

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Wednesday, 3 May 1989

CHILDREN, YOUNG PERSONS, AND THEIR FAMILIES BILL

Proposed Amendments

Hon. Dr MICHAEL CULLEN, in Committee, to move the following amendments:

Clause 1 (2): To omit from line 26 on page 11 the word "October", and substitute the word "November".

Clause 2 (1): To omit from lines 12 and 13 on page 12 the words "person, body, or organisation", and substitute the word "service".

To omit the definition of "family group conference" (all the words in lines 38 to 40 on page 13), and substitute the following definition:

"Family group conference"—

(a) In relation to Part II of this Act, means a meeting convened or reconvened by a Care and Protection Co-ordinator in accordance with section 19 of this Act:

(b) In relation to Part IV of this Act, means a meeting convened or reconvened by a Youth Justice Co-ordinator in accordance with section 246 or section 269 or section 280 of this Act:

Clause 4 (g): To insert in line 34 on page 17, after the word "families", the words "and family groups".

Clause 5 (a): To omit from line 3 on page 18 the word "and" where it first appears.

Clause 5A: To insert in line 40 on page 18, after the expression "Part III", the expression "or Part VI (other than sections 350 to 359)".

Clause 6 (1) (b): To omit from line 11 on page 19 the expression "section 5", and substitute the expression "sections 5 and 5A".

Clause 10: To omit from line 38 on page 22 the word "and" where it last appears, and substitute the word "or".

Clause 12: To insert in lines 24 and 28 on page 23, after the word "child's", the words "or young person's".

To add the following new paragraph:

- (i) Where a child is considered to be in need of care or protection on the ground specified in section 13(1)(e) of this Act, the principle set out in section 207(g) of this Act.

Clause 13 (1) (b): To insert in line 28 on page 25, after the word “is”, the words “, or is likely to be,”.

Clause 17 (2): To omit from lines 33 and 34 on page 28 the words “or young person”.

Clause 19: To insert in line 39 on page 29, after the word “convene”, the words “or reconvene”.

Clause 21: To omit from line 20 on page 31 the word “commenced”, and substitute the word “convened”.

To insert on page 31, after paragraph (e), the following paragraph:

(ea) Where the conference has been convened or reconvened, for the purposes of section 144 of this Act, in respect of a child or young person, a representative of the person who has the care of that child or young person pursuant to an agreement to which that section applies, or who it is proposed should have the care of that child or young person pursuant to such an agreement:

To omit from line 35 on page 31 the words “any of paragraphs (c) to (g)”, and substitute the words “paragraph (c) or paragraph (d) or paragraph (e) or paragraph (ea) or paragraph (g)”.

Clause 23 (1) (a): To omit from line 25 on page 32 the expression “section 21 (1) (b)”, and substitute the expression “paragraph (a) (i) or paragraph (b) of section 21 (1)”.

Clause 29: To insert in lines 31 and 35 on page 34, after the word “Police”, the words “(or any person acting for that Social Worker or that member of the Police)”.

To omit from lines 10 and 11 on page 35 the words “In the case of a referral from any organisation or body,”.

To insert in line 12 on page 35, after the word “person”, the words “(other than a Court)”.

Clause 33 (1): To insert in line 6 on page 38, after the word “conference”, the words “pursuant to this Part of this Act”.

Clause 35 (1): To insert in line 37 on page 38, after the word “conference”, the words “pursuant to this Part of this Act”.

Clause 47 (1): To insert in line 31 on page 45, after the word “may”, the words “, using such force as may reasonably be necessary, take the child or young person and”.

Clause 48 (1) (b): To omit from line 38 on page 46 the words “or belief”.

Clause 59: To omit from lines 3 and 8 on page 51 the expression “section 58”, and substitute in each case the expression “section 60”.

Clause 69 (2) (b): To omit from lines 31 and 32 on page 54 the words “an interim custody order”, and substitute the words “a custody order under section 77 of this Act”.

Clause 70: To omit from line 13 on page 55 the words “set out”, and substitute the word “specified”.

To omit from line 21 on page 55 the words “, subject to subsection (2) of this section,”.

To omit subclause (2) (all the words in lines 23 to 32 on page 55).

Clause 72: To omit from line 19 on page 56 the word “to”, and substitute the word “for”.

To add the following subclause:

(2) In deciding whether or not to make a declaration under section 66 of this Act that a child or young person is in need of care or protection on any of the grounds specified in paragraph (a) or paragraph (b) of section 13 (1) of this Act, the Court shall take into account, among other things, any evidence before the Court—

- (a) That the kind of harm suffered by the child or young person will neither continue nor be repeated:
- (b) That a parent or guardian or other person having the care of the child or young person will be capable of ensuring that the kind of harm suffered by the child or young person will be neither continued nor repeated.

Clause 77 (2) (c): To omit from line 30 on page 58 the words “referred to”, and substitute the word “specified”.

Clause 79: To omit from line 16 on page 59 the expression “section 104 (1) (b) (iii) and (iii), section 104 (1) (d), section 104 (2) and (3)”, and substitute the expression “section 104 (other than paragraph (a), paragraph (b) (i), and paragraph (c) of subsection (1) of that section)”.

Clause 82 (1) (c) (iii): To omit from line 18 on page 61 the word “or”, and substitute the word “a”.

Clause 86 (1): To omit from line 13 on page 64 the word “order” where it first appears, and substitute the word “declaration”.

Clause 99 (2): To omit from lines 7 to 9 on page 70 the words “cancel the order, and in substitution for that order make such other order referred to in section 82 (1) or section 83 (1) of this Act as the Court thinks fit”, and substitute the words “make any order under section 126 of this Act as if an application had been made under section 124 of this Act in relation to the order”.

Clause 101 (3): To omit from line 2 on page 71 the word “under”, and substitute the words “pursuant to”.

Clause 105 (1) (b): To omit from line 18 on page 74 the expression “subsection (1) (a) of this section”, and substitute the expression “paragraph (a) of this subsection”.

Clause 119 (1): To omit from line 10 on page 80 the expression “or section 101”.

Clause 120 (2): To insert in line 30 on page 80, after the word “order”, the words “or an interim custody order”.

To omit paragraph (c) (all the words in lines 32 and 33 on page 80).

Clause 124: To insert in line 35 on page 82, after the expression “section 86”, the expression “or section 87”.

To insert in line 8 on page 83, after the expression “section 90” the expression “or section 91”.

Clause 125: To insert on page 83, after paragraph (i), the following new paragraph:

- (ia) In respect of an order made under section 82 (1) (c) of this Act, any person required to receive counselling pursuant to that order:

To insert in line 35 on page 83, after the expression “section 86”, the expression “or section 87”.

To insert in line 38 on that page, after the expression “section 90”, the expression “or section 91”.

To omit paragraph (m) (all the words in lines 1 to 3 on page 84), and substitute the following paragraph:

(m) In respect of any custody order or interim custody order made under section 100 of this Act, or any order made under section 77 of this Act, any person granted custody of the child or young person by that order:

Clause 126: To insert in line 20 on page 84, after the expression “section 124 (2)”, the words “of this Act”.

To insert in line 22 on that page, after the expression “section 90”, the expression “or section 91”.

Clause 131 (1) (b): To omit from line 6 on page 87 the word “a”, and substitute the word “the”.

Clause 136: To add the following new subclause:

(5) Where a report is furnished to the Court pursuant to section 134 of this Act in respect of the review of any plan prepared in relation to any child or young person, any order that is in force under this Part of this Act and that relates to that child or young person shall, unless the Court otherwise directs, and subject to section 107 (c) to (e) and section 116 of this Act and to any order made pursuant to this section, continue in force until the Court has completed its consideration of the report in accordance with this section and has determined what (if any) decision it should make with respect to that order.

Clause 144: To omit from line 35 on page 94 the expression “sections 19 to 26”, and substitute the expression “sections 19 to 35”.

To omit subclause (4) (all the words in lines 39 to 41 on page 94 and in lines 1 to 5 on page 95).

Clause 145: To add the following subclause:

(2) Notwithstanding anything in subsection (1) (c) of this section, an agreement entered into under section 139 or section 140 or section 141 of this Act shall be terminated if a family group conference decides that the agreement should be terminated.

Clause 150: To insert on page 97, after paragraph (b), the following paragraph:

(ba) An application under section 77 of this Act:

To omit paragraph (d) (all the words in lines 10 and 11 on page 97).

Clause 153 (1) (a): To omit from lines 14 and 15 on page 98 the expression “section 125 (b), (c), (j), (k), (l), or (m)”, and substitute the expression “section 125 (b), (c), (ia), (j), (k), (l), or (m)”.

Clause 160 (b) (iv): To insert in line 24 on page 101, before the word “Act”, the words “In the case of a barrister or solicitor appointed under section 158 of this Act to represent a child or young person,”.

Clause 198 (4): To omit from line 39 on page 118 the words “or lay advocate”.

To insert in line 2 on page 119, after the word “solicitor”, the words “or lay advocate”.

Clause 241 (1) (b): To insert in line 16 on page 140, after the word “sergeant”, the words “or a commissioned officer”.

Clause 247: To omit from lines 6, 9, 12, 17, 26, and 30 on page 143 the words “child or”.

Clause 250: To insert in lines 7 and 21 on page 146, after the word “order”, the words “or agreement”.

To insert in line 28 on page 147, after the expression “(n)”, the expression “(other than paragraph (k))”.

Clause 259: To insert in line 19 on page 151, before the word "In", the words "Except as provided in section 257 (a) (iii) of this Act,".

To omit from line 31 on page 151 the words "or young person".

Clause 261: To omit from line 23 on page 152 the expression "section 255 or section 256", and substitute the expression "section 259 or section 260".

Clause 262: To insert in lines 34 and 38 on page 152, after the word "officer", the words "(or any person acting for that enforcement officer)".

To insert in line 9 on page 153, after the word "relates", the words "(or to any person acting for that informant or intended informant)".

Clause 270: To insert in line 32 on page 157, after the word "convened", the words "or reconvened".

Clause 317 (2): To insert in line 34 on page 183, after the word "dwellinghouse,", the word "building,".

Clause 319 (3): To omit from line 39 on page 184 the words "the period specified in".

Clause 328 (1) (e): To omit from line 28 on page 189 the expression "section 246", and substitute the words "Part IV".

Clause 329 (3): To omit from line 35 on page 190 the expression "section 246", and substitute the words "Part IV".

Clause 344 (3): To omit from line 11 on page 196 the expression "sections 79 to 81", and substitute the expression "sections 78 to 81".

Clause 354 (2) (b): To omit from line 14 on page 200 the words "nearest to", and substitute the words "of which".

To insert in line 15 on page 200, after the word "determined", the words "is a division".

Clause 360: To omit from line 20 on page 203 the expression "or section 101".

To insert in line 28 on page 203, after the word "Any", the words "child or".

Clause 361: To omit from line 9 on page 204 the words "care, custody,", and substitute the words "care or custody".

Clause 365: To insert in line 2 on page 206, after the word "under", the expression "section 363 of".

To omit from line 6 on page 206 the expression "section 354", and substitute the expression "section 361".

Clause 366: To insert in line 13 on page 206, after the word "residence", the words "established under section 363 of this Act".

Clause 371: To add the following subclause:

(6) The provisions of section 378 of this Act shall apply, with all necessary modifications, with respect to every order made under subsection (1) of this section as if such an order were an approval granted by a Court under section 375 of this Act.

Clause 377 (1) (e): To omit from line 9 on page 213 the word "principal", and substitute the word "Director".

Clause 383: To insert in line 18 on page 215, after the word "residence", the words "established under section 363 of this Act".

Clause 384: To omit from line 31 on page 215 the expression "section 360", and substitute the expression "section 361".

To omit from line 4 on page 216 the expression "section 237 (1) (d)", and substitute the expression "section 237 (1) (d) or (e)".

Clause 388 (a) (ii): To omit from line 3 on page 218 the expression “or section 101”.

Clause 392 (1) (b): To omit from line 33 on page 219 the expression “or section 101”.

Clause 394 (a): To omit from line 12 on page 221 the words “care, custody,” and substitute the words “care or custody”.

Clause 402 (3): To omit from line 10 on page 226 the expression “section 3”, and substitute the expression “section 4”.

Clause 407 (1) (c): To omit from line 34 on page 227 the words “Authority or”.

Clause 423 (g): To omit from lines 5 and 6 on page 234 the words “to the Court in accordance with section 30”, and substitute the words “in accordance with section 31”.

Clause 428: To add the following paragraph:

- (d) To advise the Director-General on matters relating to the appointment of Care and Protection Co-ordinators.

First Schedule: To omit from clause 2 (c) the words “nearest to the office”, and substitute the words “that is a division”.

To omit paragraph (e) of clause 2, and substitute the following paragraph:

- (e) The provisions of section 49 shall apply as if there were inserted in that section, as subsections (1A) and (1B), the following subsections:

“(1A) Notwithstanding anything in subsection (1) of this section, where the hearing is adjourned for the purpose of enabling a family group conference to be held under the provisions of the Children, Young Persons, and Their Families Act 1989, the defendant shall be excused from attending at the time and place to which the hearing is adjourned if, before that time, the Youth Justice Co-ordinator convening that conference notifies the Court, in writing, that the proceedings of that family group conference will not be completed by that time.

“(1B) Where, pursuant to subsection (1A) of this section, the defendant is excused from attending any hearing, and the Court adjourns that hearing, the Registrar shall notify the defendant of the time and place to which the hearing is adjourned.”

EXPLANATORY NOTE

This Supplementary Order Paper makes various amendments (mostly of a minor drafting nature) to the Children, Young Persons, and Their Families Bill.