

CHILD PROTECTION REFORM AMENDMENT BILL 2014

Explanatory Notes

Short title

The short title of the Bill is the *Child Protection Reform Amendment Bill 2014*.

Policy objectives and the reasons for them

On 1 July 2012, the Queensland Government established the Queensland Child Protection Commission of Inquiry (the Commission), led by the Honourable Tim Carmody QC. The Commission was tasked with reviewing the entire child protection system and to chart a new roadmap for child protection for the next decade.

On 1 July 2013, the Commission released its final report - *Taking Responsibility: A Roadmap for Queensland Child Protection*. The Commission confirmed that the child protection system is under immense stress and made 121 recommendations aimed at addressing the risk of systemic failure and making Queensland the safest place to raise children.

On 16 December 2013, the Queensland Government released its response to the final report accepting 115 recommendations in full and accepting in principle the 6 remaining recommendations made by the Commission.

The Child Protection Reform Roadmap focuses on supporting vulnerable families to take care of their children and reforming the child protection system in Queensland to better provide for the safety, wellbeing and best interests of our most at-risk children when they cannot be safely cared for at home.

The Bill will implement recommendations of the Child Protection Reform Roadmap in relation to oversight of the child death review process, complaints about the child protection system, first step measures to reduce the current levels of unsustainable demand on the child protection system, including the consolidation of all mandatory reporting requirements into the *Child Protection Act 1999* (CPA), changes to the administration of working with children checks (WWCC) and improvements to the administration of the Childrens Court.

Achievement of policy objectives

To achieve the policy objectives the Bill will amend the following Acts –

- *Child Protection Act 1999*
- *Childrens Court Act 1992*
- *Commission for Children and Young People and Child Guardian Act 2000* (including changing the name of the Act)

- *Magistrates Act 1991*
- *Ombudsman Act 2001*
- *Public Health Act 2005*

The Bill will also make consequential amendments to 20 other Acts to reflect changes to the administration of WWCC.

Oversight of the Child Protection System (child death review process and complaints)

The Commission noted there is high public interest in the death of a child and in identifying and addressing any faulty policy, practice or service delivery to prevent other tragedies, but there is limited public benefit in subjecting matters to review if there is little or no scope for anything to be learned. Given the time, effort and expense invested in such reviews, there is an imperative that the issues that are identified are of current value and used positively to inform policy, practice and professional development.

The Commission recommended that the Child Death Case Review Committee (CDCRC) be replaced (recommendation 12.11). In response to this recommendation the Bill provides for the appointment of people with appropriate qualifications to form a pool of people from which a Child Death Case Review Panel can be constituted, and that reviews are conducted for child deaths or serious injuries in circumstances where the child was known to Child Safety within one year prior to their death or serious physical injury.

In addition, the Commission recommended improved and refined oversight of the child protection system that places appropriate responsibility on each department with child protection responsibilities and that avoids duplication and uses resources efficiently. Specific recommendations were made regarding the systemic oversight of complaints.

The Commission recommended that child protection complaints be dealt with by the relevant departments, with oversight by the Ombudsman, removing the additional complaints review function currently performed by the Commission for Children and Young People and Child Guardian (CCYPCG) to allow resources to be diverted to agencies delivering child protection services and facilitate timely resolution of complaints (recommendation 12.9).

Amendments will see complaints currently handled by the CCYPCG investigated by relevant departments with oversight by the Ombudsman. The Ombudsman will rely on existing powers under the *Ombudsman Act 2001* to investigate complaints, however amendments will allow the Ombudsman to delegate functions and powers to an appropriately qualified officer of the Ombudsman, including the power to write reports and make recommendations to ensure timely resolution of complaints and to encourage public confidence in government accountability.

Reduce unsustainable demand on the child protection system

The Commission identified that a main contributing factor to the unsustainable demand on Queensland's statutory child protection system is the high number of intakes by Child Safety as a result of reports received about child protection concerns. Since 2004 there has been a 114 per cent growth in reports to Child Safety.

In 2011-12 reports from school personnel, health professionals and police sources together made up approximately 60 per cent of all reports to Child Safety. In 2011-12 approximately 80 per cent of all reports did not reach the threshold required for Child Safety to take action

under the CPA, because the child was not reasonably suspected to be a child in need of protection.

The Commission noted that in the context of mounting workload pressures, finding the small proportion of children who actually need ongoing statutory intervention has been described as like ‘finding a needle in a haystack’. The Commission considered that it is important that every effort is made by reporters not to unnecessarily make a report to Child Safety as a ‘misreport’ can be counterproductive, doing more harm than good by needlessly stigmatising a family and potentially exposing it to a traumatic investigation that may not be required. Too many reports may overload the system.

The analysis by the Commission suggested that one of the reasons there is a large discrepancy between the number of reports received and those that meet the threshold for statutory child protection intervention is because Queensland’s reporting obligations are fragmented, confusing and inconsistent.

The Commission made a number of recommendations aimed to achieve a consistent approach to reporting child protection concerns to Child Safety and consolidating mandatory reporting requirements into the CPA.

Parents have the primary responsibility for caring for their children and protecting them from harm. Child Safety’s role is to intervene only as a last resort. A child is in need of protection when they have suffered, are suffering or at an unacceptable risk of suffering harm and do not have a parent who is able and willing to protect them from the harm. In order to reinforce Child Safety’s role as a last resort, the Bill amends section 10 of the CPA to state that ‘a child in need of protection is a child who has suffered significant harm, is suffering significant harm, or is at unacceptable risk of suffering significant harm’ (recommendation 4.1). The Bill does not alter other factors about a parent’s willingness or ability to protect a child from harm. These factors must still be considered when determining if a ‘child is a child in need of protection’.

Professionals including teachers, police, and health professionals are responsible for the majority of reports to Child Safety. The Commission suggested one of the reasons for over-reporting by these agencies was inconsistency between their different reporting obligations as set out in legislation or reporting policies – for example, the threshold relevant to reporting obligations for doctors and nurses contained in the *Public Health Act 2005* is broader than the threshold for statutory child protection intervention in the CPA.

The Commission highlighted Queensland is the only Australian jurisdiction where mandated reporting responsibilities of various professionals are not consolidated into one piece of child protection legislation. The Bill therefore consolidates various mandatory reporting obligations currently contained in other legislation and departmental policies into the CPA (recommendation 4.2).

The Commission also identified that the high number of reports to Child Safety in Queensland is driven by the fact that Child Safety is the only reporting destination for child protection concerns and is therefore the main gateway to family support services. It noted that enabling and promoting reporters’ responsibility to refer families to support services rather than requiring all reports to be made to Child Safety would also result in families engaging with services to get the help that they need because they are able to avoid the stigma often

associated with being “known to Child Safety” (recommendation 4.6). The Bill enables a prescribed entity to refer concerns about a child that is likely to become a child in need of protection, if help and support is not provided to their family, directly to service providers.

Section 22 of the CPA provides mandatory reporters with protection from liability when they act ‘honestly’ in making a report to Child Safety. The Commission formed the view there are currently circumstances where reports are made to Child Safety based on very little information or a one-off occurrence of a minor incident. Consistent with the Commission’s recommendation (recommendation 4.6) the Bill amends section 22 of the CPA to include the additional requirement that reports should be made “reasonably” for the protections in section 22 to apply. This provision will also be moved and become a section 197A so that it sits in a more relevant part of the CPA.

The Commission also recommended that the wording of section 14(1) of the CPA be amended to remove the reference to ‘investigation’ and replace it with ‘risk assessment and harm substantiation’ to better reflect the role of child safety officers to substantiate whether a child has been harmed and assess whether there is a risk of future harm to a child (recommendation 4.8). The Bill makes this amendment.

The principal objectives of these amendments are to relieve pressures on the child protection system and improve outcomes for families by:

- establishing a consistent approach to reporting child protection concerns across Queensland Government agencies that more directly aligns with the legislated threshold for Child Safety intervention and Child Safety’s role to intervene when a child is in need of protection;
- providing alternatives to reporting to Child Safety; and
- clarifying that the primary role of the child safety officer is to make an informed risk assessment as to whether a child is in need of protection.

Working with Children Checks (WWCC)

The Commission recommended government transfer child related employment screening functions (working with children checks) from the CCYPCG to the Queensland Police Service (QPS) as part of red tape reduction reforms (recommendation 12.17).

The Commission raised concerns about the cost of the WWCC scheme, and proposed that processes be streamlined to establish an efficient, rationalised service that builds on child-offender legislation. The Commission also recommended that the scope of the WWCC scheme be reviewed and legislation enacted to streamline the process.

Since the Commission’s recommendations were made, the Queensland Government has also committed to implement the recommendations of the 2013 Police and Community Safety Review. These include establishing a new agency, the Public Safety Business Agency (PSBA) to provide corporate service capabilities for QPS and the Queensland Fire and Rescue Service. When considering its response to the Commission’s recommendation about the WWCC scheme, the government identified the PSBA was better placed to administer the scheme.

The Bill transfers administration of the WWCC scheme from the CCYPCG to the PSBA from 1 July 2014, to facilitate an efficient, rationalised service that builds on child-offender legislation and current QPS functions in relation to criminal history records and checks.

A comprehensive independent policy and business process review, including a review of workforce requirements and consideration of whether the WWCC should be simplified, will be undertaken after 1 July 2014. The review will also need to take into consideration the current Royal Commission into Institutional Responses to Child Sexual Abuse process. The first phase of the review will be completed by 31 December 2014.

Administration of the Childrens Court

The Commission recommended changes to the administration of the Childrens Court to facilitate the introduction of a case management system to improve timeliness and decision-making in child protection matters, to clarify the respective roles of the President of the Childrens Court and the Chief Magistrate (recommendation 13.3) and to increase the number of Childrens Court magistrates (recommendation 13.8).

The Bill amends the *Childrens Court Act 1992* (Childrens Court Act) and the *Magistrates Act 1991* (Magistrates Act) to facilitate the implementation of these recommendations.

Amendments give the Chief Magistrate powers, functions and associated responsibility for the orderly and expeditious exercise of the jurisdiction of the Childrens Court when it is constituted by magistrates or justices of the peace. This will allow the Chief Magistrate to ensure that Childrens Court matters, including child protection, youth justice and adoption matters are dealt with by magistrates and justices of the peace in an efficient manner. The provisions include a requirement for prior consultation with the President of the Childrens Court, who will retain responsibility for the procedure of the Childrens Court when it is constituted by judges, to facilitate consistency of approach.

The Bill repeals the section 14A of the Childrens Court Act, which limits the maximum term of a Childrens Court magistrate (currently five years) to allow greater flexibility in managing the appointment of Childrens Court magistrates and to assist with increasing the number of Childrens Court magistrates over time. This change will assist with the implementation of the Commission's recommendation that more existing magistrates be appointed as Childrens Court magistrates (recommendation 13.8).

Alternative ways of achieving policy objectives

The proposed legislation is essential to commence implementation of key recommendations made by the Commission. There are no alternative ways of achieving the reforms.

Estimated cost for government implementation

Costs in relation to the Bill will be met from existing resources within relevant individual agencies.

The State Government will not incur an additional cost in the establishment of the new Child Death Case Review Panel or the transfer of working with children checks to the PSBA. Costs will be met from the existing budget of the CCYPCG which will cease operation from 1 July 2014.

Consistency with fundamental legislative principles

The Bill is generally consistent with fundamental legislative principles. Potential breaches of fundamental legislative principles are addressed below.

Child Death Case Reviews

The Bill amends the CPA to require external people who are appointed to be a member of a pool of people from which a Child Death Case Review Panel (the Panel) can be formed to undergo criminal history screening prior to their appointment. The role of the Panel will include access to sensitive and confidential information about vulnerable children and their families.

It is unlikely that the Bill will result in any significant impact for most individual appointees however it is possible that the eligibility of a small number of individuals to be appointed to the Panel may be affected. This may be considered a breach of the fundamental legislative principle that requires legislation to have sufficient regard to the rights and liberties of individuals. This is justified on the basis that the primary purpose of the screening is to promote and protect the rights, interests and wellbeing of children in Queensland. It is important that the Panel operate as effectively as possible to safeguard these rights.

Information Sharing

It is proposed to amend chapter 5A of the CPA to allow ‘prescribed entities’ under the CPA to directly share information with service providers for the purposes of referral of a child or family who may require support services to prevent the child from becoming a child in need of protection. This sharing of confidential information about children who are not in the child protection system may impact on an individual’s right to privacy of their confidential information. However this is necessary to help children be cared for safely by their families at home. Information that can be shared is limited to that which is required by the service provider to assess the child’s and family’s needs and to offer to provide a service. Service providers cannot on-share information to others. Information sharing after referral will only occur with a family’s consent.

Regulation Making Powers

The Bill includes a transitional regulation-making power to enable any unforeseen matters relating to the transition from the CCYPCG Act to this Bill to be addressed as they arise. While this will ensure a smooth transition of all relevant powers and functions, a provision of an Act which enables an Act to be amended by regulation raises fundamental legislative principle issues. This regulation is considered reasonable as its limited application is to affect only transitional matters and it expires 6 months after commencement.

Consultation

In light of the extensive community consultation undertaken by the Commission in forming recommendations, targeted consultation was undertaken with key stakeholders and peak bodies.

Consistency with legislation of other jurisdictions

The Bill is specific to the State of Queensland and reforms arise from the recommendations made by the Commission.

While the Bill is not intended to achieve uniformity with laws in other jurisdictions, the Commission in making its recommendations considered the operation of child protection systems in Australia and international jurisdictions.

Notes on provisions

Part 1

Clause 1 states that, when enacted, the Bill will be cited as *Child Protection Reform Amendment Act 2014*.

Clause 2 states that parts 3 and 5 commence on assent. Provisions relating to the consolidation of mandatory reporting requirements will commence on a day on or after 1 July 2014 to be fixed by proclamation. The remaining provisions commence on 1 July 2014.

Part 2

Clause 3 states that this part amends the *Child Protection Act 1999*.

Clause 4 amends section 7 (Chief executive's functions) (1) (p) to reflect the expanded scope of the Chief Executives functions in relation to reviewing child deaths under chapter 7A to also include children who have suffered serious physical injury.

Clause 5 amends section 10 (Who is a child in need of protection) to include the words 'significant harm' to clarify the threshold for intervention. Section 9 (Harm) already defines harm 'as any detrimental effect of a significant nature'. The amendment does not alter the threshold. Rather, it is included to reinforce the message to reporters that harm must be of a significant nature.

Clause 6 inserts new part 1AA Reporting suspicions about harm or risk of harm. New part 1AA includes sections 13A – 13J.

New part 1AA Reporting suspicions about harm or risk of harm

New part 1AA provides:

- clear direction for any person to report concerns when they reasonably suspect a child is in need of protection.
- a consolidated provision for all existing mandatory reporting obligations contained in legislation or government policy;
- a single 'standard' to govern reporting obligations and determine what is a reportable suspicion; and
- guidance to help professionals consider if any concerns they hold about a child are a reportable suspicion, and how and when to make reports.

Division 1 General

Section 13A (Action by persons generally) makes it clear any person can inform the chief executive of concerns if they reasonably suspect a child is in need of protection or an unborn child may be in need of protection after he or she is born.

Section 13B (Action by relevant persons under other provisions) clarifies that if a relevant person has a reportable suspicion under division 2 part 1AA they are required to report to Child Safety, however, if they have concerns about a child that do not amount to a reportable suspicion, they may take other appropriate action. If the relevant person falls within the definition of a *prescribed entity* in section 159D of the CPA that action may include a direct referral to a service provider.

Section 13C (Considerations when forming a reasonable suspicion about harm to a child) is included to assist individuals in deciding whether a child has suffered, is suffering or is at risk of suffering significant harm. Section 13C(2) sets some of the matters that may be considered when making this decision.

Section 13D (Protection from liability) makes it clear that the protection from liability currently contained in section 22 of the CPA will apply when information is given under the new part 1AA.

Division 2 Mandatory reporting by particular persons

Section 13E (Mandatory reporting by persons engaged in particular work) lists persons, other than those carrying out duties in a residential care service, who must give a written report to the chief executive if they form a reportable suspicion.

Section 13F (Mandatory reporting relating to children in departmental or licenced care services) provides for authorised officers, public service employees employed in the department and persons employed in a departmental care service or licensed care service to give a written report to the chief executive if they form a reportable suspicion about children who have been placed in the care of a residential care service.

Section 13G (Report to the chief executive) provides what a relevant person must report to the chief executive if they form a reportable suspicion under section 13E or section 13F. Section 13G (2) requires a report to state the basis on which the relevant person has formed the reportable suspicion and to include the information prescribed under a regulation to the extent of the person's knowledge. The requirement for the relevant person to only include information that they are aware of or have knowledge about is to ensure that a relevant person is not prevented from making a report because some particulars, not related to forming the reportable suspicion, are unknown. A relevant person will not be required to undertake an investigation in order to be able to include all matters set out in a regulation in a report. Sub-section (3) states a person is not required to give a report about a matter if giving the report might tend to incriminate the person or the person knows, or reasonably supposes, that the chief executive is aware of the matter. Sub-section (4) provides a regulation making power to prescribe the way the report must be given. Sub-section (5) provides a person does not commit an offence against this or any other Act only because the person omits to do an act required under this section or sections 13E(3) or 13F(3).

Section 13H (Conferrals with colleague and related information sharing) provides a relevant person may confer with colleagues before forming a reportable suspicion. The provision is intended to acknowledge a relevant person's reportable suspicion can be formed over a period of time and as an outcome of further consultation with colleagues. The section also enables a relevant person to give a colleague a copy of a report so that their colleague may take appropriate action regarding the report.

For example a teacher may provide a copy of the report to the school principal so that the principal may take action to address any risk to the children in their school. A report may also be given to a colleague to ensure proper record keeping.

Section 13I (Reporting obligation arises when reportable suspicion is formed) provides a relevant person is not required to give a written report under 13G until they have formed a reportable suspicion and once formed, that report must be given despite any other action the relevant person may take. The provision is intended to acknowledge:

- a relevant persons' suspicion may not be immediately formed, and
- a report under 13G may be made in addition to other responses a relevant person may take in relation to the child.

Section 13J (Particular reports to be given to public guardian) provides that as soon as practicable after receiving a report required by section 13F regarding a child in a residential care service, the chief executive must give a copy to the public guardian to help the public guardian perform the public guardian's child advocate functions under the *Public Guardian Act 2014*.

Clause 7 amends section 14 (Investigation of alleged harm) by replacing the term 'Investigation' with 'Substantiation'. The emphasis on "substantiation" is to better reflect the role of child safety officers to substantiate whether a child has been harmed and assess whether there is a risk of future harm to a child.

Clause 8 amends and renumbers section 22 (Protection from liability for notification of, or information given about, alleged harm or risk of harm) to expand the requirement a person act 'honestly' to also include 'reasonably' for protection from liability to apply. It is also made clear the protection in section 22 will apply to reports made under Chapter 2, Part 1AA. The current section 22 is to be relocated to chapter 6, part 7 and renumber as section 197A.

Clauses 9 to 15 replace reference to the Commissioner Act with the Working with Children Act as a result of changes required to establish the Public Guardian.

Clause 16 (1) amends section 148 (Obligation to report harm to children in departmental and licensed care services) to ensure a copy of a report under this section is provided to the public guardian as soon as practicable after the report is received by the chief executive.

Clause 16(2) When Division 2 Part 1AA commences, section 148 will be omitted because reporting obligations for employees of departmental and licensed care services, including reports to the public guardian, will be covered under section 13. Section 13J will continue the obligation of employees covered by section 13F to report to the public guardian.

Clauses 17 to 21 replace references to the children's commissioner to chief executive (employment screening) and references to Commissioner's Act with the Working with

Children Act as a result of changes required to transfer blue card screening to the Public Safety Business Agency.

Clause 22 amends section 159C (What is relevant information) to be consistent with direction of the Queensland Child Protection Roadmap to stop children becoming a child in need of protection by enabling a prescribed entity to directly refer a child and their family to a service provider.

Clause 23 amends section 159D (Other definitions for ch 5A) to include the public guardian as a prescribed entity.

Clause 24 amends section 159O (Release of information by a health services designated person) to remove reference to the preparation of a supplementary report.

Clause 25 amends section 186 (Confidentiality of notifiers of harm or risk of harm) to protect the identity of notifiers to include the situation where a notification is made to a medical professional, as the relevant provision has been removed from the *Public Health 2005* see part 7 of the Bill.

Clause 26 amends the heading of section 197 (Protection from liability) to be “Protection from liability for officials” and to include in the definition of officials members of the review panel included in new chapter 7A of the CPA.

Clause 27 amends the heading of chapter 7A from “Child deaths” to be “Child deaths and other matters” as serious physical injuries will also be covered by chapter 7A.

Clause 28 inserts a new chapter 7A, part 1 heading “Child death and other case reviews”.

Clause 29 inserts new section 246AA (Purpose) and replaces section 246A to establish the legislative framework for the Department of Communities, Child Safety and Disability Services (DCCSDS) role in conducting reviews in the revised child death case review process.

New Section 246AA (Purpose) clarifies the intent and purpose of reviews made under chapter 7A.

New section 246A provides that reviews by the chief executive are to be carried out in cases of death or serious physical injury to children. Sub-section (2) limits the requirements to undertake a review to children ‘known’ to the department in the 12 months prior to the child’s death or sustaining the serious physical injury. Sub-section (3) states the circumstances in which the Minister may exercise the discretion to request the chief executive to undertake a review.

Clause 30 renumbers section 246B(2) and (3) as s246B(3) and (4) and inserts a new section 246B(2) to provide that the chief executive, when deciding the extent of a review, may have regard to factors such as the nature and relevance of contact between the child and the department prior to the child’s death or the child sustaining the serious physical injury. In order to avoid cumbersome reviews that result in little public benefit, this amendment clarifies a full child death case review may not be conducted in cases where a child or their family had minimal contact with the department before their death, even if this contact

occurred in the 12 month period before the child's death, or if there is little scope for learnings, for example if a child has died from a terminal illness.

Clause 31 amends section 246C (Chief executive may seek information from entities) to enable the chief executive to seek information in respect of reviews undertaken because of serious injuries.

Clause 32 replaces section 246D (Report to be prepared and given to CDCRC) and inserts new sections 246DA, 246DB and 246DC. New section 246D provides that the chief executive must complete a review about a child's death or serious physical injury and give a copy of the report to the Child Death Case Review Panel (CDCRP) as soon as practicable but in any case, not more than 6 months, after the triggering event for the chief executive's review. Sub-section (2) defines triggering event.

New section 246DA (Review panel may obtain further information) clarifies that the CDCRP may request additional information relevant to the panel's review from the chief executive. The chief executive must comply with this request for information to the extent that the chief executive holds the requested information, and in complying with this request, may ask a prescribed entity for the particular information. If the chief executive asks a prescribed entity for information, section 159N applies to the chief executive's request.

New section 246DB (Review panel to conduct further review) requires the CDCRP to review the chief executive's review, as soon as practicable, but in any case, to comply with section 246DC. Sub-section (2) states that the review panel must decide the extent and terms of reference of its review. Sub-section (3) states the matters that the CDCRP may decide to consider in its review, which may include, but are not limited to the following:

- a matter within the terms of reference of the chief executive's review;
- improving the department's practices relating to the delivery of services to children and families;
- improving the relationship between the department and other entities with functions involving children or families;
- whether disciplinary action should be taken against a public service employee of the department in relation to the department's involvement with a child.

New section 246DC (Report of panel's review) provides that within 6 months of being provided with a copy of the chief executive's review report about the child's death or serious physical injury the review panel must complete its review and provide a copy to the chief executive. The chief executive must give a copy to the Minister if the Minister asks for a copy or the review was undertaken as a result of a request by the Minister under section 246A(2).

Clause 33 amends the heading of section 246E (Protection from liability for giving information to chief executive) by inserting 'or review panel' after 'chief executive'. Section 246E(1) is replaced with new section 246E(1). Currently this section confers protection from liability and breaches of professional codes or standards to people who provide information to the chief executive when undertaking a review. The amendment to this section extends these protections to people who provide information to the CDCRP when conducting a review.

Clause 34 amends section 246F (No liability for defamation if report made in good faith) to remove reference to a supplementary report to reflect the disbanding of the external Child Death Case Review Committee (CDCRC) established under the *Commission for Children and Young People and Child Guardian Act 2000* (CCYPCGA).

Clause 35 omits section 246G (Preparation of supplementary report) requiring the chief executive to prepare a supplementary report if given a notice under the CCYPCGA to reflect the disbanding of the CDCRC.

Clause 36 amends section 246H (Chief executive to give report to State Coroner) by replacing sub-section(1)(a) with new sub-section (1)(a) to clarify that the chief executive is required to give a copy of the department's original review report, and a copy of the report of the review panel about a child death to the State Coroner.

Clause 37 inserts a new chapter 7A, part 2 (Child Death Case Review Panels) to provide for the establishment of the Child Death Case Review Panels.

Division 1 Pool of panel members

New sections 246HA (Appointment – Minister may appoint a person to a pool from which a panel may be established if they have relevant expertise or they otherwise to make a valuable contribution), 246HB (Minister may obtain criminal history report), 246HC (Term of office not more than 2 years) and 246HD (conditions of appointment – fixed by the Minister) provides that the Minister may appoint persons to a pool from which panel members are chosen.

Division 2 Establishment and operation of panels

New section 246HE (Establishment) provides that the Minister may establish Child Death Case Review Panels to carry out independent review required under chapter 7A part 1.

New section 246HF (Allocation of reviews) provide for each review carried out by the chief executive under part 1, the Minister must establish a review panel or nominate an existing review panel to carry out a review of the chief executive's review. Once established, a particular panel may be required to undertake several reviews. This is made clear in section 246HF(2).

New section 246HG (Independence) provides that a review panel is not subject to direction by the Minister about the way the panel performs its functions.

New section 246HH (Membership) provides requirements for the composition of each panel established to ensure independence and that panel members have the knowledge and expertise required to carry out a review.

New section 246HI (Conduct of business) provides that panels may conduct its business, including meetings, in the way it considers appropriate.

New section 246HJ (Quorum) provides that quorum for a review panel is 3 members, at least 2 must not be public service employees and if the panel's review concerns the death or

serious physical injury of an Aboriginal or Torres Strait Islander child at least 1 panel member must be an Aboriginal or Torres Strait Islander person.

New section 246HK (Disclosure of interests) requires a panel member to disclose a conflict of interest to a meeting of the panel and the steps the panel must take if a disclosure is made.

New section 246HL(Annual report about review panels) provides that within 3 months after the end of each financial year the chief executive must prepare and give a report to the Minister about the operations of review panels, including action taken by the chief executive in response to reports by panels during that financial year.

Clause 38 omits sections 248 (Annual reporting about child protection matters) and 248A (Acting in support of the children's commissioner). Relevant agencies will now be required to contribute information to annual reports to the Premier about the implementation of the child protection reforms. This report will be based on a reporting framework currently being developed by the Implementation Taskforce within the Department of the Premier and Cabinet.

Clause 39 inserts a new chapter 9 part 9 Transitional provisions for Child Protection Reform Amendment Act 2014 that provide transitional provisions for uncompleted child death case reviews on commencement of the Act.

Clause 40 updates a range of terms included in schedule 3 (Dictionary) as a result of amendments made.

Part 3

Clause 41 states that this part amends the *Childrens Court Act 1992*.

Clause 42 amends section 8 (Directions) to renumber subsection 8(4) as 8(5) and inserts a new sub-section (4) to clarify that the Chief Magistrate may issue directions of general application with respect to the procedure of the court when constituted by a Childrens Court magistrate, magistrate or justices.

Clause 43 inserts a new section 8A (Leadership of the court) to provide functions for (1) the President and (2) the Chief Magistrate.

Clause 44 amends section 10 (Functions of president) to be consistent with the functions outlined in section 8A and to also include functions conferred by this or any other Act.

Clause 45 omits section 14A (Term of office) which limits the maximum term of a Childrens Court magistrate (currently five years). This means that all Childrens Court magistrates will have continuing appointment rather than having a maximum term of appointment of five years.

Clause 46 amends section 21 (Court sitting times) to reflect directions of the President or Chief Magistrate may be made under section 8.

Clause 47 inserts new part 7 division 5 Transitional provision for Child Protection Reform Amendment Act 2014 that provides a transitional provision for the term of office of any current Children Court magistrates. This clause states that any current Childrens Court magistrates' appointment continues on the same conditions until the person ceases to hold office under section 15 despite a term of appointment currently stated in the person's instrument of appointment.

Part 4

Clause 48 states that this part amends the *Commission for Children and Young People and Child Guardian Act 2000*.

Clause 49 amends the long title to become 'An Act to establish a scheme requiring the development and implementation of risk management strategies, and the screening of persons employed in particular employment or carrying on particular businesses, to promote and protect the rights, interests and wellbeing of children in Queensland'.

Clause 50 removes chapter 1, part 1 heading.

Clause 51 amends the short title of the Act to *Working with Children (Risk Management and Screening) Act 2000*.

Clause 52 inserts:

- a revised section 5 'Object of Act' with a focus on risk management strategies and screening
- a revised section 6 'Principles for administering this Act'
- a new section 7 which identifies the Public Safety Business Agency (PSBA) to administer this Act
- a new section 8 which provides the chief executive's functions to administer an employment screening scheme under this Act.

Clause 53 and 54 removes chapters 2 to 4 and chapters 6 and 7. These chapters have been removed because they do not relate to the business of working with children screening which is now the object of this Act. The roles and functions referred to in these chapters have been transferred to other agencies.

Clause 55 amends chapter 8 references to 'commissioner' or 'Commissioner'. Sub section (1) will insert the title 'chief executive' to align with the organisational structure of the PSBA. Subsection (2) clarifies that sub section (1) will not apply where the reference relates to 'police commissioner'.

Clause 56 amends chapter 8 references to 'commissioner's'. Sub section (1) will omit the reference to 'commissioner's and insert 'chief executive's' in its place to align with the organisational structure of the PSBA. Subsection (2) clarifies that sub section (1) will not apply where the reference relates to 'police commissioner's'.

Clause 57 omits sections 154 and 155.

Clauses 58 and 59 amends section 235 (Department to be given particular advice) and section 293 (Department to be given particular advice) to align with the PSBA organisation and role title references.

Clause 60 amends section 345 (Use of information obtained under this chapter about a person) to align with the PSBA.

Clauses 61 to 63 amends chapter 8A to ensure references align to the PSBA organisation and role title references.

Clauses 64 to 65 amends section 357D (Person seeking to be engaged by commission must disclose criminal history); and 357E (Person engaged by commission must disclose changes in criminal history) to align with the PSBA organisational structure.

Clause 66 omits chapter 8A, part 4 (Employment screening of persons engaged, or to be engaged, in child-related duties) as employees will no longer be in regulated employment or undertaking child-related duties.

Clause 67 amends section 557O (Application of div 1) to omit ‘or child-related duties’ from sub-section (2).

Clause 68 amends section 357R (Use of information obtained under this chapter) to align with PSBA role title references.

Clause 69 amends section 357T (Guidelines for dealing with information) to align with PSBA role title references.

Clauses 70 and 71 amends chapter 9, part 2 heading (QCAT to give statistical information to commissioner); and section 368 (QCAT’s principal registrar to give statistical information to commissioner) to refer instead to the ‘chief executive’ to align with the PSBA role title.

Clause 72 amends chapter 10 (General), part 2 (When commissioner may give notice other than in writing) to remove reference to the ‘commissioner’ and instead refer to the ‘chief executive’ to align with the PSBA role title.

Clause 73 amends section 374 (Commissioner must keep record) to remove reference to the ‘Commissioner’ and instead refer to the ‘chief executive’ to align with the PSBA role title.

Clause 74 replaces section 376 (Evidentiary provisions) and removes references to the ‘commissioner’, ‘the assistant commissioner’ or a ‘community visitor’ and replaces this with ‘chief executive’ to align with the PSBA role title.

Clause 75 amends section 377 (Indictable and summary offences).

Clause 76 removes section 382 (Allegations of false or misleading information or statements) because it relates to child guardian functions.

Clause 77 amends section 384 (Confidentiality of information about criminal history or related information), sub section (1)(a) by removing references to the ‘commissioner’, the ‘assistant commissioner’, ‘a staff member’ or ‘selection panel member’ and replaces these

references with ‘chief executive’, or ‘a public service employee of the department’ to align with role titles within the PSBA. Sub section (2) amends 384(1)(b), after ‘applied by’ inserts ‘previous’. Sub section (3) removes section 384(5)(a) to (d) and inserts new sub sections that capture confidentiality provisions relating to the ‘chief executive’, ‘another public service employee of the department’, ‘a member of the Minister’s staff’, and ‘the Minister’.

Clause 78 amends section 385 (Confidentiality of other information) to align with PSBA organisation and role title references.

Clause 79 removes section 386 (Disclosure of information about investigations) as this relates to child guardian functions.

Clause 80 removes chapter 10 (General), part 5 (Reprisals).

Clause 81 amends section 393 (Protection from liability) to ensure definitions align with PSBA role titles.

Clause 82 removes section 394 (Whistle-blowers’ protection) as it relates to individuals who disclose information to the commissioner in the assessment or investigation of a complaint (child guardian functions).

Clause 83 amends section 395 (Other reports by commissioner) and removes references to ‘commissioner’ and ‘commissioner’s’ and replaces these with ‘chief executive’ and ‘chief executive’s’. Sub section (4) sets out obligations for the chief executive to include information about the number of times the Minister asked the chief executive for a report under section 395, within the department’s annual report.

Clause 84 removes section 396 (Annual report by commission) as the Commission for Children and Young People and Child Guardian will cease to exist from 1 July 2014.

Clause 85 amends section 397 (Commissioner may enter into arrangement about giving and receiving information with the police commissioner) by removing reference to the ‘commissioner’ and replacing it with ‘chief executive’ to align with the PSBA role title.

Clause 86 amends section 398 (Commissioner may enter into arrangement with chief executive (child safety)) by removing reference to the ‘commissioner’ and replacing it with ‘chief executive’ to align with the PSBA role title.

Clause 87 amends section 399 (Delegation by commissioner or assistant commissioner) by removing reference to the ‘commissioner’ and replacing it with ‘chief executive’ to align with PSBA role title. The clause provides that the chief executive may delegate functions under the Act to an appropriately qualified public service employee of the department or another individual who the chief executive considers is an appropriately qualified person.

Clauses 88 and 89 amends section 400 (Approved forms) and section 401 (Regulation-making power) by removing reference to the ‘commissioner’ and replacing it with ‘chief executive’ to align with the PSBA role title.

Clause 90 inserts a new chapter 11, part 17 Transitional provisions for Child Protection Reform Amendment Act 2014 to appropriately transition business commenced under the CCYPCGA and required or not yet finalised before the commencement of the amended Act.

Clause 91 amends schedule 1 (Regulated employment and businesses for employment screening) to replace reference to government service provider with government entity or a local government.

Clause 92 updates a range of terms included in schedule 7 (Dictionary) as a result of amendments made.

Part 5

Clause 93 states that this part amends the *Magistrates Act 1991*.

Clause 94 amends section 12 (Functions of Chief Magistrate) to also provide the Chief Magistrate with power to do all things necessary or convenient to be done for ensuring the orderly and expeditious exercise of the jurisdiction and powers of the Childrens Court when constituted by Childrens Court magistrate, magistrate or justices, including deciding for the Childrens Court Act 1992 the magistrates or justices who are to constitute to the Childrens Court at particular places and times, and under the Childrens Court Act 1992 issuing directions about the procedure of the Childrens Court when constituted by a Childrens Court magistrate, magistrate or justices.

Part 6

Clauses 95 states that this part amends the *Ombudsman Act 2001* (Ombudsman Act).

Clause 96 amends section 57B to reflect changes in the oversight of child deaths case reviews from the CCYPCG to the Chief Executive (Child Safety).

Clause 97 amends section 86 (Delegation) to allow the ombudsman to delegate powers and functions to an appropriately qualified officer of the Ombudsman, including the power to make reports or recommendation.

Clause 98 inserts new part 12, division 3 Provisions for Child Protection Reform Amendment Act 2014 that provide for transitional arrangements to allow complaints made to the CCYPCG or made in the Commissioners own name before commencement of this Act to be dealt with as if they were made under the Ombudsman Act. Section 108 provides that documents and other information held by the Commissioner relating to a complaint become documents and other information held by the Ombudsman under the Ombudsman Act. Section 109 provides that any requirements or requests made by the Commissioner before commencement that have not been complied with, lapse after commencement.

Clause 99 amends schedule 3 (Dictionary) as a result of amendments made.

Part 7

Clauses 100 states that this part amends the *Public Health Act 2005*.

Clause 101 amends section 7 (How object is mainly achieved)

Clause 102 amends section 186 (Relationship with Child Protection Act 1999) to include reference to mandatory reporting obligations that contained in the *Child Protection Act 1999*.

Clause 103 omits chapter 5, part 3, division 5—(Notification of child abuse and neglect) as a consequence of consolidating and standardising mandatory reporting requirements for all relevant persons in the *Child Protection Act 1999*.

Clause 104 amends section 198 (Designated medical officer must notify person in charge of facility where child held) to be consistent with mandatory reporting obligations that are contained in the *Child Protection Act 1999*.

Part 8

Clause 105 lists the remaining provisions of Acts which are amended in a minor or consequential way as per schedule 1.