(1), insert: (1A) When deciding the number and type of residences to be established and maintained, the chief executive must consider establishing a sufficient range and number of community-based residences to be available for children and young persons who are detained in the chief executive’s custody under section 238(1)(d).	15 20
113	Section 365 amended (Chief executive may place children and young persons in residences) In section 365(2), replace “sections 4, 5, and 6” with “sections 4A , 5, 5A , and 6”.	
114	Cross-heading above section 386A replaced Replace the cross-heading above section 386A with: <i>Moving to living independently</i>	25
115	New sections 386AAA to 386AAG inserted Before section 386A, insert: 386AAA Interpretation For the purposes of this section and sections 386AAB to 386C ,— caregiver means either:	30

(a) a person with whom a young person under 18 years is living and who is providing care to that young person after an order or agreement is made under section 361(a), (c), or (d):

(b) a person with whom a young person who is a young adult (aged 18 years or over but under 21 years) is living under **section 386AAD**

5

young person means a young person within the meaning given in section 2(1) and a young adult who,—

(a) for the purposes of **sections 386AAD and 386C**, is aged 18 years or over but under 21 years:

(b) for the purposes of **section 386A**, is aged 18 years or over but under 25 years.

10

386AAB Purposes

The purposes of **sections 386AAC to 386C** are—

(a) to prepare young persons to be ready to thrive as independent young adults and for the preparation for living independently to begin early:

15

(b) to ensure that young persons have opportunities to have relationships with caregivers and other trusted adults that endure into adulthood:

(c) to enable young persons to access the government and community support that they need to manage challenges and to grow and develop as adults.

20

386AAC Principles to be applied when assisting young person to move to living independently

A person who is performing functions or exercising powers under **sections 386AAA to 386C** to assist a young person to move to living independently must be guided by the following principles:

25

(a) the young person is to increasingly lead decisions about matters affecting them and is to be supported by adults to do this:

(b) the young person's strengths and identity are to be built on and nurtured:

(c) the relationships between the young person and their family, whānau, hapū, iwi, and family group are, if appropriate, to be maintained and strengthened:

30

(d) family, whānau, hapū, iwi, and communities are to be supported to help the young person move to living independently:

(e) the relationships between the young person and a caregiver, other trusted adults, and the wider community are to be built on and maintained:

35

(f) the young person is to be supported, to the extent that is reasonable and practicable, to achieve and meet their aspirations and needs, with priority to be given to supporting the stability of their education:

- (g) assistance to the young person is to be provided proactively and to be sustained regardless of the decisions that they make.

386AAD Young persons entitled to live with caregiver up to age of 21 years

- (1) This section applies to a young person (as defined in **section 386AAA**) who is, or has been for a continuous period of at least 3 months after the date that is 3 months before their 15th birthday,— 5
- (a) in the care or custody of the chief executive or a body or an organisation under an order or agreement referred to in section 361(a), (c), or (d); or
- (b) in the care or custody of the chief executive as the agent of a court under section 33(1)(c)(ii) of the Care of Children Act 2004. 10
- (2) The young person may, at any time up to the age of 21 years, request support from the chief executive to remain or return to living with a caregiver after they turn or have turned 18 years.
- (3) The young person is entitled to be supported by the chief executive to remain or return to living with the caregiver with whom they are or were living immediately before they turn or turned 18 years. 15
- (4) The young person is entitled to be supported by the chief executive to live with another caregiver if—
- (a) the caregiver described in **subsection (3)** does not agree to have the young person remain or return to living with them or is not otherwise available; or 20
- (b) the young person does not agree to live with that caregiver; or
- (c) after taking into account the expressed wishes of the young person, the chief executive considers that living with that caregiver is likely to be detrimental to the well-being of the young person. 25
- (5) If a young person is living with a caregiver and the caregiver is no longer able or available to have the young person living with them, the young person is entitled to be supported by the chief executive to live with another caregiver.

386AAE Providing advice and support to young persons and monitoring of support arrangements 30

- (1) Before a young person who will be entitled to live with a caregiver under **section 386AAD** leaves care or turns 18 years, the chief executive must advise them that they—
- (a) are entitled to live with a caregiver up to age 21 years; and
- (b) may request to do so at any time up to age 21 years. 35
- (2) If a young person wishes to live with a caregiver, the chief executive must provide them with support to negotiate and agree the terms on which they will live with a caregiver.
- (3) The agreed terms must be recorded in writing (the **support arrangement**).

- (4) The support arrangement must—
- (a) be consistent with the purposes in **section 386AAB**; and
 - (b) give effect to the principles in **section 386AAC**; and
 - (c) meet the standards referred to in **subsection (5)**; and
 - (d) be approved by the chief executive. 5
- (5) The chief executive must monitor the operation of all support arrangements against standards set in regulations made under **section 447(cb)**.
- 386AAF Role of caregiver**
- A caregiver is expected to—
- (a) act in accordance with the support arrangement; and 10
 - (b) assist the young person who is living with them to become increasingly independent.
- 386AAG Financial assistance**
- (1) The chief executive must provide financial assistance to a young person who lives with a caregiver under **section 386AAD** to meet necessary living costs associated with living with the caregiver, but only if the chief executive has first considered— 15
- (a) what other financial assistance is available to the young person; and
 - (b) the personal circumstances of the young person.
- (2) Financial assistance provided under **subsection (1)** must be paid directly to the young person unless the chief executive considers it appropriate to pay all or any of it to the young person’s caregiver or other person. 20
- (3) Financial assistance paid under this section must be paid in accordance with any regulations made under **section 447(da)**.
- 116 Section 386A replaced (Advice and assistance for people moving from care to independence)** 25
- Replace section 386A with:
- 386A Advice and assistance for young persons up to age of 25 years**
- (1) This section applies to a young person (as defined in **section 386AAA**) who is, or has been at any time for a continuous period of at least 3 months after the date that is 3 months before the person’s 15th birthday, in 1 or more of the following circumstances: 30
- (a) in a residential placement under section 234(c)(ii) or (iii), 235, 238(1)(d), 307(4), or 311 or in Police custody under section 236 or 238(1)(e): 35

- (b) in the care or custody of the chief executive, an iwi social service, a cultural social service, or the director of a child and family support service under any agreement or order specified in section 361(a), (c), or (d):
- (c) in the care or custody of the chief executive as the agent of a court under section 33(1)(c)(ii) of the Care of Children Act 2004: 5
- (d) under remand or a prison sentence in the adult justice system before the young person turns or turned 18 years.
- (2) If a young person is in any of the circumstances listed in **subsection (1)**, the person (including the chief executive) or body or organisation who or that has the care or custody of the young person must, before the young person leaves care or turns 18 years,— 10
- (a) consider what support by way of advice and assistance the young person will need to become and remain independent after they are no longer in those circumstances; and
- (b) provide or arrange for the provision of support to that young person. 15
- (3) If a young person who has been in any of the circumstances listed in **subsection (1)**, and whether or not they are living with a caregiver under **section 386AAD**, requests any support or further support, the person or body or organisation that receives the request must refer the request to the chief executive.
- (4) If a request is made to the chief executive, or is referred to the chief executive under **subsection (3)**, the chief executive must consider the matter in **subsection (2)(a)** in relation to the young person who made the request. 20
- 386B Providing advice and assistance to young persons**
- (1) Before a young person who is or will be entitled to advice and assistance under **section 386A** leaves care or turns 18 years, the chief executive must advise them of their entitlement to request support or further support at any time up to the age of 25 years. 25
- (2) Under **section 386A(2) and (3)**, the chief executive, in accordance with regulations made under **section 447(cc) and (da)**,—
- (a) must provide, or arrange the provision of, support by way of advice and non-financial assistance that the chief executive considers necessary to enable the young person to achieve independence; and 30
- (b) may provide, or arrange the provision of, support by way of financial assistance as the chief executive considers necessary to enable the young person to achieve independence, but only if the chief executive has first considered what other financial assistance is available to the young person. 35
- (3) When deciding whether to provide financial assistance in any case under **subsection (2)(b)**, the chief executive must give particular consideration to whether the young person has high or complex needs. 40

- (4) Advice and assistance may include—
- (a) giving information:
 - (b) assisting the young person to obtain accommodation, enrol in education or training, or obtain employment:
 - (c) legal advice: 5
 - (d) counselling:
 - (e) contributing to the expenses incurred by the young person in living near the place where they are or will be—
 - (i) employed or seeking employment; or
 - (ii) receiving education or training: 10
 - (f) making a grant to assist the young person to meet expenses connected with their education or training.
- (5) Financial assistance provided under **subsection (2)(b)** must be paid directly to the young person unless the chief executive considers it appropriate to pay all or any of it to the young person’s caregiver or other person. 15
- (6) If the chief executive is providing financial assistance to a young person that includes making a contribution or grant for a course of education or training, the chief executive may—
- (a) continue to do so even if the young person reaches the age of 25 years before completing the course; and 20
 - (b) disregard any interruption in the young person’s attendance at the course if they resume it as soon as practicable.

117 New section 386C inserted (Chief executive to maintain contact with young persons up to age of 21 years)

After section 386B, insert: 25

386C Chief executive to maintain contact with young persons up to age of 21 years

- (1) This section applies to a young person (as defined in **section 386AAA**) who has been in any of the circumstances listed in **section 386A(1)**.
- (2) Subject to this section and irrespective of whether the young person is being provided with any advice or assistance under **section 386A**, the chief executive must take reasonable steps to maintain contact with the young person. 30
- (3) The following factors must be taken into account when a decision is made about the extent to which contact is maintained with the young person:
- (a) whether the young person wishes contact to be made with them: 35
 - (b) the young person’s particular needs:
 - (c) the young person’s age, maturity, and the desirability of them living independently when they are able to do so.

118 New sections 445E and 445F and cross-heading inserted

After section 445D, insert:

Limit on proceedings and Crown liability

445E Limit on proceedings

No proceedings may be brought in any court—

(a) in relation to any act or omission by the chief executive, the chief executive's delegate, or an employee of the department that could have been the subject of a complaint under the complaints mechanisms established by the chief executive, unless—

(i) a complaint has been made under that mechanism and determined; and

(ii) any opportunity for review established under regulations made under **section 447(gb)** has been exercised and the review completed:

(b) in relation to any purported breach of duty by the chief executive or the chief executive's delegate under this Act or any regulations made under this Act, except by a child or young person to whom the duty is allegedly owed.

445F Limitation on Crown liability

The Crown, the department, the chief executive, the chief executive's delegate, and any employee or contractor of the department and any person providing care, control, or upbringing under section 362 are not liable in respect of anything suffered by a child or young person in care or custody under this Act as a consequence of an act or omission by a person who is not the Crown, the chief executive, the chief executive's delegate, an employee or a contractor of the department, or any person providing care, control, or upbringing under section 362.

119 Section 447 amended (Regulations)

(1) After section 447(ca), insert:

(cb) prescribing, in relation to a young person's entitlement to remain living with a caregiver under **sections 386AAD and 386AAE**, requirements and standards for support arrangements:

(cc) prescribing, in relation to providing advice and assistance to young persons under **sections 386A and 386B**,—

(i) processes and criteria for needs assessments:

(ii) the types of advice, assistance, and services to be available for young persons:

- (iii) the manner or means of providing advice, assistance, and services to young persons:
- (2) After section 447(d), insert:
- (da) prescribing the circumstances in which amounts are payable and the amounts payable to or on behalf of a child or young person, including— 5
- (i) advances or reimbursements of reasonable costs:
- (ii) allowances, which may vary in accordance with different criteria:
- (db) prescribing, in relation to a youth advocate appointed under **section 248A**, the following: 10
- (i) eligibility criteria for appointment:
- (ii) the process for appointment by the chief executive:
- (iii) the amounts payable for preparation for and attendance at a family group conference referred to in section 245:
- (3) After section 447(f), insert:
- (fa) prescribing standards of care (in order to meet the reasonable needs of, and provide for loving and stable care for, children and young persons in care) to be complied with by the chief executive or the chief executive's delegates, or bodies or organisations approved under section 396, as a result of measures taken under this Act, including standards relating to— 15
- (i) the standard of care to be provided to children and young persons in care arrangements and in residences, including youth justice residences: 20
- (ii) the rights and needs of children and young persons (including cultural rights and needs):
- (iii) the training of caregivers: 25
- (iv) the monitoring and support of caregivers:
- (v) the manner in which standards are monitored and reported on:
- (4) After section 447(g), insert:
- (ga) designating— 30
- (i) organisations or classes of organisations as child welfare and protection agencies:
- (ii) persons or classes of persons as independent persons:
- (gb) providing for mechanisms independent of the department to review the chief executive's response to complaints.
- (5) In section 447, insert as subsection (2): 35
- (2) The Minister must,—
- (a) within 12 months of the commencement of **subsection (1)(fa)**, recommend the making of regulations under that provision:

(b)	not recommend the revocation of regulations made under subsection (1)(fa) without recommending new regulations to be made under that provision:	
(c)	regularly review the regulations in force under subsection (1)(fa) .	
120	New section 447A inserted (Minister to appoint persons to monitor compliance with prescribed standard of care)	5
	After section 447, insert:	
447A	Minister to appoint persons to monitor compliance with prescribed standard of care	
	The Minister must appoint an agency or a body to—	10
(a)	monitor compliance by the chief executive, the chief executive’s delegates, or bodies or organisations approved under section 396 with standards of care prescribed by regulations made under section 447:	
(b)	report on the operation of those prescribed standards to the Minister.	
121	New section 448B and cross-heading inserted	15
	After section 448A, insert:	
	<i>Periodic review of accountability documents</i>	
448B	Periodic review of accountability documents	
	The Minister must, not later than 1 July 2022, and on at least 1 occasion during each 3-year period after that date, report to Parliament on the following matters:	20
(a)	whether documents governing the accountability of the Minister, the chief executive, the chief executive’s delegates, and other persons who provide services, carry out functions, or exercise powers under this Act or regulations made under this Act ensure that those persons meet—	25
(i)	the needs of children and young persons with whom the department is concerned; and	
(ii)	the needs of Māori children and young persons with whom the department is concerned:	
(b)	whether any legislation should be repealed, and whether any amendments to legislation are necessary or desirable.	30
122	Schedule 1AA amended	
	In Schedule 1AA, after clause 2, insert:	

- 3 Entitlement of young person to live with caregiver up to age 21 under section 386AAD**
- Section 386AAD** does not apply to a young person (as defined in **section 386AAA**) who is no longer living with a caregiver on the day that **section 386AAD** commences. 5

- 123 New Schedule 1A inserted**
- After Schedule 1, insert the **Schedule 1A** set out in the **Schedule** of this Act.

Part 2 Amendments to other Acts

Subpart 1—Amendments to Criminal Procedure Act 2011 10

- 124 Principal Act**
- This subpart amends the Criminal Procedure Act 2011 (the **principal Act**).
- 125 Section 174 amended (Remand of defendant under 17 years for assessment report)**
- (1) In the heading to section 174, replace “17” with “18”. 15
- (2) In section 174(1) and (2), replace “17” with “18”.
- 126 Section 175 amended (Remand of defendants aged 17 to 20 years)**
- (1) After section 175(1), insert:
- (1A) Despite section 15 of the Bail Act 2000, if the person is aged 17 years, the court may remand that person in custody, and if the court does so,— 20
- (a) the person must be remanded in the custody of the chief executive of the department responsible for the administration of the Children, Young Persons, and Their Families Act 1989, unless that chief executive and the chief executive of the Department of Corrections agree on the matter in **subsection (1B)**: 25
- (b) if the 2 chief executives agree on the matter in **subsection (1B)**, the person may instead be remanded in custody in a youth unit of a prison.
- (1B) The matter that must be agreed by the 2 chief executives is that the assessed risk posed by the person to younger or more vulnerable young persons is high and requires the person to be detained in a youth unit of a prison. 30
- (2) In section 175(2), replace “Despite section 15 of the Bail Act 2000,”, with “If the person is aged 18 to 20 years,”.

Subpart 2—Amendment to Income Tax Act 2007

127 Principal Act

This subpart amends the Income Tax Act 2007 (the **principal Act**).

128 Section CW 33 amended (Allowances and benefits)

After section CW 33(1)(b), insert:

(ba) payments made under section 363 of the Children, Young Persons, and Their Families Act 1989:

5

Subpart 3—Amendment to Social Security Act 1964

129 Principal Act

This subpart amends the Social Security Act 1964 (the **principal Act**).

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130 Section 3 amended (Interpretation)

In section 3(1), definition of **income**, paragraph (f)(xiii), after “child or young person (as those terms are defined in that Act)”, insert “including by a young person (including a young adult), a caregiver, or other person under **section 386AAG or 386B** of that Act”.

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Subpart 4—Amendments to Vulnerable Children Act 2014

131 Principal Act

This subpart amends the Vulnerable Children Act 2014 (the **principal Act**).

132 Section 8 amended (Preparation of vulnerable children’s plan)

In section 8(1), after “work together”, insert “, under the co-ordination of the chief executive of the Ministry for Vulnerable Children, Oranga Tamariki,”.

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133 Section 9 amended (Content of vulnerable children’s plan)

In section 9, insert as subsection (2):

(2) Without limiting **subsection (1)**, the vulnerable children’s plan (and any draft of it) must—

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(a) set out the outcomes aligned with the Government’s priorities that the Government seeks to achieve in relation to children and young persons who have early risk factors for future involvement in the statutory care, protection, and youth justice systems under the Children, Young Persons, and Their Families Act 1989:

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(b) set out the steps that will be taken by the chief executives of the children’s agencies to achieve those outcomes:

(c) apply to children and young persons receiving assistance or care and transition support from the department (irrespective of whether those

	persons are in need of care or protection) under Parts 2 and 7 of the Children, Young Persons, and Their Families Act 1989 and to children and young persons who are subject to proceedings or orders under Part 4 of that Act (which relates to youth justice):	
(d)	specify the steps that the chief executives of the children’s agencies will take to improve the well-being of children and young persons referred to in paragraph (c) , including—	5
(i)	participation by the children’s agencies (and any contracted or related service providers) in assessment, planning, and decision making in relation to those children and young persons:	10
(ii)	the provision of services (including any contracted or related services where appropriate) to those children and young persons:	
(e)	apply also to persons aged less than 21 years who have been in care under Part 2 of the Children, Young Persons, and Their Families Act 1989 or who are eligible for support under section 386A of that Act or who are—	15
(i)	placed or detained in the custody or care of the chief executive, a person, a body, or an organisation under the Children, Young Persons, and Their Families Act 1989; or	
(ii)	remanded in the custody of the chief executive under section 173 or 174 of the Criminal Procedure Act 2011; or	20
(iii)	detained in a residence under section 34A of the Corrections Act 2004.	
134	Section 11 amended (Effect of vulnerable children’s plan)	
	In section 11(1)(a), after “been in force”, insert “and the progress that has been made in achieving the outcomes set out in the plan”.	25
135	Section 15 amended (Interpretation)	
	In section 15(1), replace the definition of child with:	
	child means a person who is under the age of 18 years	
136	Section 23 amended (Interpretation)	30
	In section 23(1), definition of key agency , after paragraph (d), insert:	
(e)	the department responsible for the administration of the Children, Young Persons, and Their Families Act 1989	
137	Schedule 2 amended	
	In Schedule 2, after clause 4, insert:	35
4A	An accessory after the fact to any offence referred to in clause 1 or 2 is a specified offence.	

Schedule
New Schedule 1A inserted

s 123

Schedule 1A
Specified offences

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s 276A

Offence description	Legislative provision
Hijacking	Aviation Crimes Act 1972, section 3
Crimes relating to aircraft	Aviation Crimes Act 1972, section 5
Committing murder or manslaughter at an international airport that endangers the safety of an international airport	Aviation Crimes Act 1972, section 5A(1)(a)
Committing an act that endangers the safety of an international airport	Aviation Crimes Act 1972, section 5A(1)
Developing, producing, acquiring, stockpiling, or retaining chemical weapons	Chemical Weapons (Prohibition) Act 1996, section 6(1)(a)
Transferring, directly or indirectly, chemical weapons to another person	Chemical Weapons (Prohibition) Act 1996, section 6(1)(b)
Using chemical weapons	Chemical Weapons (Prohibition) Act 1996, section 6(1)(c)
Engaging in any military preparation to use chemical weapons	Chemical Weapons (Prohibition) Act 1996, section 6(1)(d)
Assisting, encouraging, or inducing any person to engage in any prohibited activity	Chemical Weapons (Prohibition) Act 1996, section 6(1)(e)
Using riot control agents as a method of warfare	Chemical Weapons (Prohibition) Act 1996, section 8
Taking hostages (outside New Zealand)	Crimes (Internationally Protected Persons, United Nations and Associated Personnel, and Hostages) Act 1980, section 3
Committing acts of torture	Crimes of Torture Act 1989, section 3(1)(a)
Aiding any person to commit an act of torture	Crimes of Torture Act 1989, section 3(1)(b)
Abetting any person in the commission of an act of torture	Crimes of Torture Act 1989, section 3(1)(c)
Inciting, counselling, or procuring any person to commit an act of torture	Crimes of Torture Act 1989, section 3(1)(d)
Breaching the Geneva Convention through wilful killing	Geneva Conventions Act 1958, section 3(4)(a)
Breaching the Geneva Convention	Geneva Conventions Act 1958, section 3(4)(b)
Committing, or conspiring to commit, genocide through wilful killing	International Crimes and International Criminal Court Act 2000, section 9(3)(a)
Committing, or conspiring to commit, genocide	International Crimes and International Criminal Court Act 2000, section 9(3)(b)
Committing a crime against humanity through wilful killing	International Crimes and International Criminal Court Act 2000, section 10(3)(a)
Committing a crime against humanity	International Crimes and International Criminal Court Act 2000, section 10(3)(b)

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Offence description	Legislative provision
Committing a war crime through wilful killing	International Crimes and International Criminal Court Act 2000, section 11(3)(a)
Committing a war crime	International Crimes and International Criminal Court Act 2000, section 11(3)(b)
Causing murder or manslaughter while committing a crime relating to ships	Maritime Crimes Act 1999, section 4(1)
Causing murder or manslaughter while committing a crime relating to fixed platforms	Maritime Crimes Act 1999, section 5(1)
Crimes relating to ships	Maritime Crimes Act 1999, section 4(1)
Crimes relating to fixed platforms	Maritime Crimes Act 1999, section 5(1)
Recruiting a person to be a mercenary to take part in an armed conflict or a concerted act of violence	Mercenary Activities (Prohibition) Act 2004, section 7(1)
Using a mercenary to take part in an armed conflict or a concerted act of violence	Mercenary Activities (Prohibition) Act 2004, section 8
Financing a mercenary without lawful excuse to take part in an armed conflict or a concerted act of violence	Mercenary Activities (Prohibition) Act 2004, section 9(1)
Training a prospective mercenary to take part in an armed conflict or a concerted act of violence	Mercenary Activities (Prohibition) Act 2004, section 10
Training a mercenary to take part in an armed conflict or a concerted act of violence	Mercenary Activities (Prohibition) Act 2004, section 11
Mercenary taking part in hostilities or a concerted act of violence	Mercenary Activities (Prohibition) Act 2004, section 12
Engaging in a terrorist act	Terrorism Suppression Act 2002, section 6A
Terrorist bombing causing death or destruction	Terrorism Suppression Act 2002, section 7
Financing a terrorist act	Terrorism Suppression Act 2002, section 8
Recruiting members of terrorist groups	Terrorism Suppression Act 2002, section 12
Participating in terrorist groups	Terrorism Suppression Act 2002, section 13
Murder (firearm)	Crimes Act 1961, section 172
Murder (other weapon)	Crimes Act 1961, section 172
Murder (manually)	Crimes Act 1961, section 172
Murder (stabbing or cutting weapon)	Crimes Act 1961, section 172
Other murder	Crimes Act 1961, section 172
Attempted murder (firearm)	Crimes Act 1961, section 173
Attempted murder (other weapon)	Crimes Act 1961, section 173
Attempted murder (manually)	Crimes Act 1961, section 173
Attempted murder (stabbing or cutting weapon)	Crimes Act 1961, section 173
Other attempted murder	Crimes Act 1961, section 173
Manslaughter (firearm; legal duty)	Crimes Act 1961, section 177
Manslaughter (firearm; no legal duty)	Crimes Act 1961, section 177
Manslaughter (other weapon; legal duty)	Crimes Act 1961, section 177
Manslaughter (other weapon; no legal duty)	Crimes Act 1961, section 177
Manslaughter (other means; legal duty)	Crimes Act 1961, section 177
Manslaughter (other means; no legal duty)	Crimes Act 1961, section 177
Manslaughter (stabbing or cutting weapon; legal duty)	Crimes Act 1961, section 177
Manslaughter (stabbing or cutting weapon; no legal duty)	Crimes Act 1961, section 177
Other manslaughter	Crimes Act 1961, section 177

Offence description	Legislative provision
Aiding suicide, etc	Crimes Act 1961, section 179
Kidnapping (for gain)	Crimes Act 1961, section 209
Kidnapping (no gain)	Crimes Act 1961, section 209
Other kidnapping	Crimes Act 1961, section 209
Dealing in slaves under 18	Crimes Act 1961, section 98AA
Dealing in slaves over 18	Crimes Act 1961, section 98
Dealing in people under 18 for sex, body parts, or forced labour	Crimes Act 1961, section 98AA
Aggravated robbery causing grievous bodily harm (firearm)	Crimes Act 1961, section 235
Aggravated robbery causing grievous bodily harm (other weapon)	Crimes Act 1961, section 235
Aggravated robbery causing grievous bodily harm (manual)	Crimes Act 1961, section 235
Aggravated robbery causing grievous bodily harm (stabbing or cutting weapon)	Crimes Act 1961, section 235
Aggravated robbery (firearm)	Crimes Act 1961, section 235
Aggravated robbery (other weapon)	Crimes Act 1961, section 235
Aggravated robbery (manual)	Crimes Act 1961, section 235
Aggravated robbery (stabbing or cutting weapon)	Crimes Act 1961, section 235
Other aggravated robbery	Crimes Act 1961, section 235
Assault with intent to rob (firearm)	Crimes Act 1961, section 236(1)
Assault with intent to rob (other weapon)	Crimes Act 1961, section 236(1)
Assault with intent to rob (stabbing or cutting weapon)	Crimes Act 1961, section 236(1)
Assault with intent to rob (with another person)	Crimes Act 1961, section 236(1)
Assault with intent to rob (causing grievous bodily harm)	Crimes Act 1961, section 236(1)
Compelling execution of documents (firearm)	Crimes Act 1961, section 239(1)
Compelling execution of documents (other weapon)	Crimes Act 1961, section 239(1)
Compelling execution of documents (stabbing or cutting weapon)	Crimes Act 1961, section 239(1)
Aggravated robbery (together with another person)	Crimes Act 1961, section 235
Wounding with intent to cause grievous bodily harm (firearm)	Crimes Act 1961, section 188(1)
Wounding with intent to cause grievous bodily harm (other weapon)	Crimes Act 1961, section 188(1)
Wounding with intent to cause grievous bodily harm (manual)	Crimes Act 1961, section 188(1)
Wounding with intent to cause grievous bodily harm (stabbing or cutting weapon)	Crimes Act 1961, section 188(1)
Aggravated wounding (firearm)	Crimes Act 1961, section 191(1)
Aggravated wounding (other weapon)	Crimes Act 1961, section 191(1)
Aggravated wounding (manual)	Crimes Act 1961, section 191(1)
Aggravated wounding (stabbing or cutting weapon)	Crimes Act 1961, section 191(1)
Dangerous act with intent to cause grievous bodily harm (firearm)	Crimes Act 1961, section 198(1)

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Offence description	Legislative provision
Dangerous act with intent to cause grievous bodily harm (explosive, etc)	Crimes Act 1961, section 198(1)
Dangerous act with intent to cause grievous bodily harm (fire)	Crimes Act 1961, section 198(1)
Throwing acid with intent to injure	Crimes Act 1961, section 199(1)
Poisoning with intent to cause grievous bodily harm	Crimes Act 1961, section 200(1)
Infecting with a disease	Crimes Act 1961, section 201
Using a firearm against a law enforcement officer	Crimes Act 1961, section 198A(1)
Blackmail	Crimes Act 1961, sections 237(1) and 238
Abduction for marriage of a girl under 12	Crimes Act 1961, section 208
Abduction for marriage of a girl 12-16	Crimes Act 1961, section 208
Abduction for marriage of a female over 16	Crimes Act 1961, section 208
Abduction for sex of a girl under 12	Crimes Act 1961, section 208
Abduction for sex of a girl 12-16	Crimes Act 1961, section 208
Abduction for sex of a female over 16	Crimes Act 1961, section 208
Abduction for marriage	Crimes Act 1961, section 208
Abduction for sex	Crimes Act 1961, section 208
Other abduction for marriage or sex offences	Crimes Act 1961, section 208
Inducing sexual connection	Crimes Act 1961, section 129A
Other inducing sexual connection offences	Crimes Act 1961, section 129A
Male rapes a girl under 12	Crimes Act 1961, sections 128 and 128B
Male rapes a girl 12-16	Crimes Act 1961, section 128B
Male rapes a female over 16	Crimes Act 1961, section 128B
Husband rapes wife	Crimes Act 1961, section 128B
Unlawful sexual connection with a girl under 12	Crimes Act 1961, section 128B
Unlawful sexual connection with a girl 12-16	Crimes Act 1961, section 128B
Unlawful sexual connection with a female over 16	Crimes Act 1961, section 128B
Unlawful sexual connection with a spouse	Crimes Act 1961, section 128B
Other sexual violation offences	Crimes Act 1961, section 128B
Unlawful sexual connection with a boy under 12	Crimes Act 1961, section 128B
Unlawful sexual connection with a boy 12-16	Crimes Act 1961, section 128B
Unlawful sexual connection with a male over 16	Crimes Act 1961, section 128B
Compelling an indecent act with an animal	Crimes Act 1961, section 142A
Sexual connection with a child under 12	Crimes Act 1961, section 132
Sexual conduct with a child outside New Zealand	Crimes Act 1961, section 144A
Inducing or compelling a person to provide sexual services	Prostitution Reform Act 2003, section 16
Importing or exporting cocaine	Misuse Of Drugs Act 1975, sections 6(1)(a) and 6(2)(a)
Importing or exporting heroin	Misuse Of Drugs Act 1975, sections 6(1)(a) and 6(2)(a)
Importing or exporting LSD	Misuse Of Drugs Act 1975, sections 6(1)(a) and 6(2)(a)
Importing or exporting morphine	Misuse Of Drugs Act 1975, sections 6(1)(a) and 6(2)(b)

Offence description	Legislative provision
Importing or exporting opium	Misuse Of Drugs Act 1975, sections 6(1)(a) and 6(2)(b)
Producing, manufacturing, or distributing cocaine	Misuse Of Drugs Act 1975, sections 6(1)(b) and 6(2)(a)
Producing, manufacturing, or distributing heroin	Misuse Of Drugs Act 1975, sections 6(1)(b) and 6(2)(a)
Producing, manufacturing, or distributing LSD	Misuse Of Drugs Act 1975, sections 6(1)(b) and 6(2)(a)
Producing, manufacturing, or distributing morphine	Misuse Of Drugs Act 1975, sections 6(1)(b) and 6(2)(b)
Producing, manufacturing, or distributing opium	Misuse Of Drugs Act 1975, sections 6(1)(b) and 6(2)(b)
Selling, giving, supplying, administering, or dealing with cocaine	Misuse Of Drugs Act 1975, sections 6(1)(c) and 6(2)(a)
Selling, giving, supplying, administering or dealing with heroin	Misuse Of Drugs Act 1975, sections 6(1)(c) and 6(2)(a)
Selling, giving, supplying, or administering or dealing with LSD	Misuse Of Drugs Act 1975, sections 6(1)(c) and 6(2)(a)
Selling, giving, supplying, or administering or dealing with morphine	Misuse Of Drugs Act 1975, sections 6(1)(c) and 6(2)(b)
Selling, giving, supplying, or administering or dealing with opium	Misuse Of Drugs Act 1975, sections 6(1)(c) and 6(2)(b)
Possessing cocaine for supply	Misuse Of Drugs Act 1975, sections 6(1)(f) and 6(2)(a)
Possessing heroin for supply	Misuse Of Drugs Act 1975, sections 6(1)(f) and 6(2)(a)
Possessing LSD for supply	Misuse Of Drugs Act 1975, sections 6(1)(f) and 6(2)(a)
Possessing morphine for supply	Misuse Of Drugs Act 1975, sections 6(1)(f) and 6(2)(b)
Possessing opium for supply	Misuse Of Drugs Act 1975, sections 6(1)(f) and 6(2)(b)
Aiding a drug offence outside New Zealand	Misuse Of Drugs Act 1975, section 10
Conspiring to deal with Class A drug	Misuse Of Drugs Act 1975, section 6(2A)(a)
Importing or exporting cannabis resin	Misuse Of Drugs Act 1975, sections 6(1)(a) and 6(2)(b)
Importing or exporting cannabis oil	Misuse Of Drugs Act 1975, sections 6(1)(a) and 6(2)(b)
Producing, manufacturing, or distributing cannabis resin	Misuse Of Drugs Act 1975, sections 6(1)(b) and 6(2)(b)
Producing manufacturing, or distributing cannabis oil	Misuse Of Drugs Act 1975, sections 6(1)(b) and 6(2)(b)
Selling, giving, supplying, administering or dealing with cannabis oil	Misuse Of Drugs Act 1975, sections 6(1)(c) and 6(2)(b)
Possessing cannabis resin for supply	Misuse Of Drugs Act 1975, sections 6(1)(f) and 6(2)(b)
Possessing cannabis oil for supply	Misuse Of Drugs Act 1975, sections 6(1)(f) and 6(2)(b)
Aiding a cannabis offence outside New Zealand	Misuse Of Drugs Act 1975, section 10
Burglary with a weapon (firearm)	Crimes Act 1961, section 232(1)

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Offence description	Legislative provision
Burglary with a weapon (other weapon)	Crimes Act 1961, section 232(1)
Remaining after a burglary (firearm)	Crimes Act 1961, section 232(1)
Remaining after a burglary (other weapon)	Crimes Act 1961, section 232(1)
Other aggravated burglary offences	Crimes Act 1961, section 232
Wilfully damaging property by explosive or endangering life	Crimes Act 1961, section 267
Wilfully setting fire to property or endangering life	Crimes Act 1961, section 267
Other arson	Crimes Act 1961, sections 267 and 268; and Summary Offences Act 1981, section 36
Hijacking an aircraft	Aviation Crimes Act 1972, section 3
Damaging an aircraft in service	Aviation Crimes Act 1972, section 5
Placing an item in an aircraft that is likely to destroy the aircraft	Aviation Crimes Act 1972, section 5
Importing or exporting methamphetamine or amphetamine	Misuse Of Drugs Act 1975, sections 6(1)(a) and 6(2)(a)
Importing or exporting ecstasy	Misuse Of Drugs Act 1975, sections 6(1)(a) and 6(2)(b)
Importing or exporting fantasy-type substances	Misuse Of Drugs Act 1975, sections 6(1)(a) and 6(2)(b)
Producing or manufacturing methamphetamine or amphetamine	Misuse Of Drugs Act 1975, sections 6(1)(b) and 6(2)(a)
Producing or manufacturing ecstasy	Misuse Of Drugs Act 1975, sections 6(1)(b) and 6(2)(b)
Producing or manufacturing fantasy-type substances	Misuse Of Drugs Act 1975, sections 6(1)(b) and 6(2)(b)
Supplying, administering, or dealing with methamphetamine or amphetamine	Misuse Of Drugs Act 1975, sections 6(1)(c) and 6(2)(a)
Supplying, administering, or dealing with ecstasy	Misuse Of Drugs Act 1975, sections 6(1)(c) and 6(2)(b)
Supplying, administering, or dealing with fantasy-type substances	Misuse Of Drugs Act 1975, sections 6(1)(c) and 6(2)(b)
Possessing methamphetamine or amphetamine for supply	Misuse Of Drugs Act 1975, sections 6(1)(f) and 6(2)(a)
Possessing ecstasy for supply	Misuse Of Drugs Act 1975, sections 6(1)(f) and 6(2)(b)
Possessing fantasy-type substances for supply	Misuse Of Drugs Act 1975, sections 6(1)(f) and 6(2)(b)
Attempting to manufacture methamphetamine or amphetamine	Misuse Of Drugs Act 1975, sections 6(1)(b) and 6(2)(a)
Attempting to manufacture ecstasy	Misuse Of Drugs Act 1975, sections 6(1)(b) and 6(2)(a)
Attempting to manufacture fantasy-type substances	Misuse Of Drugs Act 1975, sections 6(1)(b) and 6(2)(b)
Corruption or bribery of Minister of Crown or member of Parliament	Crimes Act 1961, sections 102(1), 102(2), 103(1), and 103(2)
Judicial corruption	Crimes Act 1961, sections 100(1), 100(2), and 101(2)
Perjury	Crimes Act 1961, section 109
Smuggling of migrants	Crimes Act 1961, section 98C

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Offence description	Legislative provision
Trafficking in people by means of coercion or deception	Crimes Act 1961, section 98D
Treason	Crimes Act 1961, section 74
Piracy	Crimes Act 1961, section 92
Other miscellaneous offences against the national interest	Crimes Act 1961, section 78