

## Hon Kelvin Davis

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Minister for Children

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### Legislative statement for the third reading of the Oranga Tamariki Amendment Bill

**Presented to the House of Representatives in accordance with Standing Order 272**

This legislative statement supports the third reading of the Oranga Tamariki Amendment Bill (the Bill). The Bill was considered by the committee of the whole House and was reported back to the House without amendment.

#### Overview of the Bill

The Bill amends the Oranga Tamariki Act 1989 (the Act) by:

- partially repealing the subsequent child provisions so that the provisions would only apply to parents who have been convicted of murder, manslaughter or infanticide of a child or young person in their care or custody
- repealing a redundant information sharing provision relating to public notification of information about combined datasets
- making a number of minor and technical amendments aimed at improving the clarity of the Act, enhancing the rights of children and young people, removing redundant provisions, and removing barriers to practical implementation.

#### Partial repeal of the subsequent child provisions

This Bill proposes to partially repeal the subsequent child provisions of the Act so that the provisions would only apply to parents who have been convicted of murder, manslaughter or infanticide of a child or young person in their care or custody.

Currently, a subsequent child is any child, born or unborn, who has a parent:

- who has been convicted under the Crimes Act 1961 of the murder, manslaughter, or infanticide of a child or young person who was in the person's care or custody at the time of the child's or young person's death; or
- who has had the care of a child or young person removed from that person and there is no realistic prospect that the child or young person will be returned to the person's care.

However, a first principles review of the provisions found the provisions were not operating as intended, and highlighted some key concerns with the provisions, including that they:

- have negative impacts on the wellbeing of children, young people, families and whānau
- pre-determine the risk of harm for children and restrict engagement with family and whānau
- require Family Court oversight even when Oranga Tamariki considers there are no care and protection concerns

- result in additional Family Court proceedings for an older sibling in care to determine that there is no realistic prospect that a child or young person will be returned to a parent's care.

The Waitangi Tribunal also found that the Crown had continued to breach its Te Tiriti / Treaty obligation to honour the rights of Māori to exercise tino rangatiratanga over their kāinga and taonga by failing to partially repeal the subsequent child provisions.

### **Repeal of a redundant dataset provision**

This Bill proposes to repeal section 66D of the Act (referred to as the dataset provision), which relates to the public notification of information about combined datasets relating to children and young people.

The policy intent of the dataset provision was to increase the transparency of child welfare and protection agencies about the linked datasets they have used. The Bill proposes to repeal section 66D because the policy intent of the provision can be achieved through other cross-government information sharing initiatives. Child welfare and protection agencies can now access a growing body of knowledge and evidence to assess wellbeing for strategic policy and operational purposes, such as the Integrated Data Infrastructure (IDI).

There are also now policies, processes, and procedures in place, or being developed, that allow agencies to safely share and use combined datasets for operational purposes. These include the Social Wellbeing Agency's Data Protection and Use Policy, and Data Exchange; and Statistics New Zealand and the Privacy Commissioner's principles for the safe and effective use of data and analytics.

These initiatives are less administratively burdensome and allow for greater and more flexible sharing of information for operational purposes, while also providing the necessary transparency, protections, and safeguards around privacy.

### **Technical amendments**

The Bill also includes a range of minor and technical amendments to improve clarity, enhance the rights of children and young people, remove redundant provisions, and remove barriers to practical implementation. The Committee of the Whole House also made a technical change to the Bill, to amend section 198 of the Act to address the unintended consequences of a prior legislative change.

These changes are part of the work to tidy up an Act that is over 30 years old and has been subjected to a number of significant legislative amendments.