

Oranga Tamariki (Responding to Serious Youth Offending) Amendment Bill

Government Bill

As reported from the Social Services and Community Committee

Commentary

Recommendation

The Social Services and Community Committee has examined the Oranga Tamariki (Responding to Serious Youth Offending) Amendment Bill and recommends by majority that it be passed. We recommend all amendments by majority.

Introduction

The bill would amend the Oranga Tamariki Act 1989 to establish a “young serious offender” (YSO) declaration and a “military-style academy order”.

The Youth Court would be able to declare a young person a YSO if:

- they were aged between 14 and 17 at the time of their offending
- they have committed two or more specified offences under the Act (offences punishable by imprisonment for 10 years or more)
- the Youth Court judge is satisfied, on reasonable grounds, that the young person is likely to reoffend, previous interventions have been unsuccessful, and the declaration is necessary to reduce the risk of reoffending and ensure compliance with Youth Court orders.

The YSO declaration would allow the Youth Court and the New Zealand Police to use different and faster responses to offending by that young person. This could include stronger Youth Court orders, additional sentencing considerations, placement considerations, and monitoring.

A military-style academy order would allow the Youth Court to order a young person with a YSO declaration to take part in a military-style academy programme if they were aged between 15 and 17 at the time of their offending. In these programmes,

YSOs would undertake military-style activities to support their health, learning, and wellbeing, as well as specific rehabilitative, therapeutic, and cultural aspects. Orders would last between 3 and 12 months.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

Our proposed amendments are intended to:

- address minor and technical issues
- support the practical use of electronic monitoring
- ensure that the Youth Court can respond appropriately to any reoffending near the end of the YSO declaration and any breaches of order conditions to which a YSO is subject
- extend the Ombudsman's jurisdiction to qualifying providers
- provide additional safeguards around the use of physical force.

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss all minor and technical issues.

Young Serious Offender declarations

Clause 4 of the bill would implement the main YSO declaration scheme by inserting sections 320A to 320RB into the Act. We recommend some amendments for clarity and to improve the workability of YSO declarations.

Charges admitted at a family group conference

Proposed section 320E states that a prosecutor may apply for a YSO declaration to be made in respect of a young person no later than 10 working days after the charges against the young person are "proved in the Youth Court or admitted by the young person at a family group conference". We note, however, that even when a young person admits to offending, the charges are not considered proven until that admission is recorded by the Youth Court. We therefore recommend amending new section 320E so that an application for a YSO declaration could not be made until an admission by the young person has been accepted by the Youth Court and charges recorded as proven.

We recommend similar changes throughout other provisions that refer to charges being "admitted at a family group conference" (such as proposed section 320O(3)(a)).

Responding to a YSO's further offending or breach of conditions of an order

We consider that there may be situations where a young person may require a YSO response to be followed by a standard Youth Court response when their YSO declar-

ation ends before their court orders. Our proposed amendments are intended to address concerns that, when nearing the end of a YSO declaration, the court would be very limited in its response to a YSO's further offending. It would only be able to make certain YSO specific orders (some of which are discharged when the declaration ends) and unable to make some standard Youth Court orders.

The committee's amendments mean the Youth Court would be able to make a standard Youth Court order to immediately follow on from a YSO-specific Youth Court order. The total length of these orders combined cannot exceed the equivalent duration of an order made in respect of a young person who is not a YSO.

We recommend inserting new sections 320RA and 320RB to make clear what would happen if a YSO were being sentenced for further offending or is being re-sentenced following non-compliance with their Youth Court order, and the end of their YSO declaration is nearing. Under our proposed sections 320RA and 320RB, if the Youth Court were to respond to a YSO's further offending or a YSO's failure to comply with certain conditions of an order to which they are subject, the court could at the same hearing:

- make an order with YSO-specific features for only the period that the young person is still subject to the YSO declaration
- make a second order that applies immediately after the YSO's declaration ends and that has non-YSO-specific features.

Family group conferences

Family group conferences are an important part of the youth justice system. Accordingly, proposed section 320H would require a family group conference to be called if the prosecutor is considering applying for a YSO declaration. This would enable the family group conference to consider how a young person should be dealt with if the court was to make the declaration.

We recommend amendments to guarantee the right, before any YSO declaration is made, for a family group conference to specifically consider how the young person should be dealt with if that young person is declared a YSO. This includes specifying that the chief executive of Oranga Tamariki (or their representative) is entitled to attend these conferences.

Orders that may be made in relation to YSOs, and consequences for non-compliance

Clauses 5 to 39 detail various orders that the Court could make in relation to YSOs and the consequences should they fail to comply with their order conditions or reoffend. We propose several amendments to these clauses, discussed below.

Electronic monitoring and curfew provisions

Clauses 21 and 22 would amend sections 296J and 296K, and clause 25 would insert new sections 308AA and 308AB. Together, they clarify how curfews with electronic monitoring would operate in practice.

We recommend amending these provisions to support the practical implementation of curfews and electronic monitoring. Our changes would:

- require the court to specify the start date of the curfew condition, so that the young person or YSO has time to make any necessary arrangements to travel to their approved curfew address and have the electronic monitoring equipment installed before the first curfew (clause 21, proposed section 296J(2), and clause 25, proposed section 308AA(2))
- specify that a young person or YSO who is subject to an electronically monitored curfew can leave their address, with the approval of Oranga Tamariki, for non-urgent medical or dental treatment (clause 21, proposed section 296J(5)(c)(iaaa), and clause 25, proposed section 308AA(4)(c)(iaaa))
- provide clarity and consistency about what information can be collected from electronic monitoring, and how the information can be used (clause 22, proposed section 296K(4) and clause 25, proposed section 308AB(4)).

We also note that proposed subsections 296K(2) to (4), as introduced, refer only to YSOs who are subject to electronic monitoring. This section would apply to all young people subject to electronic monitoring under the Act, not just young serious offenders. We therefore recommend amending these provisions to refer to a “young person”, rather than only to YSOs.

YSO declarations imposed in response to failure to comply

Section 296B of the Act states that if a “young person has without reasonable excuse failed to comply satisfactorily with a term, condition, or other requirement of an order”, a police constable (in relation to a curfew condition imposed on an intensive supervision order) or Oranga Tamariki can apply to the court for a declaration of non-compliance. If the court is satisfied that the young person has failed to comply with their order, the court may decide to take certain actions such as cancelling the young person’s existing order and imposing a new order.

We recommend amending clause 43 to insert section 296B(3)(d) to clarify that if the court makes a YSO declaration, the declaration could be made on its own, or concurrently with orders made under section 296B(3)(a), (b), or (c).

Military-style academy orders

Clause 40 would insert new sections 320S to 320ZE to implement military-style academy orders. Part 2, Subpart 2 of the bill contains several other amendments to the Act relating to military-style academy orders. We discuss our proposed changes to these provisions below.

Qualifying providers

Clause 52 as introduced proposes inserting several definitions related to military-style academy orders into section 2 of the principal Act. One of these is “qualifying provider”, which is defined as being one of the following:

- a body or an organisation approved as a community service for the purpose of providing any part of a military-style academy programme
- a department (as defined in section 5 of the Public Service Act 2020) or a Crown entity (as defined in section 7 of the Crown Entities Act 2004) that is prescribed in regulations made under this Act.

We consider it extremely important that all providers contracted by the ministry for the purposes of military-style academies are suitably qualified and appropriate for these situations. We therefore propose some amendments to strengthen safeguards relating to qualifying providers.

Section 403 of the principal Act states that the chief executive may, on application, approve any service as a community service provider for the purposes of the Act. We recommend amending clause 52 to make it clearer that, to be a qualifying provider for military-style academies, a body or organisation must be approved as a community service provider under section 403.

To complement this, we also recommend amending the regulation-making power in section 447(1) of the Act (through clause 58). It would make it clearer that regulations may set out the actions or steps that must be taken to assess the safety and suitability of a community service provider and their approved workers, and to approve them for the purposes of any part of a military-style academy programme.

Ombudsman oversight and monitoring

Because of the importance of ensuring that qualifying providers are fit for purpose, we also recommend that the Chief Ombudsman be given authority to investigate any complaints against qualifying providers. To achieve this, we recommend amending the bill's Schedule to add "qualifying providers" to the definition of "care or custody providers" (which the Ombudsman already oversees) in the Oversight of Oranga Tamariki System Act 2022. This would ensure consistency with the way that oversight and monitoring systems currently function, and provide greater monitoring, investigative powers, and proactive reporting from qualifying providers.

Use of physical force

Proposed new section 320W would authorise qualifying providers and the ministry's staff to use reasonable force in military-style academies in certain situations. Many submitters expressed concern about the use of physical force on young people, and suggested that the powers given under section 320W might not be administered safely. In response to these concerns, we recommend inserting additional safeguards and ensuring that this section is consistent with the ministry's current operational practices.

We recommend that proposed section 320W be amended to:

- stipulate that non-physical de-escalation approaches must be the first approach wherever possible, and that the use of force must always be a last resort

- make clear that using “physical force”, as authorised in the section, excludes mechanical restraints (such as handcuffs, head protectors, spit hoods, torso restraints, and waist restraints)
- require that any young person must be examined by a health professional as soon as practicable after any physical force is used (we understand that this is current practice for adults in justice facilities).

These amendments would apply to approved workers of qualifying providers and the ministry’s staff. For consistency, we also recommend that a similar exclusion for mechanical restraints is made to section 312, via clause 61 (relating to supervision with residence orders). We also recommend amending proposed new section 320W(6) to clarify that section 312 does not limit any other legislation that authorises a person to use physical force, or any rule of law that provides a justification or defence for the use of force.

Subsection 320W(5) provides that information about the use of force must, where it is required by regulations made under the Act, be recorded and provided in writing to the chief executive and any other person specified in the regulations. We would prefer to see new requirements set out, and a process for recording and notifying the use of force, to make it explicit that any use of force must be recorded in line with the ministry’s operational practice. To do so, we recommend that the words “wherever required by regulations made under this Act” be removed and that the related new regulation-making powers be amended accordingly.

New Zealand Labour Party differing view

The New Zealand Labour Party opposes this bill in its entirety. There are multiple reasons for this opposition, too many to detail here. Outlined below are the Labour Party’s key issues with the bill.

- Military-style approaches to youth offending do not work and can cause harm. This bill should never have been drafted.
- The Royal Commission into Abuse in Care highlighted decades of egregious neglect, abuse, and harm of young people, including in military-style youth justice programmes. Today, young people continue to experience abuse and harm in youth justice facilities, both from their peers and from staff. The Royal Commission recommended a move away from institutionalisation because it is harmful. This bill further ingrains it.
- As Mana Mokopuna said in their submission, “nothing that is ‘military-style’ in character should be written into New Zealand law as a sentencing option or be used in the rehabilitation of mokopuna—interventions need to be informed by the evidence base of what works to prevent cycles of offending and give effect to our obligations under the UN Convention on the Rights of the Child and Te Tiriti”. This bill will entrench a failed and dangerous approach to youth justice and should not proceed.

- The bill was supposed to be adjusted for learnings from the pilot military-style academy. The very nature of a “pilot” is that it tests an approach, learns from it, and then puts something wider into place. The pilot has not finished but the bill is being pushed through Parliament.
- There was no consultation on the bill, including with young people and families.
- Approximately 85 percent of young people directly affected by this bill will be Māori. The bill potentially breaches Te Tiriti o Waitangi: it was not developed in partnership with Māori, there was no consultation, and there was no reasonable, good faith engagement.
- This bill is discriminatory. Because military-style approaches risk causing harm, and Māori, Pasifika, rangatahi whaikaha, and rangatahi with neurodiversities and neurodisabilities are overrepresented in the youth justice system, it will be these already vulnerable groups of young people who bear the brunt of this risk.
- The labelling of young people as “Young Serious Offenders” risks stigmatising them far beyond their youth and could have negative impacts on them throughout their lifetime. We heard from submitters that this is not required administratively.
- The bill introduces additional use-of-force powers to providers of military-style academies, including third-party providers. This could include instances whereby young people are outside of a youth justice residence. Currently, aside from the Police, use-of-force powers are only allowed within youth justice residences. Even in those situations, this is problematic, with evidence of its inappropriate use against detained young people. The extension of use-of-force powers is of deep concern and should not be being considered.
- There is a great deal of detail that has been left to regulations, including the implementation, operation, and monitoring of military-style academy programmes and providers, safeguards for the use of force, and actions that must be taken to ensure the young person subject to the young serious offender declaration receives the appropriate standard of care. The Royal Commission into Abuse in Care found that abuse in care was facilitated by a lack of standards, as well as a lack of their implementation and enforcement. Leaving details that can assist in upholding and promoting the safety and wellbeing of young people to secondary legislation is unacceptable.
- New Zealand’s family group conferences are a cornerstone of the youth justice system and have been shown to reduce the frequency and seriousness of offending. Removing the requirement for a family group conference when a young person declared to be a young serious offender commits an offence while they are subject to this declaration goes against the intent of the bill. It also denies the young person an opportunity for restorative justice and limits the ability for active whānau engagement, among other adverse impacts.

The Labour Party opposes this bill in the strongest terms and believes it has no place in legislation.

Green Party of Aotearoa differing view

The Green Party of Aotearoa is opposed to this bill in its entirety. We join the call from experts, criminologists, psychologists, youth and social workers, parents, and mokopuna themselves who continue to advocate for responses to youth offending that actually work, unlike this bill.

Criminalising young people and setting them up for a lifetime of incarceration has never worked, and this bill is no different to the failed, punitive approaches of the past. This bill is offence-based rather than child-centred.

This bill sets out to respond to a particular group of young people who have demonstrated serious and persistent offending for whom the youth justice, and wider justice system, is not working for.

Youth Crime in New Zealand

Even though some youth offences, like ram raids, are highly visible, youth crime in New Zealand is in decline and has been for some time. There has been a significant decline in youth crime since a spike during the COVID-19 lockdowns. This point proves that young people are more likely to offend when they do not have access to their wider support and community networks. During the lockdowns, children were not in school, not in sport, and not able to engage in community activities. Despite youth crime decreasing steadily over the years except for the spike during COVID-19 lockdowns, there has been a 125 percent increase in secure residence beds over the last 25 years (up from 76 to 171). Many countries such as Norway, Scotland, and Wales are moving away from the youth prison style of response and towards far smaller, in situ, secure remand homes for young people. We repeat our call for youth justice residences to be closed down altogether.

Young Serious Offender label

This bill proposes to designate young people charged under certain circumstances a criminal label of Young Serious Offenders, or “YSOs” as some refer, to human beings. We find the concept of a label for young people repugnant and morally indefensible.

There is absolutely no administrative benefit behind labelling young people as such. We heard from the Criminal Bar Association, YouthLaw, and other groups who work in the courts with young people, who affirmed that these criminal labels have no practical purpose or benefit. We already know if people are young because their age is noted when they come before a court or family group conference. We also can assess their record of repeat offending by checking each individual’s criminal record.

Labels like these are self-fulfilling prophecies that negatively impact the way that young people see themselves and their futures. This is like when a court judge named a group of young men as “mongrels”, who would go on to wear that label as a badge

of honour, going on to form the Mongrel Mob. Labels are powerful, especially for young people who will live up to the labels that we assign to them.

A previous, similar regime in Victoria, Australia found that this approach of labelling a category of young people who have offended was “a blunt tool and not well tailored for the policy objectives it is designed to achieve.” They also found that the YSO regime became a self-fulfilling prophecy—being labelled a “YSO” became a milestone and a goal for some young people, rather than a deterrent to offending.

Military-style academies = bootcamps

There is no international or national evidence whatsoever that military-style interventions work to reduce crime. There is plenty of evidence that underlines the trauma that can be inflicted by these military style, “short, sharp, shock” type interventions like the ones provided for in this bill.

In New Zealand, we have already tried bootcamps as a response to youth offending. In the recent Royal Commission of Inquiry into Abuse in State Care and in the Care of Faith-Based Institutions, there is an entire chapter in the report called “Bootcamp” which talks about the abuse endured by young people in various bootcamps, borstals, and detention centres across New Zealand. The Bootcamp chapter of the report focuses on Te Whakapakari bootcamp programme run on Great Barrier Island, and the abuse and torture that was endured by young people in that bootcamp.

There were three key factors identified in the Te Whakapakari bootcamp that helped to create an environment where abuse and assaults took place against young people:

1. The bootcamp was run in an isolated location.
2. There were not sufficient safeguards in place to protect children.
3. Many of the staff were untrained.

We see no difference between these conditions and the bootcamps as they have been piloted. First, they are happening in an isolated setting. Most of the participants in the bootcamp pilot are from Auckland and were transported down to Palmerston North far away from their family and community support networks. There were no safeguards in place for these young people because the legislation to run the bootcamps was not yet in place.

As if the examples from the 1970s were not enough, the John Key National Government also trialled bootcamps in the last National Government which also failed. We struggle to see why this Government has chosen to resurrect such failed policies, despite overwhelming public opposition.

The pilot

There was a pilot of the military-style academies that was run. We are not sure what the pilot was for, given it did not replicate what this legislation enables, and this legislation was created before the pilot had been completed or evaluated. This means that any lessons learnt from the pilot were not applied to the legislation. A pilot should try as hard as possible to replicate the conditions it is meant to operate with in real life.

This is how the pilot differs from the conditions proposed in the bill:

1. The pilot was voluntary, not compulsory as proposed in the bill as a sentencing option.
2. The pilot was 12 weeks, the bill proposes up to 12 months.
3. Incentives were offered to pilot participants such as less time in detention.
4. The pilot had far more resources than most youth justice residences have to run military-style academies.
5. Pilot participants had not been designated as Young Serious Offenders as proposed in the bill, which may have affected their experience.

As noted in the evaluation of the pilot, there was insufficient time to properly design the pilot. Tight timeframes and significant scrutiny would have impacted the pilot too. We assume there was a desire to make the pilot a success by any means necessary as opposed to finding out what these young people really need and whether there could be any success behind a bootcamp response.

Entrenching bootcamps as a sentencing response in legislation without completing the evaluation of its pilot programme is premature at best and cynical at worst.

Comparisons have been made between the Limited Service Volunteer (LSV) programme that the New Zealand Defence Force facilitates and the military-style academies this Government is seeking to introduce. There are major differences between these programmes, the major one being that the LSV programme is voluntary. The New Zealand Defence Force expressed serious concerns to Oranga Tamariki and the Government around the bootcamps. Many submitters commented that a military-style, “short, sharp, shock” approach would be detrimental in reducing reoffending and could further traumatise vulnerable young people.

Use of force against children

This bill allows for Police and third party providers to use force against young people to prevent them from absconding. This was a major point of contention for submitters, with many organisations who work with young people explaining that there is never a justification for using force or violence against young people. Using force against young people only justifies the use of violence as a tool to getting what you want. One submitter made the point that children do not try to escape environments where their needs are being met. We agree with this point and are concerned that Police chases and the use of violence could have irreversible consequences for young people involved in these situations.

On the point of absconding, there have been reports that have come out criticising practice within youth justice residences. One youth justice residence that continues to come up in the media and in independent monitoring is Korowai Manaaki Youth Justice Residence in Auckland. The Independent Children’s Commissioner and her team who monitor compliance with the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman, Degrading Treatment or Punishment (OPCAT) found concerning results from their unannounced visit in 2024, including inappropriate

behaviour from staff, presence of contraband, and “many staff” not having the experience of training to work with vulnerable children. Sadly, this bill looks to punish young people for attempting to leave these environments, as opposed to materially improving those conditions.

Royal Commission of Inquiry into Abuse in State Care and in the Care of Faith-Based Institutions

The final report on the abuse, torture, and neglect of children, young people, and adults in the care of state and faith-based institutions in New Zealand between 1950 and 1999 made key recommendations that interact with this bill. These are recommendations 70 to 75, which call for institutional environments and practices to be minimised and ultimately eliminated. This includes Oranga Tamariki care and protection residences, youth justice residences, and state-run military-style bootcamps. At the reading of the official apology by the Crown to survivors of abuse in state care, we heard many survivors shout “No more bootcamps” from the public gallery.

Conclusion

To conclude, we wish to note that it is particularly cruel to continue to be “tough” on young people who have had some of the toughest lives imaginable. They are young people who come from communities where there is widespread poverty. Economic poverty, cultural poverty, and poverty of opportunity. These are children who have spent their lives being punished—regardless of whether they have been good, bad, or have not done anything at all. Punishment will never work for these vulnerable young people, who need help to be accountable, and above all, need aroha and community to heal.

Programmes that have been successful at both achieving accountability and reducing recidivist offending are Kotahi te Whakaaro fast-track programme, the Pride Project based in Manurewa, hapū- and iwi-led programmes that help young people to get their driver’s licenses and do training and jobs certification, and many others. This is where we should be throwing our time, attention, and resources. Not to punitive measures that entrench lifetimes of criminality and wasted human potential.

Te Pāti Māori differing view

Te Pāti Māori unequivocally opposes this bill. Its very design is fundamentally flawed and will only deepen the systemic inequities that tamariki Māori face within the state care system. The Royal Commission of Inquiry into Abuse in State and Faith-Based Care (Whanaketia) made it abundantly clear that bootcamps cause irreversible harm. Our stance in opposition to this bill is informed by the recommendations made within Whanaketia and in alignment with Te Tiriti o Waitangi.

From a tikanga Māori perspective:

- Mana Motuhake: we did not sign Te Tiriti o Waitangi for our tamariki to be incarcerated and continually traumatised. Allowing the Crown to designate

tamariki Māori as “Young Serious Offenders” and forcing them to attend military-style bootcamps will greatly diminish our mana motuhake.

- **Mana Ōrite:** 90 percent of the tamariki in the pilot bootcamps were Māori. These military-style camps, and the YSO declarations, will disproportionately impact Māori, just like every other aspect of our justice system.
- **Mana Mokopuna:** bootcamps have never been an effective tool to rehabilitate our mokopuna. The Abuse in Care report supports this notion with substantive evidence.

Military-style academies

There is an abundance of international and local evidence that shows the core features of bootcamps—or “military-style academies”—including strong discipline and structure, are antithetical to rehabilitation. The distinctive features of bootcamps do not reduce reoffending, they only produce harm. In Whanaketia—Through pain and trauma, from darkness to light, an entire booklet was dedicated to the harm that has been caused by bootcamps.

Tamariki Māori are 8.4 times more likely to end up in youth court, and 80 percent more likely to be impacted by this bill. In this instance, Te Pāti Māori absolutely rejects the use of military-style academies in our justice system, especially given that our tamariki will be most impacted by them.

Labelling Young Serious Offenders

Labelling our tamariki as “Young Serious Offenders” is not only dehumanising, but it feeds a dangerous narrative that our tamariki will seek to embody. Countless evidence and a large volume of submissions received by select committee rejects this absolute unethical labelling of our tamariki.

No Government, or any individual, has the right to identify and define who a child is. This label places our tamariki in serious danger of how they might perceive themselves and where they place their own value or self-worth. This basic human right must always remain with the individual in question, not Government.

Our tamariki are deserving of labels that seek to heal rather than condemn who they are. Te Pāti Māori does not condone the use of any label that will not elevate our tamariki Māori.

Use of physical force

Pairing dangerous labels with state-sanctioned use of physical force reinforces to our tamariki that they are undeserving of care or dignity. We are aware that currently 80 percent of tamariki who experience abuse within the state care system are tamariki Māori. Our tamariki are therefore at greater risk of continued abuse under this legislation. This legislation does not rehabilitate our tamariki, it punishes them instead.

When we allow “carers” to use force against our tamariki we teach them that this is a solution to conflict resolution. Tamariki cannot be scared or abused into good behaviour. Use of force will only train them into becoming as violent as their environment.

This ultimately sets them up for failure when they are transitioned from state care services and back into their communities. Such devastating lessons contribute to the reality that children who have experienced contact with the state care system are fifteen times more likely to have a corrections record by the time they are nineteen years old. Legislation such as the use of physical force naturally builds the narrative that state care is a pipeline to prison for our tamariki.

Concluding Comments:

This bill contains provisions that will cause further harm and trauma to vulnerable tamariki in Aotearoa. We need to investigate community based, mana-enhancing solutions to youth offending, rather than the demeaning and punitive approach that has been laid out in this bill.

Appendix

Committee process

The Oranga Tamariki (Responding to Serious Youth Offending) Amendment Bill was referred to the committee on 21 November 2024. We invited the Minister for Children to provide an initial briefing on the bill. She did so on 29 January 2025.

We called for submissions on the bill, with a closing date of 9 January 2025. We received and considered submissions from 5,405 interested groups and individuals. We heard oral evidence from 157 submitters at hearings in Wellington and via video-conference.

Advice on the bill was provided by Oranga Tamariki—Ministry for Children, the New Zealand Police, and the Ministry of Justice. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

Committee membership

Joseph Mooney (Chairperson)

Paulo Garcia

Hon Willie Jackson (from 12 March 2025)

Takutai Tarsh Kemp

Ricardo Menéndez March

Laura McClure

Hon Willow-Jean Prime (until 12 March 2025)

Maureen Pugh

Hon Carmel Sepuloni (until 12 March 2025)

Tanya Unkovich

Helen White (from 12 March 2025)

Mariameno Kapa-Kingi and Tamatha Paul participated in our consideration of this item of business.

Related resources

The documents we received as advice and evidence are available on the Parliament website.

**Oranga Tamariki (Responding to Serious Youth
Offending) Amendment Bill**

Key to symbols used in reprinted bill

As reported from a select committee

text inserted by a majority

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Hon Karen Chhour

Oranga Tamariki (Responding to Serious Youth Offending) Amendment Bill

Government Bill

Contents

		Page
1	Title	6
2	Commencement	6
3	Principal Act	6

Part 1

Substantive amendments to principal Act

Subpart 1—Young serious offender declarations

4	New sections 320A to 320RB and cross-heading inserted	7
	<i>Young serious offender declarations</i>	
	320A Interpretation	7
	320B Young persons in respect of whom application for YSO declaration may be made	7
	320C Police to inform youth justice co-ordinator of possibility of application for YSO declaration being made in respect of young person	9
	320D Police to inform family group conference of possibility of application for YSO declaration being made in respect of young person	10
	320E Application for YSO declaration	10
	320F Service of application	10
	320G When YSO declaration may be made	11
	320H Family group conference must have opportunity to make recommendations to court	11
	320I Matters the Youth Court must have regard to when considering application for YSO declaration	12

**Oranga Tamariki (Responding to Serious Youth
Offending) Amendment Bill**

	320J	Young serious offender declaration	12
	320K	Young person subject to 1 YSO declaration only	13
	320L	Duty of court to explain and provide written statement about YSO declaration	13
	320M	Duration of YSO declaration	14
	320N	Expiry of YSO declaration	14
	320O	Term of YSO declaration may be extended	15
	320P	Term of YSO declaration may be reduced	16
	320Q	Discharge of YSO declaration	17
	320R	YSO declaration set aside if previous finding or conviction for specified offence quashed on appeal	19
	<u>320RA</u>	<u>Further offending by young person subject to YSO declaration</u>	<u>20</u>
	<u>320RB</u>	<u>Failure of young serious offender to comply with conditions of orders, etc</u>	<u>21</u>
		Subpart 2—Orders that may be made specifically in relation to young serious offenders	
5		Section 214 amended (Arrest of child or young person without warrant)	23
6		New section 214AAA inserted (Arrest of young serious offender in breach of bail condition)	23
		214AAA Arrest of young serious offender in breach of bail condition	23
7		Section 214A amended (Arrest of child or young person in breach of bail condition)	23
8		Section 217 amended (Rights to be explained to child or young person who is arrested)	24
9		Section 221 amended (Admissibility of statements made by children and young persons)	24
10		Section 235 amended (Child or young person who is arrested may be placed in custody of chief executive)	24
11		Section 238 amended (Custody of child or young person pending hearing)	24
12		Section 245 amended (Proceedings not to be instituted against young person unless youth justice co-ordinator consulted and family group conference held)	24
13		Section 246 amended (Procedure where young person arrested and brought before court)	24
14		New section 246A inserted (Procedure where young serious offender arrested <u>charged</u> and brought before court)	25
	246A	Procedure where young serious offender arrested <u>charged</u> and brought before court	25
15		Section 247 amended (Youth justice co-ordinator to convene family group conference)	25

**Oranga Tamariki (Responding to Serious Youth
Offending) Amendment Bill**

16	Section 281 amended (Court not to make orders unless family group conference held)	25
17	Section 281B amended (Court may direct holding of family group conference at any time)	26
18	Section 283 amended (Hierarchy of court's responses if charge against young person proved)	27
19	Section 284 amended (Factors to be taken into account on sentencing)	27
20	Section 296B amended (Failure to comply)	28
21	Section 296J amended (Additional conditions imposing curfew with or without electronic monitoring of compliance)	28
22	Section 296K amended (Electronic monitoring)	29
23	Section 307 amended (Supervision with activity order)	30
24	Section 308 amended (Conditions of supervision with activity order)	31
25	New sections 308AA and 308AB inserted	31
	308AA Conditions imposing curfew and electronic monitoring	31
	308AB Electronic monitoring imposed under section 308AA	33
26	Section 308A amended (Judicial monitoring of compliance with conditions of supervision or supervision with activity order)	33
27	Section 311 amended (Supervision with residence order)	34
28	Section 316 amended (Court may cancel supervision with residence order if young person absconds or fails to comply with order)	36
29	Cross-heading above section 319A replaced	36
<i>Review of certain orders exceeding 6 months</i>		
30	Section 319A amended (Orders must be reviewed)	36
31	Section 320 amended (Report to be made to court on effectiveness of certain orders)	37
32	Section 340 amended (Written statement of terms of certain orders to be given to young person)	37
33	New section 340A <u>sections 340A and 340B</u> and cross-heading inserted	38
<i>Implementing electronic monitoring conditions</i>		
	340A Responsibility for implementing and managing electronic monitoring conditions	38
	<u>340B Delegation of functions and powers of nominated person</u>	39
34	New section 362A inserted (Placement of young serious offenders in care of approved persons)	39
	362A Placement of young serious offenders in care of approved persons	39
35	New section 365A inserted (Placement of young serious offenders in residences)	39

**Oranga Tamariki (Responding to Serious Youth
Offending) Amendment Bill**

	365A	Placement of young serious offenders in residences	39
		Subpart 3—Failure by young serious offenders to comply with specified conditions	
36	Section 296A	amended (Orders to which sections 296B and 296E apply)	40
<u>36A</u>	<u>Section 296B</u>	<u>amended (Failure to comply)</u>	<u>40</u>
37		New sections 296FA to 296FG and cross-heading inserted	40
		<i>Failure by Police powers if young serious offenders fail to comply with specified conditions</i>	
	296FA	Meaning of specified condition	40
	296FB	Application for further orders if young serious offender failed to comply with specified condition	42
	296FC	Interim suspension order pending determination of application under section 296FB	43
	296FD	Warrant to have young serious offender arrested and brought before court	43
	296FE	Execution of warrant under section 296FD	43
	296FF	Power to detain without warrant and return young serious offender who has failed to comply with specified condition	44
	296FG	Power to arrest without warrant young serious offender who has failed to comply with specified condition	44
38		Section 445A amended (Person executing warrant to produce evidence of authority and identity)	44
39		Section 445B amended (Authority to use facsimile copy of warrant)	44
		Subpart 4—Military-style academy orders	
40		New sections 320S to 320ZE and cross-heading inserted	44
		<i>Military-style academy orders</i>	
	320S	Military-style academy order	44
	320T	Effect of military-style academy order: chief executive to provide day-to-day care	45
	320U	Effect of military-style academy order: authority to require uniform	46
	320V	Effect of military-style academy order: authority to detain	46
	320W	Effect of military-style academy order: authority to use reasonable force	46
	320X	Youth Court must make supervision order in conjunction with military-style academy order	48
	320Y	Youth Court may make orders for access and exercise of other rights by parents and other persons	49

**Oranga Tamariki (Responding to Serious Youth
Offending) Amendment Bill**

320Z	Search without warrant in connection with military-style academy order	49
320ZA	Military-style academy order to cease to run if eligible young serious offender absconds	49
320ZB	Youth Court may cancel or vary military-style academy order or plan if eligible young serious offender absconds or fails to comply	50
320ZC	Youth Court may cancel or vary military-style academy order or plan on compassionate grounds	50
320ZD	Youth Court may make interim suspension order while disposing of application to cancel or vary military-style academy order or plan	52
320ZE	When military-style academy order ceases to have effect	52

Part 2

Other amendments to principal Act

Subpart 1—Amendments relating to young serious offender
declarations

41	Section 2 amended (Interpretation)	53
42	Section 208A replaced (Child or young person subject to youth justice jurisdiction only until allegations of offending dealt with)	53
	208A Child or young person subject to youth justice jurisdiction only until allegations of offending dealt with unless YSO declaration made	53
<u>42A</u>	<u>Section 272A amended (Modifications and procedure for child aged 12 or 13 years charged with offence in section 272(1)(b) or (c))</u>	<u>54</u>
43	Section 296B amended (Failure to comply)	54
44	Section 316 amended (Court may cancel supervision with residence order if young person absconds or fails to comply with order)	54
45	Section 324 amended (Further provisions relating to youth advocate)	54
46	Section 334 amended (Report by social worker)	54
47	Section 351 amended (Appeals from decisions of Youth Court by young person)	55
48	Section 352 amended (Appeal by parents or guardians or other persons having care of young person)	55
49	Section 356 amended (Effect of notice of appeal on certain orders)	56
50	Section 358 amended (Presence of young person at hearing of appeal)	56
51	Section 360 amended (Notification of appeal and result of appeal to local principal manager)	57

**Oranga Tamariki (Responding to Serious Youth
Offending) Amendment Bill**

	Subpart 2—Amendments relating to military-style academy orders	
52	Section 2 amended (Interpretation)	57
53	Section 239 amended (Restrictions on power of court to order child or young person to be detained in custody)	57
54	Section 283 amended (Hierarchy of court’s responses if charge against young person proved)	57
55	Section 289 amended (Court must impose least restrictive outcome adequate in circumstances)	57
56	Section 296 amended (Expiry of orders)	58
57	Section 335 amended (Report to be accompanied by plan)	58
58	Section 447 amended (Regulations)	59
59	Consequential amendments	60
	Subpart 3—Other amendments	
60	Section 293A amended (Disqualification from driving)	60
61	Section 312 amended (Effect of supervision with residence order)	60
62	New sections 335A and 335B inserted	61
	335A Chief executive may apply to vary plan in relation to supervision with residence order	61
	335B Chief executive may apply to vary plan in relation to military-style academy order	61
63	Section 385 amended (Children and young persons who abscond)	62
	Schedule	63
	Consequential amendments	

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Oranga Tamariki (Responding to Serious Youth Offending) Amendment Act **2024**.

2 Commencement

This Act comes into force on the day after Royal assent.

3 Principal Act

This Act amends the Oranga Tamariki Act 1989.

Part 1

Substantive amendments to principal Act

Subpart 1—Young serious offender declarations

4 New sections 320A to 320RB and cross-heading inserted

After section 320, insert:

5

Young serious offender declarations

320A Interpretation

In **sections 320B to 320RB**, unless the context otherwise requires,—

proved, in relation to a charge, means a finding by the Youth Court that the charge has been proved following—

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- (a) an admission; or
- (b) a guilty plea; or
- (c) a defended hearing

~~**specified offence** means an offence committed on or after the commencement of this section that is punishable by a term of imprisonment of 10 years or more~~

15

specified offence means an offence that is—

- (a) committed on or after the commencement of this section by a person who at the time of the offending was of or over the age of 14 years but under the age of 18 years; and
- (b) punishable by a term of imprisonment of 10 years or more

20

young serious offender means a person under 19 years who is currently subject to a YSO declaration

young serious offender declaration or **YSO declaration** means a declaration made by the Youth Court under **section 320J**.

320B Young persons in respect of whom application for YSO declaration may be made

25

Application for YSO declaration

(1) An application for a YSO declaration may be made under **section 320E** in respect of a young person—

(a) who—

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- (i) is currently charged with a specified offence that has been proved ~~in the Youth Court, or admitted at a family group conference,~~ and in respect of which the Youth Court is yet to make a response under section 282 or 283; and

- (ii) ~~has on 1 or more previous occasions been charged with a specified offence that—~~
- (A) ~~was committed by the young person when of or over the age of 14 years but under 18 years; and~~
- (B) ~~has been proved in the Youth Court or resulted in a conviction in the District Court or High Court; or~~ 5
- (ii) has on 1 or more previous occasions been charged with a specified offence and at least 1 of those charges has been proved or has resulted in a conviction in the District Court or High Court; or
- (b) who is currently charged with 2 or more unrelated specified offences that have been proved ~~in the Youth Court, or admitted at a family group conference, and~~ in respect of which the Youth Court is yet to make responses under section 282 or 283. 10
- Subsequent application for YSO declaration: after previous successful application* 15
- (2) If an application for a YSO declaration in respect of a young person is made at any time after the young person has been subject to a YSO declaration (an **earlier YSO declaration**) then, for the purposes of the application, **subsection (1)** applies subject to the modification that a specified offence referred to in **subsection (1)(a)** excludes— 20
- (a) a specified offence that was committed by the young person and ~~proven~~ proved (or resulted in a conviction) before the earlier YSO declaration was made; and
- (b) a specified offence that was relied on by the court to extend the term of an earlier YSO declaration on an application made under **section 3200**. 25
- Subsequent application for YSO declaration: after previous unsuccessful application*
- (3) If an application for a YSO declaration in respect of a young person has previously been declined (an **earlier application**), then, for the purposes of any subsequent application for a YSO declaration in respect of the young person, **subsection (1)** applies subject to the modification that a specified offence referred to in **subsection (1)(a)(ii)** may be the same specified offence committed by the young person and ~~proven~~ proved (or that resulted in a conviction) before the earlier application was made (unless the specified offence has been quashed on appeal). 30 35
- Subsequent application for YSO declaration: after previous unsuccessful application and young person later fails to comply with terms or conditions of certain orders or absconds*
- (4) If an application for a YSO declaration in respect of a young person has previously been declined (an **earlier application**), then, for the purposes of any sub- 40

sequent application for a YSO declaration in respect of the young person made in proceedings under section 296B or 316, **subsection (1)** applies subject to the following modifications:

- (a) a specified offence referred to in **subsection (1)(a)**, or specified offences referred to in **subsection (1)(b)**, may be the same offence or offences committed by the young person and ~~proven~~ proved (or that resulted in a conviction) before the earlier application was made (unless the specified offence or offences have been quashed on appeal) (the **earlier offences**); and 5
- (b) for the purposes of the subsequent application, the earlier offences may be treated as current offences (despite the Youth Court having made a response under section 283 in relation to the charges filed in respect of those earlier offences). 10

Meaning of unrelated specified offences

- (5) In this section, **unrelated specified offences** means 2 or more specified offences that are unrelated because the offences— 15
 - (a) are not of the same or a similar kind; or
 - (b) are of the same or a similar kind but were committed during different incidents that were not part of a series of incidents occurring at approximately the same time. 20

320C Police to inform youth justice co-ordinator of possibility of application for YSO declaration being made in respect of young person

- (1) ~~A constable who believes that the criteria in **section 320B** would be satisfied in respect of a young person if an offence in respect of which the young person is currently charged is admitted at a family group conference or proved in the Youth Court must inform the youth justice co-ordinator of that belief.~~ 25
- (1) **Subsection (2) applies if a constable believes that the criteria in section 320B would be satisfied in respect of a young person if an offence in respect of which the young person is charged, or may be charged, is proved.**
- (2) The constable must inform the youth justice co-ordinator of their belief as soon as practicable after forming the belief ~~referred to in **subsection (1)**~~, but in any event no later than the day before the date on which the first family group conference is to be held in respect of the alleged offending ~~alleged to have been committed by the young person that may result, or has resulted, in the young person being charged with a specified offence.~~ 30
- (3) This section does not apply if an application for a YSO ~~application~~ declaration is made in respect of a young person in the circumstances described in **section 320B(4)**. 35

320D Police to inform family group conference of possibility of application for YSO declaration being made in respect of young person

- (1) A constable who is attending a family group conference and who believes that the criteria in **section 320B** would be satisfied in respect of a young person if an offence in respect of which the young person is ~~currently~~ charged, or may be charged, is admitted at a family group conference or proved in the Youth Court must inform the family group conference of that belief. 5
- (2) This section does not apply if an application for a YSO ~~application~~ declaration is made in respect of a young person in the circumstances described in **section 320B(4)**. 10

320E Application for YSO declaration

- (1) An application for a YSO declaration may be made under **subsection (2) or (4)**.
- (2) A prosecutor may apply to the Youth Court for a YSO declaration to be made in respect of a young person no later than 10 working days after— 15
- (a) the current charge against the young person that is referred to in **section 320B(1)(a)(i)** is ~~proved in the Youth Court or admitted by the young person at a family group conference~~; or
- (b) the current charges referred to in **section 320B(1)(b)** are ~~proved in the Youth Court or admitted by the young person at a family group conference~~. 20
- (3) However, an application may not be made under **subsection (2)** after the court has made a response under section 282 or 283 in respect of any current charge referred to in **section 320B(1)(a)(i) or (b)** relating to specified offences against the young person. 25
- (4) A constable may apply to the Youth Court for a YSO declaration to be made in respect of a young person in respect of whom proceedings are pending under—
- (a) section 296B; or
- (b) section 316.
- (5) An application under this section must be in the form prescribed in regulations. 30

320F Service of application

- No later than 5 working days after an application is made under **section 320E**, a constable must serve a copy of the application on—
- (a) the young person who is the subject of the application; and
- (b) the lawyer or youth advocate representing the young person; and 35
- (c) the chief executive; and
- (d) a parent or guardian of, or other person having the care of, the young person.

320G When YSO declaration may be made

- (1) A YSO declaration may only be made under **section 320J** in respect of a young person after the current charge or charges against the young person referred to in **section 320B(1)(a)(i) or (b)** are proved ~~in the Youth Court~~.
- (2) A YSO declaration may only be made by the Youth Court—
- (a) at the same hearing at which the Youth Court is responding to the charge or charges by making 1 or more orders under section 283 (not being orders made under section 283(e) to (j) pursuant to section 282(3)); or
 - (b) under **section 296B(3)(d)**; or
 - (c) under **section 316(2)(c)**.

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320H Family group conference must have opportunity to make recommendations to court

- (1) Before a YSO declaration may be made in respect of a young person in the circumstances described in **section 320B(1), (2), or (3)**, a family group conference must have had an opportunity to—
- (a) consider how the young person should be dealt with if—
 - (i) any charges that may be filed, or have been filed, against the young person relating to specified offences are proved ~~in the Youth Court~~; and
 - (ii) the court ~~was~~ were to make a YSO declaration in respect of the young person; and
 - (b) make recommendations to the court accordingly.

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- (1A) Before a YSO declaration may be made in respect of a young person in the circumstances described in **section 320B(4)**, a family group conference must have had the opportunity to—

25

- (a) consider how the young person should be dealt with if the court were to make a YSO declaration in respect of the young person in proceedings under section 296B or 316; and
- (b) make recommendations to the court accordingly.

- ~~(2) If the youth justice co-ordinator has been informed of a constable's belief under **section 320C**, the chief executive is entitled to attend the family group conference referred to in **subsection (1)**, and sections 251(1) and (4) and 253 apply accordingly.~~

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- (2) When a family group conference is convened and is to consider the matters in **subsection (1)(a) or (1A)(a)** and make any recommendations under **subsection (1)(b) or (1A)(b)**,—

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- (a) the chief executive is entitled to attend the family group conference; and
- (b) sections 251(1) and (4) and 253 apply accordingly.

320I Matters ~~the~~ Youth Court must have regard to when considering application for YSO declaration

In deciding whether to make a YSO declaration under **section 320J** in respect of a young person, the court must have regard to the following matters:

- (a) the nature and circumstances of the specified offences proved to have been committed by the young person and the young person's involvement in those offences: 5
- (b) the personal history, social circumstances, and personal characteristics of the young person, so far as those matters are relevant to the specified offences and any order that the court is empowered to make in respect of the offences: 10
- (c) the attitude of the young person towards the specified offences:
- (d) the response of the young person's family, whanau, or family group to—
 - (i) the causes underlying the young person's offending, and the measures available for addressing those causes, so far as it is practicable to do so; and 15
 - (ii) the young person themselves as a result of that offending:
- (e) any measures taken or proposed to be taken by the young person, or the family, whanau, or family group of the young person, to make reparation or apologise to any victim of the offending: 20
- (f) the effect of the specified offences on any victim of the offence, and the need for reparation to be made to that victim:
- (g) any previous offence proved to have been committed by the young person (not being an offence in respect of which an order has been made under section 282), any penalty imposed or order made in relation to that offence, and the effect on the young person of the penalty or order: 25
- (h) any decision, recommendation, or plan made or formulated by a family group conference:
- (i) the causes underlying the young person's offending, and the measures available for addressing those causes, so far as it is practicable to do so: 30
- (j) any breaches of bail conditions imposed in respect of any offending by any court.

320J Young serious offender declaration

- (1) The Youth Court may, subject to **sections 320G, 320H, and 320I**, grant an application made under **section 320E** and make a YSO declaration declaring the young person who is the subject of the application to be a young serious offender if, after considering a social worker's report provided under section 334 and any other information that the court considers relevant, the court is— 35
 - (a) satisfied on reasonable grounds that—

(i)	the young person is likely to reoffend; and	
(ii)	previous interventions have been unsuccessful in reducing reoffending by the young person; and	
(b)	satisfied that a YSO declaration is necessary to—	
(i)	reduce the risk of the young person reoffending; and	5
(ii)	promote the young person’s compliance with any orders to be made under section 283 in respect of the young person.	
(2)	When exercising the jurisdiction of the court under this section in respect of an application, a Judge must record in writing the Judge’s reasons for granting or declining the application.	10
320K Young person subject to 1 YSO declaration only		
A YSO declaration may not be made under section 320J in respect of a young person who is already subject to a YSO declaration.		
320L Duty of court to explain and provide written statement about YSO declaration		
(1)	After making a YSO declaration under section 320J , the Youth Court must, before the young serious offender (the offender) leaves the court,—	15
(a)	explain to the offender, and to any parent or guardian or other person having the care of the offender, the matters specified in subsection (2) —	20
(i)	in sufficient detail; and	
(ii)	in a manner and in language that can be understood by the offender and the persons; and	
(b)	satisfy itself that the offender and any parent or guardian or other person having the care of the offender understands the matters specified in subsection (2) ; and	25
(c)	provide to the offender and the lawyer or youth advocate representing the offender a written statement setting out the matters specified in subsection (2) .	
(2)	The matters referred to in subsection (1) are—	30
(a)	the reasons why the declaration was made; and	
(b)	the term of the declaration; and	
(c)	the consequences of the declaration having been made; and	
(d)	the right under section 320P to apply for a reduction in the term of the declaration; and	35
(e)	the right under section 320Q to apply for a discharge of the declaration; and	

- (f) the right under ~~section 354(5)~~ **sections 351(1)(b) and 352(f)** to appeal against the declaration.
- (3) The court may, for the purposes of **subsection (1)(c)**, direct that the offender remain at the court for a period, not exceeding 1 hour, that may be necessary to enable the statement to be provided to the offender. 5
- (4) If it is not practicable to provide a written statement to the offender before the offender leaves the court, the statement must be provided to the lawyer or youth advocate representing the offender as soon as is reasonably practicable.
- 320M Duration of YSO declaration**
- (1) A YSO declaration continues in force for a term of 2 years from the date it is made unless 1 of the following occurs first: 10
- (a) the declaration expires under **section 320N**;
- (b) the term of the declaration is extended under **section 320O**;
- (c) the term of the declaration is reduced under **section 320P**;
- (d) the declaration is discharged under **section 320Q**; 15
- (e) the declaration is quashed on an appeal made under section 351 or 352;
- (f) ~~any specified offence proven in the Youth Court that is referred to in section 320B(1)(a)(ii) or (b) and that was relied on in making the YSO declaration is quashed on appeal;~~
- (g) ~~any conviction in the District Court or High Court for a specified offence that is referred to in section 320B(1)(a)(ii)(B) that was relied on in making the YSO declaration is quashed on appeal;~~ 20
- (f) the declaration is set aside under **section 320R**.
- (2) When ~~the 2 year term of~~ a YSO declaration ends, an order made under any of the following sections is discharged: 25
- (a) **section 283(k)(iii) or (iv)**;
- (b) **section 283(na)**;
- (c) section 307(1) for the period specified in **section 307(1A)(c) or (d)**.
- 320N Expiry of YSO declaration**
- (1) A YSO declaration expires when the young serious offender who is the subject of the declaration (the **offender**) attains the age of 19. 30
- (2) When a YSO declaration expires under **subsection (1)**, an order made under any of the following sections is discharged:
- (a) **section 283(k)(iii) or (iv)**;
- (b) **section 283(na)**; 35
- (c) section 307(1) for the period specified in **section 307(1A)(c) or (d)**.

3200 Term of YSO declaration may be extended

- (1) This section applies if a young serious offender (the **offender**) is charged with a further specified offence while subject to a YSO declaration.
- (2) A prosecutor may apply to the Youth Court for an order extending the term of the YSO declaration made in respect of the offender. 5
- (3) An application must be made no later than 10 working days after the charge referred to in **subsection (1)** is— proved.
- ~~(a) admitted by the offender at a family group conference; or~~
- ~~(b) admitted by the offender before the Youth Court; or~~
- ~~(c) proven in the Youth Court following a hearing.~~ 10
- (4) No later than 5 working days after the application is made, a constable must serve a copy of the application on—
- (a) the offender; and
- (b) the lawyer or youth advocate representing the offender; and
- (c) the chief executive; and 15
- (d) a parent or guardian of, or other person having the care of, the offender.
- (5) The Youth Court may only extend the term of the YSO declaration made in respect of the offender—
- (a) after the charge referred to in **subsection (1)** is ~~proven~~ proved; and
- (b) at the same hearing at which it is responding to the charge by making 1 or more orders under section 283 (not being orders made under section 283(e) to (j) pursuant to section 282(3)). 20
- (6) If the charge referred to in **subsection (1)** is ~~proven~~ proved before the date on which the YSO declaration expires (the **expiry date**) but the hearing referred to in **subsection (5)(b)** (the **hearing**) is later than the expiry date,— 25
- (a) the YSO declaration continues in force until the hearing; but
- (b) during the period between the expiry date and the hearing,—
- (i) any order made under the following sections to which the young serious offender is subject, and any condition imposed on the order, is suspended: 30
- (A) **section 283(k)(iii) or (iv)**;
- (B) **section 283(na)**;
- (C) section 307(1) for the period specified in **section 307(1A)(c) or (d)**; and
- (ii) the young serious offender is to be treated as if they were not a young serious offender. 35
- (7) When determining an application made under **subsection (2)**, the Youth Court must—

- (a) consider the social worker’s report provided under section 334; and
- (b) have regard to the matters specified in **section 320I**, and for this purpose the references in that section to specified offences must be read as references to the specified offence referred to in **subsection (1)**.
- (8) The Youth Court may extend the term of the YSO declaration made in respect of the offender if it is satisfied that it is necessary to do so to— 5
- (a) reduce the risk of further offending by the offender; and
- (b) promote the offender’s compliance with any orders to be made under section 283 in respect of the offender.
- (9) A YSO declaration may be extended for a period not exceeding 1 year and may be extended more than once. 10
- (10) However, a YSO declaration may not be extended—
- (a) beyond the date on which the offender attains the age of 19 years; or
- (b) for a period that will result in the declaration being in force for a period exceeding 3 years. 15
- 320P Term of YSO declaration may be reduced**
- (1) The following persons may apply to the Youth Court for an order reducing the term of a YSO declaration made against a young serious offender:
- (a) the young serious offender who is subject to the YSO declaration (the **offender**): 20
- (b) the lawyer or youth advocate representing the offender:
- (c) a parent or guardian of, or other person having the care of, the offender:
- (d) the chief executive.
- (2) An application may be made—
- (a) on 1 occasion after the YSO declaration has been in force for 12 months; or 25
- (b) on 1 occasion after the YSO declaration has been in force for 18 months; or
- (c) on 1 occasion after the YSO declaration has been in force for 12 months and on 1 further occasion after the YSO declaration has been in force for 18 months. 30
- (3) An application made by the offender must be served on the chief executive.
- (4) An application made by a person specified in **subsection (1)(b), (c), or (d)** must be served by the person on—
- (a) all of the other persons specified in **subsection (1)**; and 35
- (b) the Commissioner of Police.

- (5) The persons specified in **subsection (1)** and the Commissioner of Police are entitled to appear and be heard at the hearing of an application.
- (6) The court may grant an application and make an order reducing the term of a YSO declaration if the court is satisfied that—
- (a) there is a low risk that the offender will reoffend; and 5
 - (b) the YSO declaration is not required to promote the offender’s compliance with orders made by the court.
- (7) Whether or not the court grants an application and makes an order reducing the term of a YSO declaration, the court may, on an application made under this section,— 10
- (a) discharge any order that is made under the following sections to which the offender is subject:
 - (i) **section 283(k)(iii) or (iv):**
 - (ii) **section 283(na):**
 - (iii) section 307(1) for the period specified in **section 307(1A)(c) or (d):** 15
 - (b) reduce the term of any order referred to in **paragraph (a):**
 - (c) discharge any condition of an order referred to in **paragraph (a):**
 - (d) vary any condition of an order referred to in **paragraph (a).**
- (8) If the court grants an application and makes an order reducing the term of a YSO declaration, the court must exercise its discretion under **subsection (7)(b)** and reduce the term of any order made under the following sections to which the offender is subject if the term of that order would otherwise exceed the reduced term of the YSO declaration: 20
- (a) **section 283(k)(iii) or (iv):** 25
 - (b) **section 283(na):**
 - (c) section 307(1) for the period specified in **section 307(1A)(c) or (d).**
- 320Q Discharge of YSO declaration**
- (1) The following persons may apply to the Youth Court for an order discharging a YSO declaration: 30
- (a) the young serious offender who is subject to the YSO declaration (the **offender**):
 - (b) the lawyer or youth advocate representing the offender:
 - (c) a parent or guardian of, or other person having the care of, the offender:
 - (d) the chief executive. 35
- (2) The only grounds on which an application may be made under **subsection (1)** are compassionate grounds, including that—

- (a) the offender has given birth, or is expected to soon give birth, to a child:
- (b) the offender is seriously ill and unlikely to recover:
- (c) any parent or guardian of the offender is seriously ill and unlikely to recover.
- (3) An application made by the offender must be served on the chief executive. 5
- (4) An application made by a person specified in **subsection (1)(b), (c), or (d)** must be served by the person on—
- (a) all of the other persons specified in **subsection (1)**; and
- (b) the Commissioner of Police.
- (5) The persons specified in **subsection (1)** and the Commissioner of Police are entitled to appear and be heard at the hearing of an application. 10
- (6) The court may grant an application and discharge a YSO declaration if the court is satisfied that—
- (a) the ground on which the application is made is established; and
- (b) taking any of the following actions would not be a sufficient alternative to discharging the YSO declaration: 15
- (i) discharging any order that is made under the following sections to which the offender is subject:
- (A) **section 283(k)(iii) or (iv)**:
- (B) **section 283(na)**: 20
- (C) section 307(1) for the period specified in **section 307(1A)(c) or (d)**; or
- (ii) reducing the term of an order referred to in **subparagraph (i)**; or
- (iii) discharging any condition of an order referred to in **subparagraph (i)**; or 25
- (iv) varying any condition of an order referred to in **subparagraph (i)**.
- (7) If a YSO declaration is discharged under **subsection (6)**, any order that is made under the following sections to which the offender is subject is also discharged: 30
- (a) **section 283(k)(iii) or (iv)**:
- (b) **section 283(na)**:
- (c) section 307(1) for the period specified in **section 307(1A)(c) or (d)**.
- (8) If **subsection (7)** applies, the court may, when discharging the YSO declaration, make any other orders under section 283(c) to (o) that it considers appropriate. 35

- (9) Whether or not the court grants an application and discharges a YSO declaration, the court may, when determining an application made under this section,—
- (a) discharge any order that is made under the following sections to which the offender is subject:
 - (i) **section 283(k)(iii) or (iv):**
 - (ii) **section 283(na):**
 - (iii) section 307(1) for the period specified in **section 307(1A)(c) or (d):**
 - (b) reduce the term of an order referred to in **paragraph (a):**
 - (c) discharge any condition of an order referred to in **paragraph (a):**
 - (d) vary any condition of an order referred to in **paragraph (a).**
- 320R YSO declaration set aside if previous finding or conviction for specified offence quashed on appeal**
- (1) A YSO declaration made in respect of a young person is set aside if—
- (a) a finding by the Youth Court that a charge proved against the young person is quashed on appeal; and
 - (b) the charge related to—
 - (i) the specified offence referred to in **section 320B(1)(a)(i)** that was relied on in applying for the YSO declaration; or
 - (ii) the only specified offence described in **section 320B(1)(a)(ii)** that was relied on in applying for the YSO declaration; or
 - (iii) an unrelated specified offence described in **section 320B(1)(b)** that was relied on in applying for the YSO declaration.
- (2) A YSO declaration made in respect of a young person is set aside if—
- (a) a conviction entered in the District Court or High Court against the young person is quashed on appeal; and
 - (b) the conviction related to the only specified offence described in **section 320B(1)(a)(ii)** that was relied on in applying for the YSO declaration.
- (3) If a YSO declaration is set aside under **subsection (1) or (2)**, any order made under section 283 related to the YSO declaration is not set aside but the Youth Court, on an application for the purpose made by the chief executive (which must be made promptly after the YSO declaration is set aside), must—
- (a) discharge the order; and
 - (b) make any other order under section 283 that it considers appropriate, other than an order under—
 - (i) **section 283(k)(iii) or (iv);** or

- (ii) section 283(m) for a supervision with activity order under section 307 that is for a period specified in **section 307(1A)(c) or (d)**;
or
- (iii) **section 283(na)**.

320RA Further offending by young person subject to YSO declaration

- (1) This section applies if—
 - (a) a young serious offender is charged in respect of an offence and that charge is proved; and
 - (b) the Youth Court is deciding the response to be made in respect of the charge under section 283.
- (2) In addition to making a YSO response to the charge, the Youth Court may, at the same time, make a non-YSO response to the charge that is to immediately follow the YSO response and come into force when the YSO declaration to which the young serious offender is subject ends (the **YSO declaration end date**).
- (3) However, **subsection (2)** is subject to **subsections (4) and (5)**.
- (4) A non-YSO supervision order that immediately follows a YSO supervision order may only be made if the actual period for which the young serious offender will be subject to a supervision order under both orders is not more than—
 - (a) 12 months, if the non-YSO supervision order is made to follow a YSO supervision order made under **section 311(5)**; or
 - (b) 12 months, if the non-YSO supervision order is made to follow a supervision order made under **section 320X(1)**; or
 - (c) 6 months, in any other case.
- (5) A non-YSO supervision with activity order that immediately follows a YSO supervision with activity order may only be made if the actual period for which the young serious offender will be subject to a supervision with activity order under both orders is not more than 6 months.
- (6) In this section,—

non-YSO response means any response that may be made under section 283 in respect of a charge proved against a young person who is not a young serious offender, including—

 - (a) a response under **section 283(k)** making a supervision order for a period not exceeding 6 months (a **non-YSO supervision order**):
 - (b) a response under section 283(m) making a supervision with activity order under section 307(1) for a period not exceeding 6 months (a **non-YSO supervision with activity order**):

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(c) a response under section 283(n) making a supervision with residence order under section 311(1) for a period of not less than 3 months and not more than 6 months together with a supervision order for a period of not less than 6 months and not more than 12 months

YSO response means any response that may be made under section 283 in respect of a charge proved against a young serious offender, including—

(a) a response under **section 283(k)** making a supervision order for a period not exceeding 18 months (a **YSO supervision order**):

(b) a response under section 283(m) making a supervision with activity order under section 307(1) for a period not exceeding 12 months (a **YSO supervision with activity order**):

(c) a response under section 283(n) making a supervision with residence order under section 311(1) for a period of not less than 3 months and not more than 6 months together with a supervision order for a period of not less than 6 months and not more than 18 months:

(d) a response under **section 283(na)** making a military-style academy order under **section 320S** requiring the young serious offender to undertake a military-style academy programme for a period of not less than 3 months and not more than 12 months and placing the young serious offender in the custody of the chief executive for that period (that must be followed by a supervision order made under **section 320X**).

320RB Failure of young serious offender to comply with conditions of orders, etc

(1) This section applies if the Youth Court is satisfied that—

(a) a young serious offender has without reasonable excuse failed to comply satisfactorily with a term, condition, or other requirement of a YSO order and the court is considering, pursuant to section 296B(3)(a), cancelling the YSO order and in substitution of that order making another order under section 283; or

(b) a young serious offender has without reasonable excuse failed to comply satisfactorily with a specified condition (as defined in **section 296FA**) and the court is considering, pursuant to **section 296FB(3)(f)**, cancelling the YSO order and in substitution of that order making another order under section 283; or

(c) a young serious offender who is subject to a supervision with residence order made under section 311 has absconded from the custody of the chief executive, or that the young serious offender's behaviour and compliance with any obligations placed on them by the order have been unsatisfactory to more than a minor extent, and the court has, under section 316(1) or (1A), cancelled the order and is considering, pursuant to section 316(2)(b), substituting another order under section 283; or

Oranga Tamariki (Responding to Serious Youth
Offending) Amendment Bill

Part 1 cl 4

- (d) a young serious offender who is subject to a military-style academy order made under **section 320S** has absconded from the custody of the chief executive, or has without reasonable excuse failed to comply satisfactorily with the order, and the court has, under **section 320ZB(1)**, cancelled the order and is considering, pursuant to **section 320ZB(5)(b)**, substituting another order under section 283. 5
- (2) In addition to making a YSO order, the Youth Court may, at the same time, make a non-YSO order that is to immediately follow the YSO order and come into force when the YSO declaration to which the young serious offender is subject ends (the **YSO declaration end date**). 10
- (3) However, **subsection (2)** is subject to **subsections (4) and (5)**.
- (4) A non-YSO supervision order that immediately follows a YSO supervision order may only be made if the actual period for which the young serious offender will be subject to a supervision order under both orders is not more than— 15
- (a) 12 months, if the non-YSO supervision order is made to follow a YSO supervision order made under **section 311(5)**; or
- (b) 12 months, if the non-YSO supervision order is made to follow a supervision order made under **section 320X(1)**; or
- (c) 6 months, in any other case. 20
- (5) A non-YSO supervision with activity order that immediately follows a YSO supervision with activity order may only be made if the actual period for which the young serious offender will be subject to a supervision with activity order under both orders is not more than 6 months.
- (6) In this section,— 25
- non-YSO order** means any order that may be made in respect of a young person who is not a young serious offender, including—
- (a) a supervision order made for a period not exceeding 6 months made under **section 283(k)** (a **non-YSO supervision order**);
- (b) a supervision with activity order made under section 307(1) for a period not exceeding 6 months (referred to in section 283(m)) (a **non-YSO supervision with activity order**); 30
- (c) a supervision with residence order made under section 311(1) for a period of not less than 3 months and not more than 6 months together with a supervision order for a period of not less than 6 months and not more than 12 months (referred to in section 283(n)) 35
- YSO order** means an order that may be made in respect of a young person who is a young serious offender, including—
- (a) a supervision order made for a period not exceeding 18 months made under **section 283(k)** (a **YSO supervision order**); 40

- (b) a supervision with activity order made under section 307(1) for a period not exceeding 12 months (referred to in section 283(m)) (a **YSO supervision with activity order**):
- (c) a YSO supervision with residence order made under section 311(1) for a period of not less than 3 months and not more than 6 months together with a supervision order for a period of not less than 6 months and not more than 18 months (referred to in section 283(n)):
- (d) a military-style academy order made under **section 320S** requiring the young serious offender to undertake a military-style academy programme for a period of not less than 3 months and not more than 12 months and placing the young serious offender in the custody of the chief executive for that period (referred to in **section 283(na)**) (that must be followed by a supervision order made under **section 320X**).

Subpart 2—Orders that may be made specifically in relation to young serious offenders

5 Section 214 amended (Arrest of child or young person without warrant)

In section 214(2A), replace “section 214A” with “**section 214AAA** or 214A”.

6 New section 214AAA inserted (Arrest of young serious offender in breach of bail condition)

Before section 214A, insert:

214AAA Arrest of young serious offender in breach of bail condition

- (1) A constable may arrest a young serious offender without a warrant if—
 - (a) the young serious offender has been released on bail; and
 - (b) the constable believes, on reasonable grounds, that the young serious offender has breached a condition of the bail.
- (2) This section does not apply if a young serious offender is arrested without warrant under section 35 of the Bail Act 2000.

7 Section 214A amended (Arrest of child or young person in breach of bail condition)

Replace section 214A(3) with:

- (3) This section does not apply—
 - (a) in respect of a young person who is a young serious offender; or
 - (b) if a child or young person is arrested without warrant under section 35 of the Bail Act 2000.

- 8 Section 217 amended (Rights to be explained to child or young person who is arrested)**
In section 217, after “section 214”, insert “, **214AAA**, or 214A”.
- 9 Section 221 amended (Admissibility of statements made by children and young persons)** 5
In section 221(1)(b)(i), after “section 214”, insert “, **214AAA**, or 214A”.
- 10 Section 235 amended (Child or young person who is arrested may be placed in custody of chief executive)**
After section 235(1A)(b), insert:
- (c) the young person is a young serious offender who has been arrested under **section 214AAA** and is likely to continue to breach any condition of bail. 10
- 11 Section 238 amended (Custody of child or young person pending hearing)**
After section 238(1), insert:
- (1A) However, unless the Youth Court is satisfied that there are exceptional circumstances, it must not take any of the actions referred to in subsection (1)(a) or (c) in respect of a young person referred to in that subsection who is a young serious offender if— 15
- (a) the young serious offender has been charged with an offence alleged to have been committed by the young serious offender while subject to a YSO declaration; and 20
- (b) the offence is punishable by imprisonment.
- 12 Section 245 amended (Proceedings not to be instituted against young person unless youth justice co-ordinator consulted and family group conference held)** 25
After section 245(2), insert:
- (3) However, nothing in this section applies to a young person who is—
- (a) a young serious offender; and
- (b) alleged to have committed an offence while subject to a YSO declaration. 30
- 13 Section 246 amended (Procedure where young person arrested and brought before court)**
In section 246, insert as subsection (2):
- (2) However, this section does not apply to a young person who is a young serious offender and who is— 35
- (a) arrested for an offence and brought before the Youth Court to answer the charge; and

- (b) alleged to have committed the offence while subject to a YSO declaration.

14 New section 246A inserted (Procedure where young serious offender ~~arrested~~ charged and brought before court)

After section 246, insert:

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246A Procedure where young serious offender ~~arrested~~ charged and brought before court

- (1) This section applies to a young serious offender who is—
- (a) ~~arrested for~~ charged with an offence and brought before the Youth Court to answer the charge; and
- (b) alleged to have committed the offence while subject to a YSO declaration.
- (2) If the young serious offender is ~~arrested for~~ charged with an offence (other than murder or manslaughter or a traffic offence that is an infringement offence or, in the case of a person aged 17 years, an offence specified in Schedule 1A) and is brought before the Youth Court to answer the charge, the following provisions apply:
- (a) if, after consulting with the barrister or solicitor representing the young serious offender or with a youth advocate, the young serious offender denies the charge, then the charge must be dealt with in accordance with sections 273 to 276:
- (b) in any other case, unless the charge is discharged under section 282, the Youth Court must hear and determine the charge.

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15 Section 247 amended (Youth justice co-ordinator to convene family group conference)

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- (1) In section 247(c), after “section 246(a)”, insert “or **246A(2)(a)**”.
- (2) In section 247, insert as subsection (2):
- (2) However, **subsection (1)(e)** does not apply to a charge proved against a young person if—
- (a) the young person is a young serious offender; and
- (b) the charge relates to an offence ~~proven~~ proved to have been committed by the young person while subject to a YSO declaration.

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16 Section 281 amended (Court not to make orders unless family group conference held)

- (1) After section 281(1), insert:
- (1A) However, subsection (1) does not apply in respect of a charge proved against a young person if—

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- (a) the young person is a young serious offender; and
- (b) the charge relates to an offence committed by the young person while subject to a YSO declaration.
- (2) After section 281(2), insert:
- (2A) However,— 5
- (a) subsection (2)(a) does not apply if the young person is a young serious offender and the summons was issued in respect of an order under section 283(c) that related to offending by the young person while subject to a YSO declaration:
- (b) subsection (2)(b) and (c) does not apply if the young person is a young serious offender and the order cancelled by the court relates to offending committed by the young person while subject to a YSO declaration. 10
- 17 Section 281B amended (Court may direct holding of family group conference at any time)**
- Replace section 281B(2) with: 15
- (2) In deciding whether to direct that a family group conference be convened in proceedings relating to a young person who is a young serious offender alleged or ~~proven~~proved to have committed an offence while subject to a YSO declaration, the matters that the court may consider include the following:
- (a) whether the offending alleged or ~~proven~~proved to have been committed by the young serious offender is substantially different in nature from the young serious offender's previous offending: 20
- (b) the views of the victim of the offence alleged or ~~proven~~proved to have been committed by the young serious offender:
- (c) whether a family group conference would serve any useful purpose, having regard to the response of the young serious offender to any decisions, recommendations, or plans made or formulated by any previous family group conference in respect of any other offence. 25
- (3) If the court directs that a family group conference be convened in proceedings relating to a young person who is a young serious offender alleged or ~~proven~~proved to have committed an offence while subject to a YSO declaration, then, unless the court directs otherwise, the family group conference must be— 30
- (a) convened no later than 14 days after the date on which the direction was made; and
- (b) completed within 7 days after it is convened. 35
- (4) Sections 250 to 269 apply with all necessary modifications in respect of a family group conference convened under this section.

18 Section 283 amended (Hierarchy of court's responses if charge against young person proved)

Replace section 283(k) with:

- (k) make an order placing the young person under the supervision of the chief executive, or any person or organisation specified in the order, for a period not exceeding— 5
- (i) 6 months, if the order is made in respect of a young person who is not a young serious offender; or
 - (ii) 6 months, if— 10
 - (A) the order is made in respect of a young person who is a young serious offender; and
 - (B) the order is made in response to a charge relating to offending committed before the young person was declared a young serious offender (excluding any charge referred to in **section 320B(1)(a)(i) or (b)** in connection with which the young person was declared a young serious offender); or 15
 - (iii) 18 months, if—
 - (A) the order is made in respect of a young person who is a young serious offender; and 20
 - (B) the order is made in response to a charge referred to in **section 320B(1)(a)(i) or (b)** in connection with which the young person was declared a young serious offender; or
 - (iv) 18 months, if—
 - (A) the order is made in respect of a young person who is a young serious offender; and 25
 - (B) the order is made in response to a charge relating to offending committed while the young person is a young serious offender.

19 Section 284 amended (Factors to be taken into account on sentencing) 30

(1) In section 284(1)(g), delete “or section 35 of the Children and Young Persons Act 1974”.

(2) After section 284(1), insert:

(1AA) **Subsection (1AB)** applies at any time that the court is considering making an order under section 283 in respect of— 35

- (a) a young person and the order will be made at the same time as a YSO declaration declaring the young person a young serious offender; or

**Oranga Tamariki (Responding to Serious Youth
Offending) Amendment Bill**

Part 1 cl 20

- (b) a young person who is a young serious offender and the order will be made in response to a charge that relates to offending committed by the young serious offender while subject to a YSO declaration.
- (1AB) If this subsection applies, the court must consider the following factors in addition to those in subsection (1): 5
- (a) the seriousness of the offending:
 - (b) the criminal history of the young person (excluding any charges discharged under section 282):
 - (c) the interests of the victim:
 - (d) the risk posed by the young person to other people: 10
 - (e) whether the young person did 1 or more of the following in relation to their offending, with no justification in the public interest, and that glorified the offending:
 - (i) they livestreamed all or part of the offending on an Internet site or an online application or similar: 15
 - (ii) they posted all or part of a record of the offending on an Internet site or an online application or similar:
 - (iii) they distributed all or part of a record of the offending to others by means of a digital communication.
- 20 Section 296B amended (Failure to comply) 20**
- (1) After section 296B(3), insert:
- (3A) However, the court must not make an order under subsection (3)(a) substituting for an order specified in section 296A(1) in respect of which there has been a failure to comply (the **original order**) any order under section 283 that it could not have made at the time when the original order was made. 25
- (2) After section 296B(4), insert:
- (4A) On or after making or varying under subsection (3)(a) or (b) any of the orders referred to in **section 308A(1B)** in respect of a young serious offender, the court may, in accordance with **section 308A(1A)**, direct that the young serious offender's compliance with 1 or more specified conditions of the order be monitored judicially. 30
- 21 Section 296J amended (Additional conditions imposing curfew with or without electronic monitoring of compliance)**
- (1AAA) Replace section 296J(2) with:
- (2) When imposing a curfew condition, the court must specify in the condition— 35
- (a) the start date of the curfew condition; and
 - (b) the curfew duration; and
 - (c) the daily curfew period; and

- (d) the curfew address.
- (1) After section 296J(4)(b), insert:
- (ba) during the curfew duration, the young person must comply with any lawful direction given by the person nominated under **section 340A(1)** (the **nominated responsible person**) to implement or manage an electronic monitoring condition imposed under subsection (6): 5
- (2) Replace section 296J(4)(c) with:
- (c) the young person must, when required to do so by the chief executive or the nominated responsible person for the purpose of implementing or managing an electronic monitoring condition under subsection (6), submit to the electronic monitoring of compliance with the relevant curfew condition, which may require the young person to be connected to electronic monitoring equipment throughout the curfew duration and not just throughout the daily curfew period. 10
- (3) Before section 296J(5)(c)(i), insert: 15
- (iaaa) to seek non-urgent medical or dental treatment; or

22 Section 296K amended (Electronic monitoring)

Replace section 296K(2) to (7) with:

- (2) Information about a young ~~serious offender~~ person may be collected through electronic monitoring only during the curfew duration. 20
- (3) Information about a young ~~serious offender~~ person collected through electronic monitoring during the curfew duration may be used to verify that the electronic monitoring equipment is operating effectively and accurately.
- (4) Information about a young ~~serious offender~~ person collected through electronic monitoring during the daily curfew period may be used only for the following purposes: 25
- (a) to verify compliance with the requirement of the relevant curfew condition that the young ~~serious offender~~ person remain at the curfew address during the daily curfew period (except to the extent that section 296J(5) applies): 30
- (b) to detect non-compliance with that requirement:
- (c) to provide evidence of non-compliance with that requirement:;
- (d) to verify that the young person has not tampered or otherwise interfered with the ability of the electronic monitoring equipment to operate effectively and accurately. 35
- (5) Any information collected by electronic monitoring during the curfew duration must not be kept for longer than is required for the purposes for which the information may lawfully be used.

- (6) In this section, **curfew address, curfew condition, curfew duration, and daily curfew period** have the meanings given in section 296J(1).

23 Section 307 amended (Supervision with activity order)

- (1) In section 307(1), replace “6 months” with “the period specified in **subsection (1A)**”. 5
- (2) After section 307(1), insert:
- (1A) The period referred to in subsection (1) is—
- (a) 6 months, if the order is made in respect of a young person who is not a young serious offender; or
 - (b) 6 months, if— 10
 - (i) the order is made in respect of a young person who is a young serious offender; and
 - (ii) the order is made in response to a charge relating to offending committed before the young person was declared a young serious offender (excluding any charge referred to in **section 320B(1)(a)(i) or (b)** in connection with which the young person was declared a young serious offender); or 15
 - (c) 12 months, if— 20
 - (i) the order is made in respect of a young person who is a young serious offender; and
 - (ii) the order is made in response to a charge referred to in **section 320B(1)(a)(i) or (b)** in connection with which the young person was declared a young serious offender; or
 - (d) 12 months, if— 25
 - (i) the order is made in respect of a young person who is a young serious offender; and
 - (ii) the order is made in response to a charge relating to offending committed while the young person is a young serious offender.
- (3) Replace section 307(2) with:
- (2) If the court makes an order under subsection (1) in respect of a young person for the period specified in **subsection (1A)(a) or (b)**, it may, at the same time or before that order expires, make a supervision order under **section 283(k)(i) or (ii)**. 30
- (2A) If the court makes an order under subsection (1) in respect of a young serious offender for the period specified in **subsection (1A)(c) or (d)**, it may, at the same time or before that order expires, make a supervision order under **section 283(k)(iii) or (iv)**, but subject to the modification that the order must place the young serious offender under supervision for a period ~~of not less than 6 months and not more than 18 months, that—~~ 35

- (a) is equal to the period of time remaining before the YSO declaration to which the young serious offender is subject ends, if that period is less than 6 months; or
- (b) is not less than 6 months and not more than 18 months (but which does not extend beyond the date on which the YSO declaration to which the young serious offender is subject ends), in any other case. 5
- (2B) However, the combined term of an order made under subsection (1) and a supervision order made under **section 283(k)(iii) or (iv)** must not exceed 24 months.
- (2C) A supervision order made under **section 283(k)(i) or (ii)** pursuant to **subsection (2)**, or a supervision order made under **section 283(k)(iii) or (iv)** pursuant to **subsection (2A)**, must come into force on the expiry of the order made under subsection (1). 10

24 Section 308 amended (Conditions of supervision with activity order)

After section 308(2), insert: 15

- (3) At the same time as making an order under section 307(1) in respect of a young serious offender or at any later time, the court may also impose the conditions specified in **section 308AA**.

25 New sections 308AA and 308AB inserted

After section 308, insert: 20

308AA Conditions imposing curfew and electronic monitoring

- (1) When making an order under section 307(1) in respect of a young serious offender, or at any time while that order is in force, the court may impose a condition (a **curfew condition**) requiring the young serious offender, for a duration no longer than the duration of the order (the **curfew duration**), to remain, for 1 or more specified periods of each day (the **daily curfew period**), at a specified address (the **curfew address**). 25
- (2) When imposing a curfew condition, the court must specify ~~the curfew duration, the daily curfew period, and the curfew address.~~ in the condition—
- (a) the start date of the curfew condition; and 30
- (b) the curfew duration; and
- (c) the daily curfew period; and
- (d) the curfew address.
- (3) A daily curfew period specified under **subsection (2)** must not be a period of less than 2 hours, and the combined daily curfew periods for any week must not exceed 84 hours. 35
- (4) During the daily curfew period, the young serious offender must not, at any time, leave the curfew address except—

- (a) to seek urgent medical or dental treatment; or
- (b) to avoid or minimise a serious risk of death or injury to the young serious offender or any other person; or
- (c) with the approval of the chief executive,—
- (iaaa) to seek non-urgent medical or dental treatment; or 5
- (i) to seek or engage in employment; or
- (ii) to attend educational, training, or other rehabilitative or reintegrative activities or programmes; or
- (iii) to attend a family group conference or other process relating to the young serious offender’s offending; or 10
- (iv) to carry out any undertaking, or implement a decision, recommendation, or plan, arising from a family group conference or other process relating to the young serious offender’s offending; or
- (d) with the approval of the chief executive, and subject to any conditions that the chief executive may impose, on humanitarian grounds. 15
- (5) During the curfew duration, the young serious offender must—
- (a) co-operate with the chief executive, and must comply with any lawful direction (for example, one for the purpose of implementing or managing an electronic monitoring condition under **subsection (6)**) given by the chief executive for the purpose of implementing the relevant curfew condition; and 20
- (b) comply with any lawful direction given by the person nominated under **section 340A(1)** (the **nominated responsible person**) to implement or manage an electronic monitoring condition imposed under **subsection (6)**; and 25
- (c) when required to do so by the chief executive or the nominated responsible person for the purpose of implementing or managing an electronic monitoring condition under **subsection (6)**, submit to the electronic monitoring of compliance with the relevant curfew condition, which may require the young serious offender to be connected to electronic monitoring equipment throughout the curfew duration and not just throughout the daily curfew period. 30
- (6) If the court is satisfied that other conditions of the order made under section 307(1) and any judicial monitoring of the young serious offender’s compliance with those conditions (directed under section 308A) are unlikely to be sufficient to secure the young serious offender’s compliance with the curfew condition, the court may impose an additional condition requiring the young serious offender to submit to electronic monitoring for a specified period not exceeding 12 months. 35

- (7) An electronic monitoring condition may be imposed by the court at the time that the curfew condition is imposed or at any time during the curfew duration.
- (8) A Judge exercising the jurisdiction of the court to impose an electronic monitoring condition under **subsection (6)** must, when imposing the condition, record in writing the Judge’s reasons for doing so. 5

308AB Electronic monitoring imposed under section 308AA

- (1) The purposes of an electronic monitoring condition imposed under **section 308AA(6)** are to—
- (a) deter the young serious offender from breaching the requirement of the relevant curfew condition that the young serious offender remain at the curfew address during the daily curfew period; and 10
- (b) monitor the young serious offender’s compliance with that requirement.
- (2) Information about a young serious offender may be collected through electronic monitoring only during the curfew duration.
- (3) Information about a young serious offender collected through electronic monitoring during the curfew duration may be used to verify that the electronic monitoring equipment is operating effectively and accurately. 15
- (4) Information about a young serious offender collected through electronic monitoring during the daily curfew period may be used only for the following purposes: 20
- (a) to verify compliance with the requirement of the relevant curfew condition that the young serious offender remain at the curfew address during the daily curfew period (except to the extent that **section 308AA(4)** applies);
- (b) to detect non-compliance with that requirement; 25
- (c) to provide evidence of non-compliance with that requirement;:
- (d) to verify that the young person has not tampered or otherwise interfered with the ability of the electronic monitoring equipment to operate effectively and accurately.
- (5) Any information collected by electronic monitoring during the curfew duration must not be kept for longer than is required for the purposes for which the information may lawfully be used. 30
- (6) In this section, **curfew address**, **curfew condition**, **curfew duration**, and **daily curfew period** have the meanings given in **section 308AA(1)**.

26 Section 308A amended (Judicial monitoring of compliance with conditions of supervision or supervision with activity order) 35

- (1) Replace the heading to section 308A with “**Judicial monitoring**”.
- (2) After section 308A(1), insert:

- (1A) The court—
- (a) must consider whether to make a direction that a young serious offender’s compliance with 1 or more specified conditions on a section 283 order be judicially monitored if the court made the section 283 order when—
 - (i) making the YSO declaration that the young serious offender is subject to: 5
 - (ii) responding to a charge relating to offending committed by the young serious offender while subject to a YSO declaration: 10
 - (iii) responding to a breach by a young serious offender of a condition on an order made under section 283 in respect of offending committed by the young serious offender while subject to a YSO declaration; and
 - (b) may make a direction of that kind specifying the times at which the young serious offender’s compliance with the conditions is to be judicially monitored (or at any other replacement monitoring times the court specifies). 15
- (1B) In **subsection (1A), section 283 order** means—
- (a) an order under section 283(ja) to attend a specified parenting education programme: 20
 - (b) an order under section 283(jb) to attend a specified mentoring programme:
 - (c) an order under section 283(jc) to attend a specified alcohol or drug rehabilitation programme:
 - (d) an order under **section 283(k)** placing the young serious offender under supervision: 25
 - (e) an order referred to in section 283(l) requiring the young serious offender to undertake community work:
 - (f) an order referred to in section 283(m) placing the young serious offender under supervision with an activity order under section 307. 30
- (3) In section 308A(2), replace “subsection (1)” with “subsection (1) or **(1A)**.”
- 27 Section 311 amended (Supervision with residence order)**
- (1) In section 311(2A), after “in respect of a young person”, insert “who is not a young serious offender or who was not a young serious offender at the time of the offending to which the charge relates”. 35
 - (2) Replace section 311(2A)(b) with:
 - (b) make an order under **section 283(k)(i) or (ii)** placing the young person under supervision but subject to the modification that the order must

place the young person under supervision for a period of not less than 6 months but not more than 12 months.

(2A) After section 311(2A), insert:

(2B) If the Youth Court makes an order under subsection (1) in respect of a young serious offender and the period of the order continues beyond the end of the YSO declaration to which the young serious offender is subject (the **YSO declaration end date**), subsection (2A) applies in respect of the offender after the YSO declaration end date (when the offender is no longer a young serious offender), and for that purpose the date referred to in subsection (2A)(a)(i) will be the later of the following:

(a) the date on which two-thirds of the full period of the order under subsection (1) will have elapsed (which includes the period of the order that elapsed before the YSO declaration end date); and

(b) the YSO declaration end date.

(3) After section 311(4), insert:

(5) If the Youth Court makes an order under subsection (1) in respect of a young person who is a young serious offender ~~and was a young serious offender at the time of the offending to which the charge relates~~, the court must make a supervision order under **section 283(k)(iii) or (iv)**, but subject to the modification that the order must place the young serious offender under supervision for a period ~~of not less than 6 months and not more than 18 months. that—~~

(a) is equal to the period of time remaining before the YSO declaration to which the young serious offender is subject ends, if that period is less than 6 months; or

(b) is not less than 6 months and not more than 18 months (but which does not extend beyond the date on which the YSO declaration to which the young serious offender is subject ends), in any other case.

(6) However, the combined term of an order made under subsection (1) and a supervision order made under **section 283(k)(iii) or (iv)** must not exceed 24 months.

(7) The order required by **subsection (5)** must be made either at the same time as the order made under subsection (1) or at any later time before the expiry of that order.

(8) The order required by **subsection (5)** must come into force on the expiry of the order made under subsection (1) and may be made subject to all or any of the following conditions (which, if imposed by the court, apply in addition to the conditions required by section 305 and any conditions the court imposes under section 306):

(a) that the young serious offender attend and remain at, for any weekday, evening, and weekend hours each week and for any number of months

- the court thinks fit, any specified centre approved by the department, and take part in any activity required by the person in charge of the centre:
- (b) that the young serious offender attend and remain overnight at a specified location approved by the department for 1 or more consecutive nights each week, and for any number of weeks the court thinks fit, for the purpose of attending an overnight activity that is provided by—
 - (i) the chief executive; or
 - (ii) a body or an organisation approved under section 396; or
 - (iii) a body or an organisation approved as a community service for the purpose of providing an overnight activity to young serious offenders attending the overnight activity:
 - (c) that the young serious offender undertake any specified programme or activity:
 - (d) that the young serious offender reside at an address specified by the court.

28 Section 316 amended (Court may cancel supervision with residence order if young person absconds or fails to comply with order)

In section 316(2)(a), replace “section 311(2A)” with “section 311(2A) or **(5)**”.

29 Cross-heading above section 319A replaced

Replace the cross-heading above section 319A with:

Review of certain orders exceeding 6 months

30 Section 319A amended (Orders must be reviewed)

(1) After section 319A(1)(c), insert:

- (d) a supervision order under **section 283(k)(iii) or (iv)** placing a young serious offender under the supervision of the chief executive, or any person or organisation specified in the order, for a period exceeding 6 months; or
- (e) a supervision with activity order under section 307(1) placing a young serious offender under the supervision of the chief executive, or any person or organisation specified in the order, for a period exceeding 6 months.

(2) Replace section 319A(2)(a) with:

- (a) must fix promptly a date for review of the plan that was prepared in respect of the order in accordance with section 335 (the **plan**), which must be,—
 - (i) in the case of an order referred to in subsection (1)(a), (b), or (c), not later than 6 months after the order comes into force; and

- (ii) in the case of an order referred to in **subsection (d) or (e)**, 6 months after the order comes into force; and
- (3) Replace section 319A(5) with:
- (5) The court must consider a report furnished to it pursuant to subsection (3) and the accompanying revised plan, and, after giving such persons (if any) as it thinks fit an opportunity to be heard, the court may—
- (a) exercise,—
- (i) in relation to an order made in respect of a young serious offender under **section 283(k)(iii) or (iv)**, or section 307(1) for the period specified in **section 307(1A)(c) or (d)**, any of the following powers:
- (A) discharge the order:
- (B) reduce the term of the order:
- (C) discharge any condition of the order:
- (D) vary any condition of the order; or
- (ii) in relation to any other order (if it remains in force), any of the powers set out in section 296E as if an application had been made in relation to the order under that section; or
- (b) if the court considers the report furnished under subsection (3), or the revised plan, or both, to be inadequate, direct the person who prepared the report to furnish to the court a further report, or a further revised plan, or both, ensuring that the direction to that person indicates any specific matter that it requires to be dealt with in that report or plan.
- (6) In the case of a supervision order made under **section 283(k)(iii) or (iv)** placing a young serious offender under the supervision of the chief executive, or any person or organisation specified in the order, for a period exceeding 12 months, a further review of the order must be conducted under this section 12 months after the order comes into force and subsections (2) to **(5)** apply accordingly with any necessary modifications, including that in **subsection (2)(a)**, the reference to 6 months must be read as a reference to 12 months.

31 Section 320 amended (Report to be made to court on effectiveness of certain orders)

In section 320(2), replace “section 307(2) or section 311(2A)” with “**section 307(2) or (2A)** or section 311(2A) or **(5)** or **section 320X**”.

32 Section 340 amended (Written statement of terms of certain orders to be given to young person)

~~In section 340(1)(b), replace “section 308A,” with “section 308A or **308AA**,”~~

Replace section 340(1)(a) with:

(a) the terms and conditions of the order (for example, in the case of an intensive supervision order under section 296G, or a supervision with activity order under section 307(1), any additional curfew and electronic monitoring conditions under section 296J or **308AA**):

33 ~~New section 340A~~ **sections 340A and 340B and cross-heading inserted** 5

After section 340, insert:

Implementing electronic monitoring conditions

340A Responsibility for implementing and managing electronic monitoring conditions

- (1) The Minister may at any time, by notice in writing, nominate 1 or more persons to be responsible for implementing and managing electronic monitoring conditions imposed under section 296J(6) or **308AA(6)** (the **electronic monitoring conditions**). 10
- (2) A person nominated under **subsection (1)** (a **nominated responsible person**) may be nominated to— 15
- (a) implement all or any part of the electronic monitoring conditions; or
- (b) manage all or any part of the electronic monitoring conditions; or
- (c) implement and manage all or any part of the electronic monitoring conditions.
- (3) The Minister may nominate— 20
- (a) the Commissioner of Police; or
- (b) 1 or more chief executives of ~~a public service agency~~ agencies; or
- (c) the Commissioner of Police and 1 or more chief executives of ~~a public service agency~~ agencies.
- (4) The Minister may, at any time, by notice in writing, revoke a nomination made under **subsection (1)**. 25
- (5) Before nominating, or revoking the nomination of, the Commissioner of Police, the Minister and the Minister of Police must agree on the nomination or revocation.
- (6) Before nominating, or revoking the nomination of, a chief executive of a public service agency, the Minister and the Minister responsible for that agency must agree on the nomination or revocation (unless the public service agency is Oranga Tamariki—Ministry for Children). 30
- (7) A nominated responsible person (other than the chief executive of Oranga Tamariki) may not exercise any of the powers conferred on the chief executive of Oranga Tamariki under section 296J(5) or **308AA(4)**. 35

340B Delegation of functions and powers of nominated person

- (1) The Commissioner of Police as a nominated responsible person may, in relation to the Commissioner’s responsibilities under **section 340A(2)** and in accordance with section 17 of the Policing Act 2008, delegate—
- (a) the Commissioner’s functions:
 - (b) the Commissioner’s powers.
- (2) A chief executive who is a nominated responsible person may, in relation to the chief executive’s responsibilities under **section 340A(2)** and in accordance with clauses 2 to 4 of Schedule 6 of the Public Service Act 2020, delegate—
- (a) the chief executive’s functions:
 - (b) the chief executive’s powers.
- (3) In this section, **nominated responsible person** means a person nominated by the Minister under **section 340A(1)**.

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34 New section 362A inserted (Placement of young serious offenders in care of approved persons)

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After section 362, insert:

362A Placement of young serious offenders in care of approved persons

- (1) **Subsection (2)** applies when—
- (a) a young serious offender is, pursuant to a provision in Part 4, in the custody of the chief executive, an iwi social service, a cultural social service, or the director of a child and family support service; and
 - (b) the chief executive, iwi social service, cultural social service, or director of a child and family support service is considering whether to place the young serious offender in the charge of any person or organisation under section 362.
- (2) ~~When considering, under section 362, a suitable person or organisation in whose charge to place a young serious offender, the~~ The chief executive, iwi social service, cultural social service, or director of a child and family support service must have regard to the risk of the young serious offender—
- (a) absconding:
 - (b) committing further offences.

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35 New section 365A inserted (Placement of young serious offenders in residences)

After section 365, insert:

365A Placement of young serious offenders in residences

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- (1) This section applies when—

- (a) a young serious offender is, pursuant to a provision in Part 4, in the custody of the chief executive; and
- (b) the chief executive is considering whether to place the young serious offender in a residence under section 365.
- (2) ~~When considering, under section 365, a suitable residence in which to place a young serious offender, the~~ The chief executive must, in addition to complying with the requirements of ~~that section~~ section 365, have regard to the risk of the young serious offender—
- (a) absconding;
- (b) committing further offences.

Subpart 3—Failure by young serious offenders to comply with specified conditions

36 Section 296A amended (Orders to which sections 296B and 296E apply)

Replace section 296A(1)(g) with:

- (g) ~~an intensive supervision order under section 296G, other than an intensive supervision order made in respect of a young serious offender relating to offending by the young serious offender while subject to a YSO declaration.~~

36A Section 296B amended (Failure to comply)

Replace section 296B(1)(c) with:

- (c) a constable, if the order is one under section 296G and the failure to comply is with a curfew condition imposed under section 296J(1), unless—
- (i) the order under section 296G is made in respect of a young serious offender; and
- (ii) a constable may make an application under **section 296FB** in respect of a failure to comply with a condition of that order imposed under section 296J(1); or

37 New sections 296FA to 296FG and cross-heading inserted

After section 296F, insert:

Failure by Police powers if young serious offenders fail to comply with specified conditions

296FA Meaning of specified condition

In **sections 296FB to 296FG**, **specified condition** means any of the following conditions:

- (a) a condition imposed under any of the following provisions on a supervision order that was made under **section 283(k)(iii) or (iv)** in respect of a young serious offender:
- (i) section 305(1)(c): 5
 - (ii) section 305(1)(f):
 - (iii) section 306(1)(b):
 - (iv) section 306(1)(c):
 - (v) section 306(1)(e), relating to the young serious offender’s place of residence: 10
 - (vi) section 306(1)(f):
 - (vii) **section 311(8)(a)**:
 - (viii) **section 311(8)(b)**:
 - (ix) **section 311(8)(d)**:
 - (x) **section 320X(3)(a)**:
 - (xi) **section 320X(3)(b)**: 15
 - (xii) **section 320X(3)(d)**:
- (b) a condition imposed under any of the provisions listed in **paragraph (a)(i) to (vi)** (pursuant to section 296I(1)(a) or (c)), or a condition imposed under section 296J (pursuant to section 296I(1)(d)), or a condition imposed under section 296I(1)(e), on an intensive supervision order that was made under section 296G in respect of a young serious offender in substitution for an order under section 283 made— 20
- (i) at the same time as the YSO declaration to which the young serious offender is subject; or
 - (ii) in response to a charge relating to offending committed by the young serious offender while subject to the YSO declaration: 25
- (c) a condition imposed under any of the following provisions on a supervision with activity order that was made under section 307(1) for the period specified in **section 307(1A)(c) or (d)** in respect of a young serious offender: 30
- (i) section 307(1)(a):
 - (ii) section 308(1), in relation to the conditions specified in section 305(1)(c) and (f):
 - (iii) section 308(2), in relation to the conditions specified in section 306(1)(b), (c), (e) (relating to the young serious offender’s place of residence only), and (f): 35
 - (iv) **section 308AA(1)**.

296FB Application for further orders if young serious offender failed to comply with specified condition

- (1) If a young serious offender has, without reasonable excuse, failed to comply satisfactorily with any specified condition, a constable may make an application to the Youth Court for a further order to be made in respect of the young serious offender. 5
- (2) After making an application under **subsection (1)**, the constable must—
- (a) serve the application on—
 - (i) the young serious offender who is the subject of the application; and 10
 - (ii) the lawyer or youth advocate representing the young serious offender; and
 - (iii) a parent or guardian of, or other person having the care of, the young serious offender; and
 - (b) notify the chief executive, person, or organisation under whose supervision the young serious offender has been placed that the application has been made. 15
- (3) If satisfied on an application under **subsection (1)** that the young serious offender has, without reasonable excuse, failed to comply satisfactorily with the specified condition set out in the application, the court may— 20
- (a) suspend any specified condition for a specified period; or
 - (b) vary any specified condition; or
 - (c) impose any further condition; or
 - (d) suspend the order in respect of which the specified condition was imposed for a specified period; or 25
 - (e) if the specified condition is subject to judicial monitoring, cancel the order in respect of which the specified condition was imposed and, in substitution for that order, make an intensive supervision order under section 296G; or
 - (f) cancel the order in respect of which the specified condition was imposed in any other case, and in substitution for that order, make any other order under section 283 the court thinks fit. 30
- (4) In making an order under **subsection (3)(f)**, the court must—
- (a) assess the restrictiveness of the proposed response in accordance with the hierarchy in section 283; and 35
 - (b) not impose a response unless satisfied that a less restrictive response would, in the circumstances and having regard to the principles in section 208 and factors in section 284, be clearly inadequate.

- (5) On or after making or varying under **subsection (3)(b), (c), or (f)** a supervision order or a supervision with activity order in respect of a young serious offender, the court may, in accordance with **section 308A(1A)**, direct that the young serious offender's compliance with 1 or more specified conditions of the order is to be monitored judicially.

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296FC Interim suspension order pending determination of application under section 296FB

- (1) Pending the determination of an application under **section 296FB**, the court may, on the application of a party to the proceedings or the youth advocate or at its own discretion, make an interim suspension order that suspends the operation of the order in respect of which the specified condition was imposed.
- (2) If the court makes an interim suspension order under **subsection (1)**, the court may also exercise, in respect of the young serious offender, any of the powers in section 238(1)(a) to (e).
- (3) However, the court must not exercise the power in section 238(1)(a) or (c) unless the court is satisfied that there are exceptional circumstances.
- (4) **Subsection (2)** is subject to section 239(1) and (2).

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296FD Warrant to have young serious offender arrested and brought before court

- (1) A constable who makes an application under **section 296FB** (the **application**) may apply to the court in writing and on oath for a warrant to arrest, and to bring before the court, the young serious offender to whom the application relates if the constable believes on reasonable grounds that—
- (a) all reasonable efforts have been made to locate or, as the case requires, to serve the application on, that young serious offender, but those efforts have failed; or
- (b) the application has been served on the young serious offender, but the young serious offender has failed to appear before that court.
- (2) If the court is satisfied that the ground under which the application is made is established, the court may issue a warrant to arrest and bring before that court the young serious offender to whom the application relates.

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296FE Execution of warrant under section 296FD

- (1) A warrant issued under **section 296FD** must be executed by a constable.
- (2) For the purpose of executing the warrant, the constable may at any time enter any premises, by force if necessary, if the constable has reasonable grounds to believe that the young serious offender against whom the warrant is issued is on those premises.

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- (3) Sections 445A (person executing warrant to produce evidence of authority and identity) and 445B (authority to use facsimile copy of warrant) apply to the warrant.

296FF Power to detain without warrant and return young serious offender who has failed to comply with specified condition

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If a constable has reasonable grounds to believe that a young serious offender has failed to comply satisfactorily with any specified condition, the constable may (using such reasonable force as may be necessary) detain the young serious offender without a warrant and return the young serious offender to the young serious offender’s residential address.

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296FG Power to arrest without warrant young serious offender who has failed to comply with specified condition

If a constable has reasonable grounds to believe that a young serious offender has failed, without reasonable excuse, to comply satisfactorily with any specified condition, the constable may (using such force as may be reasonably necessary) arrest the young serious offender without a warrant.

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38 Section 445A amended (Person executing warrant to produce evidence of authority and identity)

In section 445A, replace “section 122 or section 157(2) or section 205(2)(b) or section 296C” with “section 122, 157(2), 205(2)(b), 296C, or **296FD**”.

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39 Section 445B amended (Authority to use facsimile copy of warrant)

In section 445B(2), replace “or 296C” with “296C, or **296FD**”.

Subpart 4—Military-style academy orders

40 New sections 320S to 320ZE and cross-heading inserted

After **section 320R** (as inserted by **section 4** of this Act), insert:

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Military-style academy orders

320S Military-style academy order

- (1) If a charge against an eligible young serious offender is proved before the Youth Court, the court may make an order (a **military-style academy order**)—

- (a) requiring the eligible young serious offender to undertake a military-style academy programme for a period of—

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- (i) not less than 3 months; and
(ii) not more than 12 months; and

- (b) placing the eligible young serious offender in the custody of the chief executive for that period.

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- (2) However, **subsection (1)** is subject to **subsections (3) and (4)**.
- (3) The Youth Court may not make a military-style academy order—
- (a) in response to a charge relating to offending committed by the eligible young serious offender before they were declared to be a young serious offender, except if it is in response to a charge referred to in **section 320B(1)(a)(i) or (b)** in connection with which the declaration was made; or 5
- (b) in substitution for a cancelled order under section 296B(3)(a) that was made against the eligible young serious offender before they were declared to be a young serious offender. 10
- (4) The Youth Court may make a military-style academy order in respect of an eligible young serious offender at the same time as declaring them to be a young serious offender.
- (5) In this section,—
- eligible young serious offender** means a young serious offender who was of or over the age of 15 years, but under 18 years, at the time that they committed the offence in respect of which the charge mentioned in **subsection (1)** is brought 15
- military-style academy programme** means a programme under which the eligible young serious offender is, in accordance with a plan approved by the Youth Court under **section 335(3)** and any regulations made under **section 447(1)(fd)**,— 20
- (a) to be placed in a residence established under section 364; and
- (b) to undertake military-style activities as well as daily activities to support their health, learning, and well-being (which may be provided outside the residence and may include an overnight component (but *see section 335(5)*)); and 25
- (c) to follow a tailored programme of learning to further their educational, vocational, and training needs; and
- (d) to receive support with regards to: 30
- (i) their rehabilitation; and
- (ii) their reintegration into the community.
- 320T Effect of military-style academy order: chief executive to provide day-to-day care**
- While an eligible young serious offender is in the custody of the chief executive under a military-style academy order,— 35
- (a) the chief executive has the role of providing day-to-day care for the eligible young serious offender as if a parenting order had been made with

respect to the eligible young serious offender under section 48(1) of the Care of Children Act 2004; and

- (b) except to the extent that they are preserved by the court in any order made under **section 320Y**, all the rights, powers, and duties of every other person having custody of the eligible young serious offender are suspended and have no effect; and 5
- (c) for the purposes of section 92 of the Care of Children Act 2004,—
 - (i) the military-style academy order constitutes an order about the role of providing day-to-day care for the eligible young serious offender; and 10
 - (ii) the chief executive is a person who, under the military-style academy order, has the role of providing day-to-day care for the eligible young serious offender.

320U Effect of military-style academy order: authority to require uniform

While an eligible young serious offender is in the custody of the chief executive under a military-style academy order, the chief executive may require the eligible young serious offender to wear a uniform or standard-issue clothing. 15

320V Effect of military-style academy order: authority to detain

A military-style academy order is sufficient authority for the detention of the eligible young serious offender who is subject to the order— 20

- (a) by the chief executive (including by a delegate or by a subdelegate of that delegate); or
- (b) by an approved worker of a qualifying provider if both of the following conditions are met:
 - (i) the qualifying provider provides any part of a military-style academy programme that the eligible young serious offender is required to undertake at a location other than a residence established under section 364: 25
 - (ii) a plan approved by the Youth Court under **section 335(3)** in connection with the order provides that approved workers of the qualifying provider have authority to detain the eligible young serious offender for the purposes of this paragraph; or 30
- (c) in a residence established under section 364.

320W Effect of military-style academy order: authority to use reasonable force

- (1) A military-style academy order is sufficient authority for any of the following to use physical force if they have reasonable grounds for believing that the use of such physical force is reasonably necessary to prevent the eligible young serious offender who is subject to the order from being harmed, harming themselves, or harming another: 35

- (a) the chief executive (including a delegate or a subdelegate of that delegate):
- (b) an approved worker of a qualifying provider that provides any part of a military-style academy programme that the eligible young serious offender is required to undertake at a location other than a residence established under section 364. 5
- (2) A military-style academy order is sufficient authority for anyone who is authorised to detain an eligible young serious offender under **section 320V** to use physical force if they have reasonable grounds for believing that the use of such physical force is reasonably necessary to prevent the offender from absconding. 10
- (3) A person who uses physical force for any of the purposes referred to in **subsection (1) or (2)** may not use any more physical force than is reasonably necessary in the circumstances.
- (4) A military-style academy order is sufficient authority for any of the following to take the eligible young serious offender to any location that is permitted or required under a plan approved by the Youth Court under **section 335(3)** and to use such force as is reasonably necessary for that purpose: 15
- (a) a constable:
- (b) the chief executive (including a delegate or a subdelegate of that delegate): 20
- (c) an approved worker of a qualifying provider who has the eligible young serious offender in their charge in accordance with the plan.
- (4A) Before the chief executive (including a delegate or a subdelegate of that delegate) or an approved worker uses physical force in dealing with an eligible young serious offender under this section, they must be satisfied on reasonable grounds that— 25
- (a) appropriate techniques to de-escalate the eligible young serious offender’s behaviour have been used and have not been effective; or
- (b) the use of such techniques is not reasonably practicable in the circumstances. 30
- (4B) If the chief executive (including a delegate or a subdelegate of that delegate) or an approved worker decides to use physical force under this section, the eligible young serious offender must, as soon as practicable after the application of that force, be examined by a health practitioner. 35
- (4C) Nothing in this section authorises the chief executive (including a delegate or a subdelegate of that delegate) or an approved worker to use a mechanical restraint (for example, handcuffs, head protectors, spit hoods, torso restraints, or waist restraints).
- (5) Particulars of the use of ~~force~~ any force under this section must, ~~wherever required by regulations made under this Act, —~~ 40

- (a) be recorded; and
- (b) be given by notice in writing to the chief executive and to any other person specified in ~~those~~ regulations.
- (6) Nothing in this section limits or affects any other provision in this Act or any other legislation that authorises a person to use physical force, or any provision of the Crimes Act 1961, or any rule of law, that makes any specified circumstances— 5
- (a) a justification or excuse for the use of force; or
- (b) a defence to a charge involving the use of force.
- 320X Youth Court must make supervision order in conjunction with military-style academy order** 10
- (1) If the Youth Court makes a military-style academy order, the court must also make an order under **section 283(k)(iii) or (iv) (a supervision order)** that—
- (a) is subject to the modification that the supervision order must place the offender under supervision for a period of— 15
- (i) not less than 6 months; and
- (ii) not more than the shorter of the following:
- (A) 18 months;
- (B) the length of time that would result in the combined term of the military-style academy order and the supervision order being 24 months; and 20
- (b) comes into force on the expiry of the military-style academy order.
- (2) The supervision order must be made either at the same time as the military-style academy order or at any later time before the expiry of that order.
- (3) The supervision order may be subject to all or any of the following conditions (which, if imposed by the court, apply in addition to the conditions required by section 305 and to any conditions the court imposes under section 306): 25
- (a) that the eligible young serious offender attend and remain at, for any weekday, evening, and weekend hours each week and for any number of months the court thinks fit, any specified location approved by the department, and take part in any activity required by the person in charge of the location: 30
- (b) that the eligible young serious offender attend and remain overnight at a specified location approved by the department for 1 or more consecutive nights each week, and for any number of weeks, the court thinks fit, for the purpose of attending an overnight activity that is provided by— 35
- (i) the chief executive; or
- (ii) a body or an organisation approved under section 396; or

(iii)	a body or an organisation approved as a community service for the purpose of providing an overnight activity to young serious offenders attending the overnight activity:	
(c)	that the eligible young serious offender undertake any specified programme or activity:	5
(d)	that the eligible young serious offender reside at an address specified by the court.	
320Y	Youth Court may make orders for access and exercise of other rights by parents and other persons	
(1)	Where the Youth Court makes a military-style academy order in relation to an eligible young serious offender, it may on making the order, or at any time after, on application made by any parent of that eligible young serious offender or by any other person, make an order—	10
(a)	granting access to that eligible young serious offender to that parent or other person:	15
(b)	conferring on that parent or other person such other rights in relation to the eligible young serious offender as it thinks fit.	
(2)	Any such order may be made on such terms and conditions as the court thinks fit.	
320Z	Search without warrant in connection with military-style academy order	20
(1)	For the purpose of exercising the powers conferred by section 320W(4) in respect of any eligible young serious offender, any constable or the chief executive (including a delegate or a subdelegate of that delegate) may, without a warrant, enter and search, by force if necessary, any dwelling house, building, aircraft, ship, carriage, vehicle, premises, or place, and remove the eligible young serious offender.	25
(2)	A person who exercises any powers under this section must, on entering any dwelling house, building, aircraft, ship, carriage, vehicle, premises, or place, and, if requested at any subsequent time,—	
(a)	produce evidence of identity; and	30
(b)	disclose that those powers are being exercised under this section.	
320ZA	Military-style academy order to cease to run if eligible young serious offender absconds	
	Where an eligible young serious offender who is subject to a military-style academy order absconds from the custody of the chief executive, any time during which that offender is unlawfully at large does not count as part of the period during which that offender is in the custody of the chief executive under that military-style academy order.	35

320ZB Youth Court may cancel or vary military-style academy order or plan if eligible young serious offender absconds or fails to comply

- (1) The Youth Court may, on the application of the chief executive, cancel or vary a military-style academy order, or vary the plan that was approved by the court under **section 335(3)** in connection with that order, if the court is satisfied that the eligible young serious offender subject to the order has, at any time while the order is in force,— 5
- (a) absconded from the custody of the chief executive; or
- (b) without reasonable excuse, failed to comply satisfactorily with the order or the plan. 10
- (2) The chief executive must serve an application under **subsection (1)** on—
- (a) the eligible young serious offender; and
- (b) the barrister or solicitor or youth advocate representing the eligible young serious offender; and
- (c) a parent or guardian of, or other person having the care of, the eligible young serious offender; and 15
- (d) the Commissioner of Police.
- (3) The persons specified in **subsection (2)** are entitled to appear and be heard at the hearing of the application.
- (4) Where the application is for a variation, the court may— 20
- (a) approve any or all of the variations proposed in the application; or
- (b) reject any or all of the variations proposed in the application; or
- (c) direct the applicant to make a revised application to the court that deals with any specific matter that the court requires.
- (5) Where the court cancels a military-style academy order,— 25
- (a) the court must at the same time cancel the order required to be made under **section 320X** in conjunction with the military-style academy order; and
- (b) the court may substitute, in relation to the eligible young serious offender in respect of whom the military-style academy order was made, any other order that it could have made at the time when the military-style academy order was made. 30
- (6) **Subsection (5)** is subject to **section 289(4)** (on the court imposing the least restrictive outcome that is adequate in the circumstances).

320ZC Youth Court may cancel or vary military-style academy order or plan on compassionate grounds 35

- (1) The Youth Court may, on the application of any of the persons mentioned in **subsection (3)**, cancel or vary a military-style academy order or vary the plan

- that was approved by the court under **section 335(3)** in connection with that order.
- (2) The only grounds on which an application may be made under **subsection (1)** are compassionate grounds, including that—
- (a) the eligible young serious offender subject to the military-style academy order has given birth, or is expected soon to give birth, to a child; or 5
 - (b) the eligible young serious offender is seriously ill and unlikely to recover; or
 - (c) any parent or guardian of the eligible young serious offender is seriously ill and unlikely to recover. 10
- (3) The following persons may make an application under **subsection (1)**:
- (a) the eligible young serious offender:
 - (b) the barrister or solicitor or youth advocate representing the eligible young serious offender:
 - (c) a parent or guardian of, or other person having the care of, the eligible young serious offender: 15
 - (d) the chief executive.
- (4) An application made by the eligible young serious offender must be served on the chief executive.
- (5) An application made by a person specified in **subsection (3)(b), (c), or (d)** must be served by the person on— 20
- (a) all of the other persons specified in **subsection (3)**; and
 - (b) the Commissioner of Police.
- (6) The persons specified in **subsection (3)** and the Commissioner of Police are entitled to appear and be heard at the hearing of the application. 25
- (7) Where the application is for a variation, the court may—
- (a) approve any or all of the variations proposed in the application; or
 - (b) reject any or all of the variations proposed in the application; or
 - (c) direct the applicant to make a revised application to the court that deals with any specific matter that the court requires. 30
- (8) Where the court cancels a military-style academy order,—
- (a) the court must at the same time cancel the order required to be made under **section 320X** in conjunction with the military-style academy order; and
 - (b) the court may substitute, in relation to the eligible young serious offender in respect of whom the military-style academy order was made, any other order that it could have made at the time when the military-style academy order was made. 35

- (9) **Subsection (8)** is subject to **section 289(4)** (on the court imposing the least restrictive outcome that is adequate in the circumstances).

320ZD Youth Court may make interim suspension order while disposing of application to cancel or vary military-style academy order or plan

- (1) This section applies if an application to cancel or vary a military-style academy order, or to vary the plan that was approved by the Youth Court under **section 335(3)** in connection with that order, has been made under **section 320ZB** or **320ZC**. 5
- (2) The Youth Court may, on the application of any of the persons mentioned in **subsection (3)**, or of its own motion, make an interim suspension order that suspends the operation of the military-style academy order until the court disposes of the application referred to in **subsection (1)**. 10
- (3) The following persons may make an application under **subsection (2)**:
- (a) the eligible young serious offender subject to the military-style academy order: 15
 - (b) the barrister or solicitor or youth advocate representing the eligible young serious offender:
 - (c) a parent or guardian of, or other person having the care of, the eligible young serious offender:
 - (d) the chief executive. 20
- (4) An application made by the eligible young serious offender must be served on the chief executive.
- (5) An application made by a person specified in **subsection (3)(b), (c), or (d)** must be served by the person on— 25
- (a) all of the other persons specified in **subsection (3)**; and
 - (b) the Commissioner of Police.
- (6) The persons specified in **subsection (3)** and the Commissioner of Police are entitled to appear and be heard at the hearing of the application or motion.
- (7) If the court makes an interim suspension order under **subsection (2)**, the court may also exercise, in respect of the eligible young serious offender, any power conferred by section 238(1)(a) to (e). 30
- (8) However, unless the court is satisfied that there are exceptional circumstances, it must not take any of the actions referred to in section 238(1)(a) or (c).
- (9) **Subsection (7)** is subject to section 239(1) and (2).

320ZE When military-style academy order ceases to have effect 35

- (1) Every military-style academy order ceases to have effect when the period for which the eligible young serious offender subject to the order is placed in the custody of the chief executive under **section 320S(1)(b)** elapses.

- (2) If the period elapses on a day that is a non-release day, the order ceases to have effect instead on the nearest preceding day that is not a non-release day.
- (3) When a military-style academy order ceases to have effect or is cancelled under **section 320ZB** or **320ZC**, custody of the eligible young serious offender reverts to the person having custody of the eligible young serious offender immediately before the order was made. 5
- (4) In this section, **non-release day** means—
- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign’s birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, or Waitangi Day; or 10
- (b) a day in the period commencing with 25 December in a year and ending with 15 January in the following year; or
- (c) in respect of release from a particular place, the anniversary day of the region in which that place is situated.

Part 2 15

Other amendments to principal Act

Subpart 1—Amendments relating to young serious offender declarations

41 Section 2 amended (Interpretation)

In section 2(1), insert in their appropriate alphabetical order:

public service agency has the meaning given to it in section 5 of the Public Service Act 2020 20

young serious offender has the meaning given in **section 320A**

young serious offender declaration or **YSO declaration** has the meaning given in **section 320A**

42 Section 208A replaced (Child or young person subject to youth justice jurisdiction only until allegations of offending dealt with) 25

Replace section 208A with:

208A Child or young person subject to youth justice jurisdiction only until allegations of offending dealt with unless YSO declaration made

Nothing in section 4A(2), 5, or 208 requires or allows a court or person to make or keep a child or young person subject to any process under this Part, Part 5, or sections 351 to 360, unless— 30

- (a) the court or person is considering how allegations of offending are to be dealt with or is disposing of criminal proceedings; or
- (b) in the case of a young person, the young person is subject to a YSO declaration. 35

42A Section 272A amended (Modifications and procedure for child aged 12 or 13 years charged with offence in section 272(1)(b) or (c))

After section 272A(1)(c), insert:

- (ca) **sections 320A to 320RB** do not extend or apply to the child as if the child were a young person; and

5

43 Section 296B amended (Failure to comply)

After section 296B(3)(c), insert:

- (d) make, on an application made for the purpose, a YSO ~~declaration~~ declaration, and that declaration may be made—
- (i) on its own; or
- (ii) concurrently with an order under paragraph (a), (b), or (c).

10

44 Section 316 amended (Court may cancel supervision with residence order if young person absconds or fails to comply with order)

After section 316(2)(b), insert:

- (c) the court may make, on an application made for the purpose, a YSO declaration.

15

45 Section 324 amended (Further provisions relating to youth advocate)

After section 324(2), insert:

- (2A) If a youth advocate represents a young person in any proceedings in which the court makes a YSO declaration in respect of the young person, the youth advocate is entitled, with the consent of the young person, to represent the young person on any appeal under section 351 or 352 in respect of those proceedings and any subsequent proceedings under Part 4 in relation to the YSO declaration.

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46 Section 334 amended (Report by social worker)

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- (1) Replace section 334(1) and (2) with:

- (1) After a charge against a young person is proved, the court—
- (a) may, before making any order under section 283 described as a group 1 or 2 response (an order under section 283(a) to (j)), request a report from a social worker:
- (b) must, before taking any of the following actions, request a report from a social worker:
- (i) making an order under section 283 described as a group 3, 4, 5, 6, or 7 response (an order under section 283(ja) to (o));
- (ii) making an order under **section 296FB(3)**:
- (iii) making an order under section 296G:

30

35

<ul style="list-style-type: none"> (iv) making a YSO declaration under section 320J: (v) making an order extending the term of a YSO declaration under section 320O: (vi) varying a military-style academy order under section 320ZB or 320ZC. 	5
<ul style="list-style-type: none"> (2) After receiving a request under subsection (1), a social worker must prepare a report and provide the report to the court. (2A) If requests under any of subsection (1)(b)(i), (iii), and (iv) are received concurrently, a social worker may prepare and provide 1 report only dealing with all requests. (2B) A report provided to the court under subsection (2) or (2A) must be considered by the court before the court makes an order, declaration, or variation of the kind specified in subsection (1). 	10
<ul style="list-style-type: none"> (2) In section 334(4)(a), replace “matter” with “matters”. 	15
<p>47 Section 351 amended (Appeals from decisions of Youth Court by young person)</p> <ul style="list-style-type: none"> (1) Replace section 351(1)(b) with: <ul style="list-style-type: none"> (b) any order (including a YSO declaration) made by the court based on that finding: (2) After section 351(4), insert: (5) A young person subject to a YSO declaration may appeal to the High Court against any order of the Youth Court made— <ul style="list-style-type: none"> (a) under section 320O extending the term of the YSO declaration; or (b) under section 320P declining an application to reduce the term of the YSO declaration; or (c) under section 320Q declining an application to discharge a YSO declaration. 	20
<p>48 Section 352 amended (Appeal by parents or guardians or other persons having care of young person)</p> <p>After section 352(e), insert:</p> <ul style="list-style-type: none"> (f) any order made under section 320J making a YSO declaration in respect of the young person: (g) any order made under section 320O extending the term of the YSO declaration made in respect of the young person: (h) any order made under section 320P declining an application to reduce the term of the YSO declaration made in respect of the young person: (i) any order made under section 320Q declining an application to discharge a YSO declaration made in respect of the young person. 	30
<ul style="list-style-type: none"> (h) any order made under section 320P declining an application to reduce the term of the YSO declaration made in respect of the young person: (i) any order made under section 320Q declining an application to discharge a YSO declaration made in respect of the young person. 	35

49 Section 356 amended (Effect of notice of appeal on certain orders)

Replace section 356(1) with:

- (1) The operation of any order made by the Youth Court under **section 283(k)**, (l), (m), (n) or **(na)**, or a YSO declaration, is not affected by the filing of a notice of appeal relating to the order or declaration, unless the Youth Court Judge who presided over the court making the order or declaration or, if that Youth Court Judge is not available, some other Youth Court Judge exercising jurisdiction in the Youth Court, on application by the appellant, directs that the operation of the order or declaration be suspended pending the determination of the appeal.

50 Section 358 amended (Presence of young person at hearing of appeal)

- (1) After section 358(1), insert:
- (1A) On the hearing of any appeal (not being an appeal on a point of law only) relating to a YSO declaration made under **section 320J** or an order under **section 3200** extending the term of a YSO declaration, the young serious offender in respect of whom the YSO declaration is made, if under the supervision of the chief executive or any other person or organisation, or in the custody of the chief executive (pursuant to an order made under **section 283(k)**, (l), (m), (n) or **(na)**), is entitled to be present unless the High Court or a Judge of that court otherwise directs.
- (2) After section 358(2), insert:
- (2A) On the hearing of any appeal (being an appeal on a point of law only) relating to a YSO declaration made under **section 320J**, or an order under **section 3200** extending the term of a YSO declaration, the young serious offender in respect of whom the YSO declaration is made, if under the supervision of the chief executive or any other person or organisation, or in the custody of the chief executive (pursuant to an order made under **section 283(k)**, (l), (m), (n) or **(na)**), is not entitled to be present except with the leave of the High Court or a Judge of that court.
- (3) After section 358(3), insert:
- (3A) If under this section a young serious offender is entitled to be present in the High Court on the hearing of any appeal, the person supervising, or having the custody of, the young serious offender may, without further authority than this subsection, cause the young serious offender to be taken to the High Court for the hearing.
- (4) After section 358(4), insert:
- (5) If any appeal relating to a young serious offender is made under this Part, the High Court or a Judge of that court may order that the young serious offender be present at the hearing.

51 Section 360 amended (Notification of appeal and result of appeal to local principal manager)

In section 360(1), after “section 283,”, insert “or a YSO declaration,”.

Subpart 2—Amendments relating to military-style academy orders

52 Section 2 amended (Interpretation) 5

In section 2(1), insert in their appropriate alphabetical order:

approved worker, in relation to a qualifying provider, means an employee or a contractor of the qualifying provider who, in accordance with regulations made under ~~this Act~~ **section 447(1)(fca)**, is assessed and approved as being safe and suitable to carry out the functions that an approved worker is authorised to carry out under this Act 10

eligible young serious offender has the meaning given in **section 320S**

military-style academy order has the meaning given in **section 320S**

military-style academy programme has the meaning given in **section 320S**

qualifying provider means— 15

(a) a body or an organisation approved as a community service under section 403, in accordance with regulations made under **section 447(1)(fba)**, for the purpose of providing any part of a military-style academy programme; or

(b) a department (as defined in section 5 of the Public Service Act 2020) or a Crown entity (as defined in section 7 of the Crown Entities Act 2004) that is prescribed in regulations made under ~~this Act~~ **section 447(1)(fc)** 20

53 Section 239 amended (Restrictions on power of court to order child or young person to be detained in custody) 25

In section 239(1), after “variation or cancellation application,”, insert “or if the order is being considered under **section 320ZD(7)**, pending determination of the application mentioned in **section 320ZD(1)**,”.

54 Section 283 amended (Hierarchy of court’s responses if charge against young person proved) 30

After section 283(n), insert:

(na) make a military-style academy order under **section 320S** (which only applies if the young person is an eligible young serious offender):

55 Section 289 amended (Court must impose least restrictive outcome adequate in circumstances) 35

After section 289(3), insert:

- (4) Subsection (1)(a) and (b) also applies to any outcome imposed by a court that on an application under **section 320ZB** or **320ZC**—
- (a) cancels a military-style academy order made under **section 320S** in respect of an eligible young serious offender; and
- (b) substitutes under **section 320ZB(5)(b)** or **320ZC(8)(b)** (as the case may be) any other order that it could have made when the military-style academy order was made. 5

56 Section 296 amended (Expiry of orders)

After section 296(1)(h), insert:

- (ha) an order under **section 283(na)** (a military-style academy order under **section 320S**); or 10

57 Section 335 amended (Report to be accompanied by plan)

- (1) In section 335(1), after “or paragraph (n)”, insert “or **paragraph (na)**”.
- (2) In section 335(1), after “or under section 296G,”, insert “or in relation to any variation proposed to be made to a military-style academy order under **section 320ZB** or **320ZC**”. 15
- (3) After section 335(2), insert:

Plans relating to military-style academy orders

- (3) A plan that accompanies a report in respect of an order under **section 283(na)** (a military-style academy order under **section 320S**) must be approved by the Youth Court before, or at the same time as, the court makes the order. 20
- (4) For the purposes of subsection (1)(b), the details in the plan about the nature of the military-style academy programme that would be provided to the eligible young serious offender must include— 25
- (a) the period of time for which the eligible young serious offender is to undertake the military-style academy programme; and
- (b) details about the residence established under section 364 in which the eligible young serious offender is to be placed while undertaking the military-style academy programme; and 30
- (c) details about any parts of the military-style academy programme that are to be provided outside of the residence, including details about—
- (i) the duration of those parts of the programme; and
- (ii) the providers of those parts of the programme (*see* **subsection (5)**); and 35
- (iii) the locations and times at which those parts of the programme are to be provided (including whether any are to be provided over-night); and

- (d) if the plan provides that approved workers of a qualifying provider have authority to detain the eligible young serious offender for the purposes of **section 320V(b)**, details about the qualifying provider; and
- (e) details about the activities that the eligible young serious offender is to undertake to support their health, learning, and well-being; and 5
- (f) details about the tailored programme of learning that the eligible young serious offender is to follow to further their educational, vocational, and training needs; and
- (g) details about the support that the eligible young serious offender is to receive with regards to— 10
 - (i) their rehabilitation; and
 - (ii) their reintegration into the community.
- (5) The Youth Court must not approve a plan under **subsection (3)** that would involve the eligible young serious offender undertaking any part of the military-style academy programme at a specified location other than a residence established under section 364, unless that part of the programme is provided by, or under the supervision of,— 15
 - (a) the chief executive (including a delegate or a subdelegate of that delegate); or
 - (b) a qualifying provider. 20

58 Section 447 amended (Regulations)

- (1) Before section 447(1)(fa), insert:
 - (faa) prescribing the actions or steps that must be taken by the chief executive or the chief executive’s delegates, or any provider of a programme or activity, to help ensure that young serious offenders who are required to attend and remain at any specified location, or undertake any programme or activity, as a condition of a supervision order made under **section 311(5)** or **320X**, receive an appropriate standard of care that is consistent with the application of the principles in sections 4A, 5, and 208, including actions and steps relating to the assessment of the safety and suitability, and the approval, of bodies or organisations as community services for the purposes of providing overnight activities: 25 30
- (2) In section 447(1)(fa), after “bodies or organisations approved under section 396,”, insert “or qualifying providers,”.
- (3) ~~After section 447(1)(fa)(vii), insert: 35~~
 - ~~(viii) the assessment of the safety and suitability, and the approval, of a body or an organisation as a community service for the purposes of **paragraph (a)** of the definition of qualifying provider in section 2(1):~~

~~(ix) the assessment of the safety and suitability, and the approval, of an employee or a contractor of a qualifying provider for the purposes of becoming an approved worker:~~

- (4) After section 447(1)(fb), insert:
- (fba) prescribing the actions or steps that must be taken by the chief executive or the chief executive’s delegates to assess the safety and suitability, and to approve, a body or an organisation as a community service for the purposes of **paragraph (a)** of the definition of qualifying provider in section 2(1): 5
- (fc) prescribing a department or Crown entity for the purposes of **paragraph (b)** of the definition of qualifying provider in section 2(1): 10
- (fca) prescribing the actions or steps that must be taken by the chief executive, the chief executive’s delegates, or qualifying providers to assess the safety and suitability, and to approve, an employee or a contractor of a qualifying provider as an approved worker: 15
- (fd) providing for the implementation, operation, and monitoring of military-style academy programmes:
- (fe) prescribing safeguards that must be put in place and precautions that must be taken in relation to the use of force under this Act:
- (ff) prescribing matters for the purposes of relating to the recording and notification of particulars of the use of force under **section 320W(5)**: 20

59 Consequential amendments

Amend the Acts specified in the **Schedule** as set out in that schedule.

Subpart 3—Other amendments

- 60 Section 293A amended (Disqualification from driving)** 25
- In section 293A(4),—
- (a) delete “a Children and Young Persons Court or”; and
- (b) delete “or section 35 of the Children and Young Persons Act 1974”.
- 61 Section 312 amended (Effect of supervision with residence order)**
- (1) After section 312(1), insert: 30
- (1A) Any order made under section 311(1) is sufficient authority for the detention of the young person—
- (a) by the chief executive (including by a delegate or by a subdelegate of that delegate); or
- (b) in a residence established under section 364. 35
- (2) In section 312(1)(c), replace “section 91” with “section 92”.

- (3) After section 312(3), insert:
- (4) Nothing in this section authorises the chief executive (including a delegate or a subdelegate of that delegate) or any other person authorised in that behalf by the chief executive to use a mechanical restraint (for example, handcuffs, head protectors, spit hoods, torso restraints, or waist restraints). 5
- (5) Nothing in this section limits or affects any other provision in this Act or any other legislation that authorises a person to use physical force, or any provision of the Crimes Act 1961, or any rule of law, that makes any specified circumstances—
- (a) a justification or excuse for the use of force; or 10
- (b) a defence to a charge involving the use of force.

62 New sections 335A and 335B inserted

After section 335, insert:

- 335A Chief executive may apply to vary plan in relation to supervision with residence order** 15
- (1) The chief executive may make an application to the Youth Court to vary a plan made under section 335 that relates to a supervision with residence order.
- (2) The chief executive must serve the application on—
- (a) the young person subject to the supervision with residence order; and
- (b) the barrister or solicitor or youth advocate representing the young person; and 20
- (c) a parent or guardian of, or other person having the care of, the young person; and
- (d) the Commissioner of Police.
- (3) The persons mentioned in **subsection (2)** are entitled to appear and be heard at the hearing of the application. 25
- (4) The Youth Court may—
- (a) approve any or all of the variations proposed in the application; or
- (b) reject any or all of the variations proposed in the application; or
- (c) direct the chief executive to make a revised application to the court that deals with any specific matter that the court requires. 30
- 335B Chief executive may apply to vary plan in relation to military-style academy order**
- (1) The chief executive may make an application to the Youth Court to vary a plan made under section 335 that relates to a military-style academy order. 35
- (2) The chief executive must serve the application on—

- (a) the eligible young serious offender subject to the military-style academy order; and
- (b) the barrister or solicitor or youth advocate representing the eligible young serious offender; and
- (c) a parent or guardian of, or other person having the care of, the eligible young serious offender; and 5
- (d) the Commissioner of Police.
- (3) The persons mentioned in **subsection (2)** are entitled to appear and be heard at the hearing of the application.
- (4) The Youth Court may— 10
- (a) approve any or all of the variations proposed in the application; or
- (b) reject any or all of the variations proposed in the application; or
- (c) direct the chief executive to make a revised application to the court that deals with any specific matter that the court requires.
- 63 Section 385 amended (Children and young persons who abscond) 15**
- (1) Replace section 385(3) with:
- (3) A child or young person to whom this section applies does not, by reason only of an act or omission referred to in subsection (1), commit an offence against section 120 of the Crimes Act 1961, unless the child or young person was being detained pursuant to— 20
- (a) an order made under section 238(1)(d) or (e):
- (b) an order made under section 311(1):
- (c) an order made under **section 320S**:
- (d) section 34A of the Corrections Act 2004.
- (2) In section 385(5), replace “section 283(n)” with “section 311 or a military-style academy order is made under **section 320S**”. 25

Schedule Consequential amendments

s 59

Children’s Act 2014 (2014 No 40)

In section 5(1), definition of **core populations of interest to the department**, delete “of children”. 5

In section 5(1), definition of **core populations of interest to the department**, after paragraph (c), insert:

- (d) young serious offenders (as defined in **section 320A** of the Oranga Tamariki Act 1989) 10

Coroners Act 2006 (2006 No 38)

In section 9, definition of **death in official custody or care**, paragraph (c)(i), after “in the custody or care of”, insert “the chief executive, a community service,”.

In section 9, definition of **death in official custody or care**, paragraph (c)(i), after “238,”, insert “307, 311, **320S, 320X**,”. 15

Criminal Investigations (Bodily Samples) Act 1995 (1995 No 55)

In section 26A(2)(b)(i), replace “(n)” with “**(na)**”.

In section 26A(4), table, first column, first item, replace “(n)” with “**(na)**”.

Oranga Tamariki Act 1989 (1989 No 24)

In section 251(1)(h)(iv), after “or section 311”, insert “or **section 320X**”. 20

In section 276A(5), after “311,”, insert “**320S**,”.

In section 285(1), after “or paragraph (n)”, insert “or **paragraph (na)**”.

In section 285(4), replace “(n)” with “**(na)**”.

In section 285(5), after “or paragraph (n)”, insert “or **paragraph (na)**”.

After section 285(6)(a)(iii), insert: 25

- (iv) **section 283(na)** (military-style academy order under **section 320S**); and

In section 290, replace “section 283(n) or (o)” with “section 283(n), **(na)**, or (o)”.

In section 320(3), after “order made under section 311(1)”, insert “or **section 320S**”. 30

In section 340(1), after “(n),”, insert “**(na)**,”.

In section 340(1)(c), after “283(n)”, insert “, **(na)**,”.

In section 352(a), after “or (n)”, insert “or **(na)**”.

In section 356(1), after “or paragraph (n)”, insert “or **paragraph (na)**”.

In section 358(1), after “or paragraph (n)”, insert “or **paragraph (na)**”. 35

Oranga Tamariki Act 1989 (1989 No 24)—*continued*

In section 358(2), after “283(n)”, insert “or **(na)**”.

In section 360(1), after “or paragraph (n)”, insert “or **paragraph (na)**”.

After section 361(h), insert:

(haa) any eligible young serious offender who is placed in the custody of the chief executive pursuant to a military-style academy order made under **section 283(na)**: 5

After section 366(1), insert:

(1A) However, subsection (1) does not apply to a residence in which any eligible young serious offender is required to be placed under a plan approved by the Youth Court under **section 335(3)**. 10

In section 386A(1)(a), replace “or 311” with “311, or **320S**”.

In section 389(a)(ii), after “section 283(n)”, insert “or **(na)**”.

After section 395A(1), insert:

(1A) This section also applies if— 15

- (a) an eligible young serious offender dies; and
- (b) at the time of their death, the eligible young serious offender was the subject of an order under **section 283(na)** (military-style academy order).

In section 395A(2), replace “child or young person” with “child, young person, or eligible young serious offender” in each place. 20

Oversight of Oranga Tamariki System Act 2022 (2022 No 43)

In section 8(1), definition of **care or custody provider**, replace “such an organisation or body” with “such an organisation, body, or provider”.

In section 8(1), definition of **care or custody provider**, after paragraph (c), insert:

(d) a qualifying provider as defined in section 2(1) of that Act 25

After section 42(4)(h), insert:

(ha) use of force in the course of providing a military-style academy programme (*see* **sections 320S and 320W** of the Oranga Tamariki Act 1989):

Policing Act 2008 (2008 No 72) 30

In section 34A(c), replace “(n)” with “**(na)**”.

Social Security Act 2018 (2018 No 32)

In Schedule 2, definition of **CYPFA order or agreement**, paragraph (a), after “283(n)”, insert “or **(na)**”.

Victims' Rights Act 2002 (2002 No 39)

In section 35(2)(c)(i), replace “; and” with “; or”.

After section 35(2)(c)(i), insert:

- (ia) detention of a child or young person under a supervision with residence order made under section 311 or a military-style academy order made under **section 320S** of that Act; or 5

Legislative history

18 November 2024

21 November 2024

Introduction (Bill 99–1)

First reading and referral to Social Services and Community
Committee