

Commission for Children and Young People Amendment (Child Death Review Team) Bill 2003

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to revise the provisions relating to the Child Death Review Team (the **Team**), principally by allowing for a broader and more flexible research focus for the Team, in order to improve the safety, welfare and well-being of all children in New South Wales. The Bill implements recommendations of the *Report of the Review of Legislation Governing the NSW Child Death Review Team* conducted by the Commission for Children and Young People and co-chaired by Dr John Yu AC, at the request of the Minister for Community Services. The Bill inserts the revised provisions into the *Commission for Children and Young People Act 1998* and removes provisions relating to the Team that are currently found in the *Children (Care and Protection) Act 1987* and the *Children and Young Persons (Care and Protection) Act 1998*. The Bill also makes consequential amendments to the *Community Services (Complaints, Reviews and Monitoring) Act 1993*.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the *Commission for Children and Young People Act 1998* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the other Acts set out in Schedule 2.

Schedule 1 Amendment of Commission for Children and Young People Act 1998

The principal amendment is made by **Schedule 1 [6]** which inserts proposed Part 7A (Child Death Review Team) into the principal Act. Division 1 (proposed section 45A) sets out the object of the Part. That object is to prevent and reduce the deaths of children in New South Wales through the constitution of the Team which is to exercise the functions conferred or imposed on it under the Part. Division 2 (proposed sections 45B–45M) provides for the constitution and procedure of the Team. The Team is a corporation. Its members are the Commissioner for the Commission for Children and Young People, as Convenor, and not less than 14 other people and not more than 20 other people, appointed by the Minister. Members, other than the Convenor, hold office for 2 years and may be re-appointed. Division 2 substantially reproduces the current provisions relating to the conditions of office of members and the procedures to be observed at meetings of the Team. Division 3 (proposed sections 45N–45S) sets out the functions of the Team. Principally, the Team is to maintain the register of child deaths that has been operative since 1 January 1996, analyse data relating to child deaths and undertake research that aims to help prevent or reduce the likelihood of child deaths. The Team may engage research experts. The Team also makes reports and recommendations. It is to make an annual report to Parliament concerning its operations and an annual report to Parliament reviewing child deaths registered during the previous calendar year. It may also make a report at any time as to the results of its research. Division 4 (proposed sections 45T–45V) regulates access to information and the confidentiality of information obtained by the Team. The Team is given access, in so far as it is relevant to its functions, to records in the possession of the holders of certain public offices, doctors and other health care professionals, welfare service providers and principals of non-government schools. Records in the hands of the Team are strictly confidential and their production cannot be compelled by courts or tribunals. Team members, the staff of the Team and other persons who do work for the Team may only divulge information for the limited purposes specified in proposed section 45U. A person who divulges information in breach of the provision, and a person who

dishonestly obtains information acquired by or on behalf of the Team, commits a criminal offence and is liable on conviction to a maximum penalty of 50 penalty units (currently \$5,500) or imprisonment for 12 months, or both. Division 5 (proposed sections 45W and 45X) deals with miscellaneous matters. It provides for the manner of execution of documents by the Team and it requires the Minister to review proposed Part 7A after 5 years from the commencement of the proposed Part.

Schedule 1 [1] inserts a definition of *Child Death Review Team* or *Team* for the purposes of the principal Act.

Schedule 1 [2] requires the Commission for Children and Young People (the *Commission*) to assist the Team in the exercise of its functions under proposed Part 7A.

Schedule 1 [3] and [10] make minor and consequential amendments.

Schedule 1 [4] makes a consequential amendment to ensure the confidentiality of information obtained by the Commission relating to child deaths.

Schedule 1 [5] enables the Parliamentary Joint Committee known as the Committee on Children and Young People to monitor and review the exercise by the Team of its functions in the same way as it monitors and reviews the exercise by the Commission of its functions.

Schedule 1 [7] and [8] protect members of the Team and persons working under its direction from personal liability for things done in good faith in executing its functions under the principal Act or any other Act.

Schedule 1 [9] enables the making of regulations concerning the constitution, functions, procedures and other matters relating to the Team.

Schedule 1 [11] enables the making of regulations of a savings or transitional nature as a consequence of the enactment of the proposed Act.

Schedule 1 [12] inserts some transitional provisions. It provides that the Team is to be a continuation of, and the same legal entity as, the previous Team. Existing Team members retain their membership for the balance of their term of office. The annual reports of the Team for the year ending 30 June 2003 are to be prepared in accordance with the new provisions rather than the old ones under the *Children (Care and Protection) Act 1987*.

Schedule 2 Amendment of other Acts

Schedule 2.1 omits uncommenced provisions in the *Children and Young Persons (Care and Protection) Act 1998* relating to the Team.

Schedule 2.2 omits the current provisions in the *Children (Care and Protection) Act 1987* relating to the Team.

Schedule 2.3 amends the *Community Services (Complaints, Reviews and Monitoring) Act 1993*. It provides that the annual report of the Ombudsman on reviewable deaths is to cover the same period as the Team's annual report on child deaths. It enables the making of regulations of a savings and transitional nature as a consequence of the enactment of the proposed Act. It requires the Ombudsman's annual report on reviewable deaths for the year ending 30 June 2003 to be prepared in accordance with the amended provision.