

House of Representatives

Supplementary Order Paper

Tuesday, 2 November 2004

Care of Children Bill

Proposed amendments

Judith Collins, in committee, to move the following amendments:

Clause 35

To insert, after subclause (6) (after line 5 on page 33), the following subclause:

- (6A) Despite **section 37**, no female child under the age of 16 years who has grounds for an abortion may be referred by a medical practitioner to a certifying consultant unless the medical practitioner, with the consent of the female child, gives prior notification of the referral to one of the persons in **subsection (3)(a) or (b)**.

Clause 37A

To insert, after clause 37 (after line 4 on page 35), the following clause:

37A Waiver of notification for abortion

- (1) No notification is required under **section 35(6A)** if a medical practitioner determines that the abortion is necessary to prevent the female child's death, and there is insufficient time to provide the required notice.
- (2) If a female child does not consent to a notification under **section 35(6A)**, the requirement for notification is deemed to be satisfied by the medical practitioner giving written notification to any Judge of the District Court or the Family Court, which notification must include the following information:
- (a) the female child's name, address, and age; and
 - (b) the female child's stated reasons for not consenting to notification of one of the persons in **section 35(3)(a) or (b)**; and
 - (c) any concerns the medical practitioner has about the female child's care and protection; and

- (d) whether the medical practitioner has referred the female child to a Social Worker or to the police; and
 - (e) any other matter that the medical practitioner considers relevant.
- (3) If a Judge, having received notification under **subsection (2)**, considers that the female child is in need of care and protection or considers that there is good cause to suspect a crime of violence or sexual violation has been committed against the female child, the Judge must refer the matter to—
- (a) a Social Worker; or
 - (b) the police; or
 - (c) both.
- (4) A notification under **subsection (2)** is strictly confidential and must not be disclosed to any person other than—
- (a) the female child;
 - (b) the medical practitioner;
 - (c) the Judge, or any person assisting the Judge in the performance of his or her duties;
 - (d) a Social Worker;
 - (e) a member of the police;
 - (f) a person who, in the opinion of the Judge, should be aware of the matter, bearing in mind the welfare of the female child.

Explanatory note

This Supplementary Order Paper replaces Supplementary Order Paper No 237. It proposes 3 substantial changes to the Care of Children Bill to—

- require notification to a guardian of a pregnant female child under the age of 16 years of an intended abortion; and
- allow a notification to a District or Family Court Judge instead; and
- require that, if the girl provides reasons for not advising a guardian that lead the Judge to have concern as to her care and protection, referral to the appropriate authorities should take place.

The reasons for these proposed changes are that—

- the current law has no provision for parental/guardian notification, although anecdotal evidence from the medical practitioners suggests that most under age girls seeking an abortion will notify and seek advice from a parent prior to seeking health assistance.
- the current law allows the girl to return to a violent or incestuous relationship following an abortion. This enables patterns of violence and incest to remain unchecked.
- in drafting these provisions, regard has been taken of the exemptions to patient/general practitioner confidentiality as recognised in the Children,

Young Persons and their Families Act 1989, the Health Act 1956, and the Health Information Privacy Code 1999.

- these provisions recognise that the welfare and interests of the female child must be the first and paramount consideration and that, if any such child has been or is likely to be harmed (whether physically, emotionally, or sexually) ill-treated, abused, neglected, or deprived, that matter should be reported to a Social Worker or a member of the police.
 - The vast majority of parents will be involved in their teenage children's life-changing decisions even if the teenager might not, at first, want a parent involved. Being a good parent is no guarantee that teenage years will be trouble-free. These provisions recognise the role that responsible parents will want and need to play in the lives of their children and provide protection for the rare cases when a child is in danger at home. The existing law provides neither acknowledgement of parents nor protection of abused teenagers.
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