

Children, Young Persons, and Their Families (Advocacy, Workforce, and Age Settings) Amendment Bill

Government Bill

As reported from the Social Services Committee

Commentary

Recommendation

The Social Services Committee has examined the Children, Young Persons, and Their Families (Advocacy, Workforce, and Age Settings) Amendment Bill and recommends by majority that it be passed with the amendments shown.

Introduction

This bill represents part of the Government's reform of services for vulnerable children, young people, and families. The bill would amend the Children, Young Persons, and Their Families Act 1989. It aims to achieve a child-centred system by:

- extending State responsibility for care and protection to a person's 18th birthday (currently, State care and protection stops on a person's 17th birthday)
- encouraging the participation of children and young people in decisions that could significantly affect them
- ensuring that, wherever possible, policies and services have regard to the views of children and young people
- supporting the set-up of independent advocacy services, with a particular focus on children and young people in care
- allowing a broader range of professionals to perform a wider set of tasks to help identify and meet the needs of vulnerable children and young people.

The bill seeks to achieve this last point by making the chief executive responsible for many tasks that social workers are currently responsible for. The chief executive could then delegate responsibility to other people. This delegation could be to social

workers, or to others if the chief executive is satisfied (under clause 7, new section 7C(2)(a)) that they are appropriately qualified to perform the task.

The following commentary discusses significant issues and amendments. It does not mention minor, consequential, or technical amendments.

Commencement date

In clause 2, we recommend changing the commencement date of the bill to 1 April 2017. This would align the bill with the date when the new Ministry for Vulnerable Children, Oranga Tamariki, is expected to begin operating.

Delegating powers and functions

Clause 7 would insert new sections 7A to 7E into the Act. The new sections are about the chief executive delegating his or her functions or powers to other people.

We recommend inserting new section 7BA after new section 7B. This would clarify that the chief executive could delegate powers or functions conferred by a court order or a warrant.

Delegating to a manager

If delegates are not social workers, extra conditions would apply. These are set out in proposed new section 7C. Under new section 7C(2)(a), the delegate must be appropriately qualified to perform the function or power.

We recommend inserting new subsection (3) into new section 7C and inserting new section 7CA after new section 7C.

These amendments would provide that, where the chief executive delegates to a manager who is not intended to perform the function or power themselves, the manager would not have to be appropriately qualified to perform the function or power. The manager could subdelegate functions or powers to social workers or other appropriately qualified people. New section 7CA would ensure that any subdelegate who is not a social worker must be appropriately qualified.

Delegations and subdelegations must be publicly notified

Under clause 7, new section 7D, all delegations of the chief executive's powers or functions must be publicly notified and information about them must be available on the Internet until the delegation is revoked.

We recommend amending new section 7D so that subdelegations would also have to be publicly notified.

We also recommend an amendment to allow people to inspect delegation information at the chief executive's head office. This would be a helpful alternative for those who do not use the Internet.

Other amendments relating to delegations

We recommend amending clause 4 to insert new subsection (1A) into the interpretation section of the Act. This would clarify that references in the Act to the chief executive should be interpreted to also mean his or her delegates and subdelegates.

Clause 10 and Schedule 2 of the bill would make consequential and other amendments to the Act. To enable the chief executive to delegate his or her functions or powers to a wider workforce than just social workers, Schedule 2 would give functions and powers to the chief executive that are currently conferred on social workers. So, for example, in many places in the Act, Schedule 2 would replace references to “social worker” with references to “the chief executive”.

We recommend changing Schedule 2 to make its amendments to the Act clearer and easier to follow. Our amendments to Schedule 2 would ensure that the functions and powers currently conferred on social workers were correctly vested in the chief executive.

Clause 11 and Schedule 3 would make consequential amendments to other Acts. We recommend inserting amendments to the Search and Surveillance Act 2012 into Schedule 3. The amendments would reflect the amendments in Schedule 2 of the bill to sections 39, 40, and 386 of the Children, Young Persons, and Their Families Act, which would move the search power from social workers to the chief executive.

Participation by children and young people

Clause 8, new section 11, would require those responsible for certain proceedings and processes to ensure that children and young people are encouraged and assisted to participate in relevant proceedings and processes. Children and young people would have to be given reasonable opportunities to express their views, and their views would have to be taken into account.

Preparation for family group conference

Under new section 11(1)(b), children and young people would be encouraged to participate in the proceedings of a family group conference.

We recommend widening new section 11(1)(b) and 11(3)(b) to also cover the processes required to convene or reconvene a family group conference. This would make it clear that, as well as participating in the family group conference, children and young people should also participate in its preparation.

Support to express themselves and to be understood

Under new section 11(2)(c), support must be provided for children or young people who have difficulties expressing their views or being understood. Difficulties could arise from the child’s age, the languages they speak, a disability, or another reason.

This provision could mean that a support person would attend meetings and other proceedings, and we recommend inserting new section 11(3A) to make this clear.

We also recommend inserting new section 11(3B) to prevent the support person attending if the person responsible for the meeting or other proceeding considers it impracticable or inappropriate for them to attend.

Transitional provisions

Clause 9 and Schedule 1 of the bill would amend Schedule 1AA of the Act, which contains transitional, savings, and related provisions. We recommend amending Schedule 1, Part 2, so that court applications by social workers could continue to be processed appropriately after the bill takes effect.

New Zealand Labour Party minority view

There are elements of this bill that Labour wholeheartedly supports. Overall, however, we believe the bill represents a missed opportunity.

Lifting the age of care and protection

We applaud the move to lift the age of care and protection to 18 years of age. In fact, when National came into office, there was already a bill on the order paper that would have achieved this, which was unfortunately dropped.

We disagree, however, with the bill's move to separate care and protection from the age of the youth justice system. Not only does separating these two ages in law mean that New Zealand will continue to breach the United Nations Convention on the Rights of the Child (UNCROC), it also presents practical difficulties.

As the Children's Commissioner (and former Principal Youth Court Judge) Andrew Becroft pointed out, "the change half-step, and not full step, to include youth justice seems to us to be burdensome, and it will add administrative complexity". While we acknowledge that the Government is currently considering lifting the age of the Youth Court jurisdiction, it is a huge shame and waste of resource to miss the opportunity to deal with both issues at the same time. We hope to hear a positive announcement from the Government in this area soon, not least to reduce the complexity that will soon to be added to our system.

The delegation of powers currently residing with social workers

We are strongly opposed to those new sections recommended under clause 7 of the bill, which vest powers, currently held by social workers, with the chief executive. This will essentially allow the chief executive to delegate these powers to other professions, with very few checks and balances, and without the oversight of Parliament. We believe that is wrong.

Social workers are trained professionals. Like the Police, they carry out certain weighty functions set out in legislation, and as such are able to be held to account—functions like the removal of children. These roles and responsibilities cannot, and should not, be taken lightly. We fully acknowledge that the deferential response model already allows Child, Youth, and Family (CYF) to delegate caseload to social workers operating outside of CYF, but the idea that powers contained in legislation

could simply be handed over at the discretion of the chief executive is a line that we do not believe should be crossed.

A number of submitters shared this view, and even those who may potentially be recipients of these powers spoke out against this amendment. Many argued that the collaboration across professions that work with children is already possible without such a huge legislative change. Others argued that the ability to work effectively with families could in fact be undermined by the delegating of these statutory powers. Overall, we agree that these changes could well lead to poor outcomes for children and their whānau and we do not support them.

Design of an independent advocacy system

We support all moves to place the child at the centre of decision making, give them a voice, and ensure they are heard. This includes the establishment of an independent advocacy service. We have expressed our view that we want to ensure that this service is sustainable and well supported. We are concerned that relying on the philanthropic sector for such a crucial body's establishment may undermine its longevity. We are keen to see guarantees that this service will be here to stay.

Green Party Aotearoa New Zealand minority view

The Green Party supports raising the age of care and protection to 18, though we agree with submitters that it does not make sense to raise the age of care and protection and not the age of youth justice. We are concerned that creating a two-tier system for children is missing the reality that many children within our youth justice system are children in our care. Creating two systems is administratively burdensome and inefficient and we did not hear an argument to justify continuing with a lower age for youth justice, in breach of our UNCROC commitments. The Green Party is embarrassed that New Zealand is one of the last countries in the world still treating children as adults in our justice system.

The Green Party also supports the establishment of a new youth advocacy service that will support them to express their views on matters that are important to them and for the chief executive to listen to their views on the operation and effectiveness of services provided under the Act. However, we agree with submitters that, as per international best practice, the service should also connect children in care, advocate for individual children in care, empower children in care, supporting them to speak up about what they need, and invest in training and development to grow their leadership. We believe this would have benefits to those young people and our society as a whole.

The Green Party also supports embedding the views of children and young people in the new operating model, especially in new section 11(2)(c) which requires suitable supports to be provided for children who may have difficulties expressing their views. However, again we share the concerns expressed by several submitters that the legislation is not specific enough. While the bill specifies that children's views must be taken into account, it doesn't say how their views will be weighed against other con-

cerns, how anyone will know they've been taken into account, and, if it's decided that their request or views aren't in their best interest, how this will be communicated to them. It could be argued this is operational detail, but we disagree. The current Act has provision for consideration to be given to children's wishes, but the Commissioner for Children has raised concerns that this hasn't been operationalised. The Green Party believes that putting more detail in the legislation is the best way to ensure the intent is realised.

While the Green Party supports, albeit with qualifications, the three provisions above and would vote for legislation with just these changes, we so deeply oppose the changes to enable wholesale delegation of CYF powers that we are unable to support this bill.

Significant concerns were raised by a range of submitters opposing the broad delegation of powers. The point was well made by the New Zealand Council for Christian Social Services when they said they couldn't comment on this point sensibly as there wasn't enough detail to know what it would mean in practice. The Office of the Children's Commissioner also noted that the legislative process seemed to have outstripped the policy process. Considering the high level of anxiety that this bill may enable a dismantling of the statutory sector, we are taking a precautionary approach and opposing this bill.

We also share the fear raised by several submitters that already under-funded and over-stretched community agencies may now be expected to take on additional roles without adequate funding. We were told this has been happening with the children's teams. It ultimately puts children and families in more danger. We do not have confidence that enabling broad scale delegation into a context of massive under-resourcing will solve any problems.

We also share concerns that delegating out these roles could further reduce transparency and accountability. The Office of the Children's Commissioner has said that it does not have the budget to properly follow up when it has concerns for children within CYF residences. Widening delegations will make this job more difficult. We believe it would be irresponsible to support legislation without a clear announcement of increased funding and specific provisions to ensure transparency and accountability.

We share concerns that this may further fragment an already fragmented system. It is already difficult to maintain the necessary child abuse investigative expertise, to help get a conviction, within a largely centralised system. Delegating out this role could make maintaining that expertise even more difficult and put children at further risk.

We share the view of the Commissioner for Children and other submitters that legislation needs to demarcate the role of uplifting children and specify who we give what role. The Green Party wants to see legislation clarify that profit-making organisations, such as Serco, have no place in our care and protection system. We also want to protect the independent relationship that non-government organisations have with families, and explicitly restrict coercive State powers.

Appendix

Committee process

The Children, Young Persons, and Their Families (Advocacy, Workforce, and Age Settings) Amendment Bill was referred to the committee on 15 June 2016. The closing date for submissions was 28 July 2016. We received and considered 22 submissions from interested groups and individuals. We heard oral evidence from 11 submitters.

We received advice from the Ministry of Social Development.

Committee membership

Alfred Ngaro (Chairperson)

Darroch Ball

Matt Doocey

Hon Paul Goldsmith

Jan Logie

Jono Naylor

Dr Parmjeet Parmar

Maureen Pugh

Carmel Sepuloni

Phil Twyford

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Key to symbols used in reprinted bill

As reported from a select committee

text inserted by a majority

~~text deleted by a majority~~

Hon Anne Tolley

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The Parliament of New Zealand enacts as follows:

1	Title	
	This Act is the Children, Young Persons, and Their Families (Advocacy, Workforce, and Age Settings) Amendment Act 2016 .	
2	Commencement	5
	This Act comes into force on 31 March 2017 <u>1 April 2017</u> .	
3	Principal Act	
	This Act amends the Children, Young Persons, and Their Families Act 1989 (the principal Act).	
4	Section 2 amended (Interpretation)	10
(1)	In section 2(1), replace the definition of young person with:	
	young person,—	
(a)	in Parts 2 to 3A, means a person of or over the age of 14 years but under the age of 18 years:	
(b)	in Parts 4 and 5, means a person of or over the age of 14 years but under the age of 17 years:	15
(c)	in every other provision in this Act, means a person to whom the provision applies because he or she is or was a young person within the meaning of either paragraph (a) or (b) :	
(d)	in any provision in any other enactment that defines the term young person by reference to this section or the meaning in this Act,—	20
(i)	has the meaning given in paragraph (b) if the provision relates to—	
(A)	a criminal investigation, the commission of an offence, or criminal proceedings; or	25
(B)	any process associated with a criminal investigation, the commission of an offence, or criminal proceedings; or	

	(C) Parts 4 and 5 of this Act; or	
	(ii) in any other case, has the meaning given in paragraph (a) :	
	(e) does not include a person who is or has been married or in a civil union	
(2)	After section 2(1), insert:	
(1A)	<u>In this Act, any reference to the chief executive includes a person who is a delegate of the chief executive or a subdelegate of that delegate irrespective of whether the provision in which the chief executive is referred to contains a reference to a delegate of the chief executive.</u>	5
5	Section 2A replaced (Transitional and savings provisions relating to amendments to this Act)	10
	Replace section 2A with:	
2A	Transitional, savings, and related provisions The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.	
6	Section 7 amended (Duties of chief executive)	15
(1)	In section 7(2), replace “shall” with “must”.	
(2)	After section 7(2)(ba), insert:	
	(bb) ensure that services are available to children and young persons who are subject to any action or receiving any service under Parts 2 to 7 (with particular consideration to be given to the needs of those in care) that provide them with an opportunity and support to express their views about—	20
	(i) matters that are important to them in relation to that action or service; and	
	(ii) the operation and effectiveness of processes and services under this Act, for the purpose of contributing to the improvement of these:	25
(3)	After section 7(2)(c)(ii), insert:	
	(ia) have regard to the views of children and young persons, including the views received by the services referred to in subsection (2)(bb) :	30
(4)	After section 7(2), insert:	
(3)	The services referred to in subsection (2)(bb) must operate independently from other services provided under this Act.	
(4)	In this section, in care means—	35
	(a) placed or detained in the custody or care of the chief executive, a person, a body, or an organisation under this Act; or	

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- (b) remanded in the custody of the chief executive under section 173 or 174 of the Criminal Procedure Act 2011; or
- (c) detained in a residence under section 34A of the Corrections Act 2004.

7 New sections 7A to 7E inserted

After section 7, insert:

7A Delegations made under section 41 of State Sector Act 1988 to social workers

- (1) A delegation made under section 41 of the State Sector Act 1988 by the chief executive of any of the functions or powers in the Act to a social worker is subject to this section.
- (2) Despite section 41(2) of that Act, a social worker may not subdelegate any functions or powers delegated to him or her.
- (3) **Section 7D** applies to any delegation made to a social worker.

7B Delegations made under section 41 of State Sector Act 1988 to persons who are not social workers

A delegation made under section 41 of the State Sector Act 1988 by the chief executive of any of the functions or powers in the Act to a person who is not a social worker is subject to **section 7C**, and **sections 7D and 7E** apply to the delegation.

7BA Delegation of functions and powers conferred by court order or warrant

- (1) The chief executive may delegate his or her functions and powers under all or any of sections 39, 40, 122, 157, 181, 205, or 386 to a social worker or to any other person, even though those functions and powers are conferred by a court order or a warrant that is made or issued after the delegation is made.
- (2) The following apply to a delegation referred to in this section:
 - (a) section 41 of the State Sector Act 1988, as if the delegation were made under that section; and
 - (b) if the delegation is to a social worker, **sections 7A and 7D**; and
 - (c) if the delegation is to a person who is not a social worker, **sections 7B, 7C, 7D, and 7E**.

7C ~~Matters chief executive must consider before delegating~~ Requirements for delegation to persons who are not social workers

- (1) This section applies to a delegation referred to in **section 7B or 7BA**.
- (2) Before making a delegation to a person who is not a social worker, the chief executive must be satisfied that, in addition to any relevant requirements of section 41 of the State Sector Act 1988 being met,—

	(a) the person is appropriately qualified to perform the function or exercise the power, taking into account the person's training, experience, and interpersonal skills; and	
	(b) if the person is outside the State services, the person will be bound by contractual obligations that are sufficient to support the appropriate exercise of the delegation.	5
(3)	<u>The chief executive may make a delegation to a person who does not meet the requirement in subsection (2)(a) if the delegation is made for the sole purpose of that delegate subdelegating the function or power to a person—</u>	
	(a) <u>who works under the management or supervision of the delegate; and</u>	10
	(b) <u>who is a social worker or meets the requirement in subsection (2)(a).</u>	
7CA	<u>Subdelegation of functions and powers by delegates who are not social workers</u>	
(1)	<u>This section applies if a delegation referred to in section 7B or 7BA is made to a person—</u>	15
	(a) <u>for the sole purpose of subdelegation (<i>see</i> section 7C(3)); or</u>	
	(b) <u>to whom the chief executive otherwise gives approval to subdelegate.</u>	
(2)	<u>A subdelegation by the delegate of a function or power under section 41(2) of the State Sector Act 1988 is subject to subsection (3).</u>	
(3)	<u>Before subdelegating any function or power to a person, the delegate must be satisfied that the person is a social worker or meets the requirement in section 7C(2)(a).</u>	20
7D	<u>Delegations and subdelegations to be publicly notified</u>	
(1)	<u>The delegations referred to in sections 7A and 7B to 7BA and a subdelegation referred to in section 7CA must be publicly notified, and information about all delegations <u>and subdelegations</u> must be made available on an Internet site maintained by the department <u>and be available for inspection at the head office of the department, free of charge,</u> until, in any case, the delegation <u>or subdelegation</u> is revoked.</u>	25
(2)	<u>The information required to be made available must include, in each case,—</u>	30
	(a) a description of the delegate <u>or subdelegate</u> , although the description need not identify any particular individual to whom the delegation <u>or subdelegation</u> is made but may instead give other identifying particulars, for example, the name of the specified office to which the delegation <u>or subdelegation</u> is made; and	35
	(b) a description of the function or power that has been delegated <u>or subdelegated</u> ; and	
	(c) a reference to the provision in this Act that provides for the function or power that has been delegated <u>or subdelegated</u> .	

(3) A failure to notify a delegation or a subdelegation does not affect its validity.

7E Immunity for delegates outside Public Service

Section 86 of the State Sector Act 1988 applies to a person outside the Public Service acting under a delegation referred to in **section 7B or 7BA** as if the person ~~is~~were a Public Service employee.

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8 Section 11 replaced (Duty of court and counsel to encourage and assist child or young person to participate in proceedings)

Replace section 11 with:

11 Child's or young person's participation and views

(1) This section applies to the following proceedings and processes: 10

(a) proceedings under this Act in a District Court, Family Court, or Youth Court (all being first instance courts) and proceedings in the High Court, Court of Appeal, or Supreme Court on an appeal (other than on a point of law only) against a decision, finding, or order under this Act of a first instance court: 15

(b) the process for convening, and the proceedings of, a family group conference convened under this Act:

(c) the preparation or review of a plan for a child or young person (a **planning process**) under this Act:

(d) the taking of any other action or making of any other decision (any **other process**) under this Act that would or does significantly affect a child or young person who is the subject of that process. 20

(2) In proceedings or a process to which this section applies,—

(a) the child or young person must be encouraged and assisted to participate in the proceedings or process to the degree appropriate for his or her age and level of maturity unless, in the view of a person specified in **subsection (3)**, that participation is not appropriate, having regard to the matters to be heard or considered; and 25

(b) the child or young person must be given reasonable opportunities to freely express his or her views on matters affecting him or her; and 30

(c) if a child or young person has difficulties in expressing his or her views or being understood (for example, because of his or her age or language, or because of a disability), support must be provided to assist him or her to express his or her views and to be understood; and

(d) any views that the child or young person expresses (either directly or through a representative) must be taken into account. 35

(3) The following persons must either perform the duties imposed by **subsection (2)(a) to (c)** or be satisfied, before undertaking any proceeding or process in-

	volving the child or young person, that those duties have been performed by another person: (a) for proceedings before a court, the Judge or other person presiding and the barrister or solicitor representing the child or young person: (b) for <u>the process for convening, and the proceedings of,</u> a family group conference, the person responsible for convening the conference: (c) for a planning process, the person directed by the court to prepare or review the plan: (d) for any other process, the person responsible for taking the action or making the decision.	5 10
(3A)	<u>Despite anything to the contrary in this Act and subject to subsection (3B), a person providing support to a child or young person under subsection (2)(c) is entitled to be present at a proceeding or a meeting relating to a process referred to in subsection (1) at which the child or young person is present, to continue to provide that support to him or her but for no other purpose.</u>	15
(3B)	<u>If the person responsible for a proceeding or process referred to in subsection (1) considers it is impracticable or inappropriate for the person providing support to be present at the proceeding or meeting, that person may not be present.</u>	
(4)	This section is not limited by section 5(d) (which sets out a principle relating to ascertaining, considering, and giving weight to the wishes of the child or young person).	20
(5)	In this section, support includes support from a member of the child's or young person's family group or other person supporting the child or young person, a specialist service provider, or any other service under this Act.	
9	Schedule 1AA amended	25
(1)	Replace the Schedule 1AA heading with:	
	Schedule 1AA Transitional, savings, and related provisions	s 2A
(2)	In Schedule 1AA, replace clauses 1 and 2 with the Parts 1 and 2 set out in Schedule 1 of this Act.	30
10	Consequential and other amendments to principal Act	
	Amend the principal Act as set out in Schedule 2 .	
11	Consequential amendments to other Acts	
	Amend the Acts specified in Schedule 3 as set out in that schedule.	35

Schedule 1

Schedule 1AA amended

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Part 1	
Provisions relating to Children, Young Persons, and Their Families Amendment Act (No 2) 2013	
1	Application of sections 311, 314, and 317 (supervision with residence orders: early release from custody) Sections 311, 314, and 317, as those sections are amended by the Children, Young Persons, and Their Families Amendment Act (No 2) 2013, apply to a supervision with residence order under section 311(1)— (a) that was made, and that had not expired, before that Act's commencement; or (b) made after that Act's commencement.
2	Adjournment date of pre-commencement supervision with residence orders Section 314 as amended by the Children, Young Persons, and Their Families Amendment Act (No 2) 2013 applies to an order specified in clause (1)(a) as if the adjournment date under section 311(2A)(a) (as in force before that Act's commencement) were the adjournment date under section 311(2A)(a) (as in force after that commencement).
Part 2	
Provisions relating to Children, Young Persons, and Their Families Amendment Act 2016	
	The references to a social worker in sections 18D, 68, 69, 125(1A), 128(4)(c)(i), 206A(4)(b)(ii), 296E(2)(b) and (d), and 386(1) immediately before this schedule comes into force must be treated as references to the chief executive.
Part 2	
<u>Provisions relating to Children, Young Persons, and Their Families (Advocacy, Workforce, and Age Settings) Amendment Act 2016</u>	
3	<u>Process or proceeding commenced but not completed before commencement date</u> (1) <u>In this clause, commencement date means the date on which this clause comes into force.</u>

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| (2) | <u>This clause applies to a process or proceeding that has been commenced by a social worker under the Act but has not been completed before the commencement date.</u> | |
| (3) | <u>On and after the commencement date, a process or proceeding to which this clause applies must be treated as if it were commenced by the chief executive.</u> | 5 |
| (4) | <u>However, for the purposes of continuing and completing the process or proceeding, any provision relating to the process or proceeding that, immediately before the commencement date, contained any of the references listed in sub-clause (5) must be read as if those references had not been affected by the commencement of the Children, Young Persons, and Their Families (Advocacy, Workforce, and Age Settings) Amendment Act 2016.</u> | 10 |
| (5) | <u>The references are to—</u> | |
| | (a) <u>a social worker's belief;</u> | |
| | (b) <u>a decision by a social worker;</u> | |
| | (c) <u>a social worker being satisfied or not satisfied of something;</u> | 15 |
| | (d) <u>an assessment by a social worker;</u> | |
| | (e) <u>a social worker considering something;</u> | |
| | (f) <u>a social worker suspecting something;</u> | |
| | (g) <u>any reference similar to those in paragraphs (a) to (f).</u> | |

Schedule 2

Consequential ~~and other~~ amendments to principal Act

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Section 14 ~~(as amended by section 7 of the Children, Young Persons, and Their Families (Vulnerable Children) Amendment Act 2014)~~

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In section 14(1)(ba), replace “a social worker” with “the chief executive”.

Section 15

In section 15, replace “a social worker” with “the chief executive”.

Section 17

Replace section 17 with:

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17 Investigation of report of ill-treatment or neglect of child or young person

(1) If the chief executive or a constable receives a report under section 15 relating to a child or young person, he or she must,—

(a) as soon as practicable after receiving the report, if it appears that an investigation is necessary or desirable, commence an investigation or arrange for an investigation to be commenced into the matters contained in the report to the extent that an investigation is necessary or desirable; and

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(b) as soon as practicable after an investigation has commenced, consult a care and protection resource panel in relation to the investigation; and

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(c) unless it is impracticable or undesirable to do so, as soon as practicable after a decision is made not to investigate or the investigation has concluded, inform the person who made the report—

(i) whether the report has been investigated; and

(ii) if so, whether any further action has been taken.

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(2) If, after an investigation, the chief executive or constable reasonably believes that the child or young person is in need of care or protection, he or she must, as soon as practicable, notify a care and protection co-ordinator in accordance with section 18.

Section 18

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~~In the heading to section 18, replace “social workers or constables” with “chief executive or constable”.~~

In the heading to section 18, delete “by social workers or constables”.

Replace section 18(1) and (2) with:

(1) If the chief executive or a constable believes, after inquiry, that any child or young person is in need of care or protection (otherwise than on the ground

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Section 18—*continued*

- specified in section 14(1)(ba) or (e)), he or she must immediately report the matter to a care and protection co-ordinator, who must convene a family group conference under section 20.
- (2) If the chief executive suspects that any child is in need of care or protection on the ground specified in section 14(1)(e), the chief executive may refer the matter to the appropriate enforcement agency. 5

Section 18A (~~as inserted by section 9 of the Children, Young Persons, and Their Families (Vulnerable Children) Amendment Act 2014~~)

- In section 18A(2), replace “a social worker” with “the chief executive”. 10
- In section 18A(2), replace “social worker” with “chief executive”.
- In section 18A(4)(a) and (b), replace “social worker” with “chief executive”.
- In section 18A(5), replace “social worker” with “chief executive” in each place.
- In section 18A(7)(a), delete “by a social worker”.
- In section 18A(7)(a)(ii), replace “social worker” with “chief executive”.

Section 18C (~~as inserted by section 9 of the Children, Young Persons, and Their Families (Vulnerable Children) Amendment Act 2014~~) 15

- ~~In section 18C(1)(b), delete “, signed by the social worker,”.~~
- In section 18C(1)(b), replace “, signed by the social worker,” with “by the person making the application”.
- ~~In section 18C(1)(b), replace “social worker’s” with “chief executive’s”.~~ 20
- In section 18C(1)(b), replace “social worker’s” with “person’s”.
- In section 18C(4)(a), replace “social worker’s” with “chief executive’s”.
- In section 18C(4)(b), replace “social worker’s” with “chief executive’s”.
- In section 18C(4)(d), replace “social worker” with “chief executive”.
- In section 18C(5), replace “a social worker” with “the chief executive”. 25

Section 18D (~~as inserted by section 9 of the Children, Young Persons, and Their Families (Vulnerable Children) Amendment Act 2014~~)

- In section 18D, replace “a social worker’s” with “the chief executive’s”.
- In section 18D(a), delete “made by the chief executive”.
- In section 18D(a), delete “, as if leave of the court had been granted under section 68(c)”. 30

Section 19

- In section 19(3), replace “a social worker” with “the chief executive”.

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Section 22

~~In section 22(1)(d), replace “from a social worker or a constable, that social worker or constable, or any social worker or constable who is acting for that person” with “, the person who made the report (or any person who is acting for him or her)”.~~

Section 22

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Replace section 22(1)(d) with:

- (d) if the conference was convened on the basis of a report under **section 18(1)**,—
 - (i) the person who made the report (A); or
 - (ii) if A was a delegate of the chief executive, a person acting for A (who must also be a person who has been delegated the chief executive’s power to make reports under **section 18(1)**); or
 - (iii) if A was a constable, another constable acting for him or her;

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Section 30

~~In section 30(1)(a), replace “from a social worker or a constable” with “made under that section”.~~

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~~In section 30(1)(a)(i), replace “that social worker or constable (or any person acting for that social worker or that constable)” with “the person who made the report (or any person acting for him or her)”.~~

~~In section 30(1)(a)(ii), replace “that social worker or constable (or any person acting for that social worker or that constable)” with “the person who made the report (or any person acting for him or her)”.~~

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Section 30

Replace section 30(1)(a) with:

- (a) if the conference was convened on the basis of a report under **section 18(1)**,—
 - (i) communicate that decision, recommendation, or plan to—
 - (A) the person who made the report (A); or
 - (B) if A was a delegate of the chief executive, a person acting for A (who must also be a person who has been delegated the chief executive’s power to make reports under **section 18(1)**); or
 - (C) if A was a constable, another constable acting for him or her; and
 - (ii) communicate that decision, recommendation, or plan to every person who will be directly involved in its implementation; and

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Section 30—continued

- (iii) seek the agreement of the persons described in **paragraph (a)(i)(A), (B), or (C)** (as relevant in any case) and **paragraph (a)(ii)** to that decision, recommendation, or plan:

Section 31

In section 31(1)(c)(i), replace “from a social worker or a constable, make a report on the matter to that social worker or constable” with “made under that section, report on the matter to the person who made the report”.

In section 31(1)(c)(ii), replace “a social worker” with “the chief executive”.

Replace section 31(2) with:

- (2) If a care and protection co-ordinator makes a report under subsection (1)(c)(i) or (ii), the chief executive or a constable may take any action under this Act that he or she considers appropriate.

Section 31

Replace section 31(1)(c) with:

- (c) must,—
- (i) if the conference was convened on the basis of a report under section 18(1), make a report on the matter to the person who made the report; or
- (ii) in any other case, report the matter to the chief executive;

Replace section 31(2) with:

- (2) If a care and protection co-ordinator makes a report under subsection (1)(c)(i) or (ii), the person to whom that report is made may take any action under this Act that he or she considers appropriate.

Section 33

In section 33(2)(c), replace “any social worker” with “the chief executive”.

Section 34

In section 34(1), replace “to which the agreement of a social worker” with “for which agreement of a delegate of the chief executive”.

~~Section 36 (as amended by section 16 of the Children, Young Persons, and Their Families (Vulnerable Children) Amendment Act 2014)~~

In section 36(1)(b), replace “a social worker” with “the chief executive”.

In section 36(1A)(a), replace “social worker” with “chief executive”.

In section 36(1B), replace “A social worker” with “The chief executive”.

In section 36(1B), replace “social worker” with “chief executive”.

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Section 39

~~In section 39(1), replace “a social worker, either by name or generally,” with “the chief executive or any other person named in the warrant”.~~

~~In section 39(2), replace “a social worker” with “the chief executive”.~~

Section 39

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In section 39(1), replace “any constable or a social worker, either by name or generally,” with “any constable, either by name or generally, or the chief executive”.

After section 39(1), insert:

(1A) The function of executing a warrant issued in the name of the chief executive may be performed by a social worker or any other person authorised under a delegation to carry out that function (see **section 7BA**).

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In section 39(2), replace “a social worker” with “the chief executive”.

In section 39(3), replace “Any person authorised by warrant under this section” with “Any person executing a warrant”.

Section 40

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~~In section 40(1)(b), replace “a social worker, either by name or generally,” with “the chief executive or any other person named in the warrant”.~~

~~In section 40(2), replace “a social worker” with “the chief executive”.~~

Section 40

In section 40(1), replace “any constable or a social worker, either by name or generally,” with “any constable, either by name or generally, or the chief executive”.

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After section 40(1), insert:

(1A) The function of executing a warrant issued in the name of the chief executive may be performed by a social worker or any other person authorised under a delegation to carry out that function (see **section 7BA**).

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In section 40(2), replace “a social worker” with “the chief executive”.

In section 40(4), replace “Any person authorised by warrant under this section” with “Any person executing a warrant”.

Section 43

In section 43(1)(d), replace “a social worker” with “the chief executive”.

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Section 47

In the heading to section 47, replace “Social worker or constable to furnish report” with “Report to be furnished”.

In section 47(1), replace “social worker or constable” with “chief executive person”.

In section 47(2)(f), replace “social worker or constable” with “chief executive person who placed the child or young person in that custody”.

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Section 48

In section 48(1)(b), replace “a social worker” with “the chief executive (acting through his or her delegate)”.

In section 48(2), replace “a social worker” with “~~the chief executive~~ the delegate”.

In section 48(3), replace “17 years” with “18 years”.

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Section 49

In section 49(2), replace “a social worker” with “the chief executive”.

Section 53

In the heading to section 53, replace “**social worker**” with “**chief executive**”.

In section 53(2), replace “A social worker” with “The chief executive”.

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In section 53(3), replace “a social worker” with “the chief executive” in each place.

Section 54

In section 54(a), replace “a social worker” with “the chief executive”.

Section 56

In section 56, replace “social worker by whom the examination was arranged or required, as the case may be” with “person who arranged or required the examination”.

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Section 57

Replace the heading to section 57 with “**Report to chief executive following medical examination**”.

~~In section 57, replace “A social worker” with “The person”.~~

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In section 57, replace “social worker” with “delegate of the chief executive”.

Section 59

Replace section 59(1) with:

(1) Subject to subsection (4), the chief executive or a constable may apply to the court for an order requiring a person to produce a document for inspection by ~~him or her~~ the chief executive or that constable if—

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- (a) he or she believes on reasonable grounds that any person has, in that person’s possession, custody, or power, any document that contains, or he or she thinks is likely to contain, information necessary or relevant for the purpose of determining whether any child or young person is in need of care or protection (otherwise than on the ground specified in section 14(1)(e)); and

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- (b) that person has refused to allow that document to be inspected.

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Section 63

In section 63, replace “social worker or constable” with “person”.

Section 64

In section 64, replace “social worker or constable” with “person”.

Section 65

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In section 65(1), replace “to any social worker or constable shall be” with “is”.

Section 66

In section 66(1), replace “every care and protection co-ordinator, social worker, or” with “a care and protection co-ordinator, the chief executive, or a”.

Section 68

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In section 68(a), replace “a social worker” with “the chief executive”.

Section 69

In section 69, replace “a social worker or constable” with “the chief executive or a constable”.

~~Section 82~~

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~~In section 82(6)(a), replace “any social worker acting under the specific or general authority of that person” with “the chief executive”.~~

Section 82

Replace section 82(6) with:

- | | |
|---|---------------------|
| <p><u>(6)</u> <u>If a person gives a direction under subsection (4),—</u></p> <p> <u>(a)</u> <u>the chief executive (acting through his or her delegate) may—</u></p> <p> <u>(i)</u> <u>remove the child or young person to whom the direction relates,</u>
 <u>using such force as is reasonably necessary for the purpose; and</u></p> <p> <u>(ii)</u> <u>place the child or young person with a person or, if the person giving</u>
 <u>the direction is the chief executive, in a residence, as the per-</u>
 <u>son giving the direction thinks appropriate; and</u></p> <p> <u>(b)</u> <u>section 105(2) and (3) applies (as applicable and with all necessary</u>
 <u>modifications) to the removal of the child or young person.</u></p> | <p>20</p> <p>25</p> |
|---|---------------------|

Section 85

In section 85(1)(a), replace “a social worker” with “the chief executive”.

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Section 94

Repeal section 94.

Section 95

~~In section 95, delete “directing a person or organisation specified in the order to provide support to a child or young person”.~~

~~In section 95(a), replace “social worker” with “chief executive”.~~

~~In section 95(b), replace “that social worker” with “the chief executive”.~~

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~~In section 95(c), replace “social worker” with “chief executive”.~~

~~In section 95(d), replace “social worker” with “chief executive”.~~

Section 95

Replace section 95 with:

95 Conditions of support order or interim support order

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(1) If a court makes an order under section 91 or 92 directing that support be provided to a child or young person, the following conditions apply:

(a) the support person may, at all reasonable times, visit and enter the building or place in which the child or young person is living:

(b) the child or young person must not reside at an address at which, or with a person with whom, the support person has directed him or her not to reside:

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(c) the parent or guardian or other person having the care of the child or young person and with whom the child or young person is residing must ensure that the support person knows at all times the address at which the child or young person is residing:

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(d) in the case of a child or young person who is the subject of a declaration made on a ground in section 14(1)(d) or (e), he or she must not associate with any specified person or any specified class of persons that the support person has, in writing, warned him or her not to associate with.

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(2) For the purposes of this section and section 97, support person means any of the following people who are to provide or are providing support to a child or young person:

(a) a person who has been delegated the chief executive’s functions or powers under section 93:

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(b) a person named in the order:

(c) a person acting on behalf of an organisation named in the order.

Section 97

~~In section 97(1), replace “directing any person or organisation to provide support” with “relating”.~~

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~~In section 97(1), replace “social worker” with “chief executive”.~~

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Section 97

Replace section 97(1) with:

- (1) If a court makes an order under section 91 or 92 directing that support be provided to a child or young person of or over the age of 14 years and under 16 years, the court may impose any conditions the court thinks fit for the purposes of— 5
- (a) assisting any parent or guardian or other person having the care of the child or young person, or any other person residing with the child or young person, to carry out his or her duties and responsibilities; and
- (b) promoting co-operation between the parents or guardians or other persons, the child or young person, and the support person. 10

Section 99

Replace section 99 with:

- 99 Person or organisation providing support to child or young person to report to court** 15
- If, under section 91, the chief executive or any other person or organisation is directed to provide support to a child or young person, the chief executive, person, or organisation must, on the expiry of the period stated in the order in which the direction is made, provide a written report to the court containing—
- (a) an assessment of the effectiveness of the order; and 20
- (b) a description of the child’s or young person’s response to it; and
- (c) any other information that he, she, or it considers relevant.

Section 104

~~In section 104(2), replace “any constable or any social worker” with “the chief executive or any constable”.~~ 25

Section 104

In section 104(2), replace “any social worker” with “the chief executive (acting through his or her delegate)”.

Section 105

In section 105(1)(b), replace “any social worker, acting with the specific or general authority of the chief executive,” with “the chief executive”. 30

In section 105(1)(c), replace “any social worker, acting with the specific or general authority of the chief executive,” with “the chief executive (acting through his or her delegate)”.

In section 105(1)(c), replace “the social worker” with “~~chief executive~~ the delegate”. 35

Section 105—*continued*

In section 105(1)(d), replace “any social worker, acting with the specific or general authority of the chief executive,” with “the chief executive (acting through his or her delegate)”.

In section 105(1)(d), replace “~~the~~ social worker” with “~~chief executive~~ the delegate”.

In section 105(2), replace “a social worker” with “~~the chief executive~~ a delegate”. 5

In section 105(3), replace “The social worker” with “~~person~~ A delegate”.

Section 106

~~In section 106(1)(b), replace “any social worker or any constable” with “the chief executive or any constable”.~~

~~In section 106(1)(b), replace “any social worker or constable” with “the chief executive or that constable”.~~ 10

~~In section 106(2), replace “any social worker or constable” with “the chief executive or the constable”.~~

Section 106

Replace section 106(1)(b) with: 15

(b) may request the chief executive or any constable to assist in carrying out any direction given under paragraph (a).

After section 106(1), insert:

(1A) Any delegate of the chief executive or any constable who is providing assistance under **subsection (1)(b)** may use such force as is reasonably necessary to do so. 20

In section 106(2), replace “social worker” with “delegate”.

Section 108

In section 108(c), replace “17 years” with “18 years”.

~~**Section 113B (as inserted by section 22 of the Children, Young Persons, and Their Families (Vulnerable Children) Amendment Act 2014)**~~ 25

~~In section 113B(5)(a), replace “a social worker” with “the chief executive”.~~

~~**Section 122**~~

~~In section 122(1), replace “any social worker or any constable” with “any constable or the chief executive”.~~ 30

Section 122

In section 122(1), replace “any social worker” with “the chief executive”.

After section 122(1), insert:

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Section 122—continued

(1A) The function of executing a warrant issued in the name of the chief executive may be performed by a social worker or any other person authorised under a delegation to carry out that function (see **section 7BA**).

Section 123

~~In section 123, replace “any social worker or constable” with “any constable or the chief executive”.~~ 5

In section 123, replace “social worker” with “delegate of the chief executive”.

~~Section 125 (as amended by section 23 of the Children, Young Persons, and Their Families (Vulnerable Children) Amendment Act 2014)~~

In section 125(1A)(a), delete “a social worker,”. 10

Section 128

In section 128(4)(e)(i), delete “or a social worker”.

Section 129

~~In section 129(1A)(b), replace “a social worker” with “a delegate of the chief executive”.~~ 15

In section 129(1A)(b), replace “a social worker” with “the chief executive (acting through his or her delegate)”.

Section 157

In section 157(2), replace “any social worker ~~or any constable~~” with “~~any constable~~ ~~or the chief executive~~”. 20

After section 157(2), insert:

(2A) The function of executing a warrant issued in the name of the chief executive may be performed by a social worker or any other person authorised under a delegation to carry out that function (see **section 7BA**).

Section 166 25

In section 166(1)(l), replace “any social worker” with “the chief executive”.

Section 179

In section 179(4)(a), replace “a social worker” with “the chief executive”.

Section 181

In section 181(4)(a), replace “a social worker” with “the chief executive”. 30

After section 181(4), insert:

Section 181—*continued*

(5) The power to detain a child or young person may be exercised by a social worker or any other person authorised under a delegation by the chief executive to exercise that power (see **section 7BA**).

Section 187

In section 187(2)(f), replace “any social worker” with “the chief executive”. 5

~~**Section 205**~~

~~In section 205(2)(b), replace “any social worker or constable” with “any constable or the chief executive or any other person named in the warrant”.~~

Section 205

Replace section 205(2)(b) with: 10

(b) may, in addition, issue a warrant directing the chief executive or any constable to take possession of the child or young person and place the child or young person in the custody of the chief executive pending the order or further order of the court.

After section 205(2), insert: 15

(2A) The function of executing a warrant issued in the name of the chief executive may be performed by a social worker or any other person authorised under a delegation to carry out that function (see **section 7BA**).

(2B) A delegate or a constable executing a warrant may use such reasonable force as may be necessary to do so. 20

Section 206A

Repeal section 206A(4)(b)(ii).

Section 207B

In section 207B, definition of **young person**, paragraph (a), replace “17 years” with “18 years”. 25

Section 207F

In section 207F(1)(c), delete “or a social worker”.

Section 235

In section 235(2)(a), replace “a social worker” with “the chief executive (acting through his or her delegate)”. 30

In section 235(2)(b), replace “social worker” with “~~chief executive~~ delegate”.

In section 235(3), replace “a social worker” with “~~the chief executive~~ a delegate” in each place.

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Section 236

In section 236(1), replace “a senior social worker” with “the chief executive (acting through his or her delegate)”.

In section 236(1), replace “that senior social worker” with “~~the chief executive~~the delegate”.

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In section 236(2), replace “Where a senior social worker and a constable issue a joint certificate” with “If a joint certificate is issued”.

~~In section 236(2), replace “by the senior social worker to the chief executive” with “by the chief executive to a person appointed by the chief executive”.~~

In section 236(2), replace “the senior social worker” with “the delegate”.

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After section 236(2), insert:

- (3) Any delegation by the chief executive of a function or power under this section must be made to a senior employee or senior employees of the department.

Section 238

In section 238(1)(c), replace “a social worker” with “the chief executive”.

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Section 242

In section 242(1)(b), replace “a senior social worker” with “the chief executive (acting through his or her delegate)”.

After section 242(2), insert:

- (3) Any delegation by the chief executive of a function or power under this section must be made to a senior employee or senior employees of the department.

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Section 251

In section 251(1)(h), replace “a social worker” with “the chief executive”.

In section 251(1)(n), replace “social worker” with “chief executive”.

Section 266

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In section 266(2)(c), replace “any social worker” with “the chief executive”.

~~Section 270 (as amended by section 35 of the Children, Young Persons, and Their Families (Vulnerable Children) Amendment Act 2014)~~

In section 270(1A)(a), replace “a social worker” with “the chief executive”.

In section 270(1B), replace “A social worker” with “The chief executive”.

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Section 295

In section 295(1), replace “a social worker or constable” with “the chief executive or a constable”.

Section 296B

In section 296B(1)(a), replace “a social worker” with “the chief executive”.

In section 296B(1)(d), replace “a social worker” with “the chief executive”.

Section 296E

In section 296E(2)(b), replace “a social worker” with “the chief executive”. 5

In section 296E(2)(d), replace “a social worker” with “the chief executive”.

~~Section 296H~~

~~In section 296H, replace “from time to time appoint a social worker to supervise the young person on behalf of the chief executive” with “supervise the young person”.~~

Section 296H 10

Replace section 296H with:

296H Duty of chief executive to provide supervision under intensive supervision order

If a young person is placed under the supervision of the chief executive by an order under section 296G, the chief executive must provide supervision for that young person. 15

Section 296I

In section 296I(b), replace “social worker or person or organisation” with “~~chief executive~~ supervisor”.

In section 296I(b)(ii), replace “social worker or person or a representative of the organisation” with “~~chief executive~~ supervisor”. 20

In section 296I, insert as subsection (2):

(2) In this section, **supervisor** means any of the following people who are to provide or are providing supervision of a young person:

(a) a person who has been delegated the chief executive’s functions or powers under **section 296H**: 25

(b) the person named in the order:

(c) a person who is acting on behalf of the organisation named in the order.

Section 296L

~~In section 296L(1), replace “A constable or social worker” with “The chief executive or a constable”.~~ 30

~~In section 296L(1), replace “constable or social worker” with “chief executive or constable”.~~

In section 296L(1), replace “social worker may” with “the chief executive (acting through his or her delegate) may”. 35

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Section 296L—*continued*

In section 296L(1), replace “social worker believes” with “delegate believes”.

Section 298

In section 298(2)(b)(i), replace “a social worker” with “the chief executive”.

~~Section 304~~

~~In section 304, replace “shall from time to time appoint a social worker to supervise the young person on behalf of the chief executive” with “must supervise the young person”.~~

Section 304

Replace section 304 with:

304 Duty of chief executive to provide supervision

If a young person is placed under the supervision of the chief executive by an order under section 283(k) or 307(1), the chief executive must provide supervision for that young person.

~~Section 305~~

~~In section 305(a), replace “social worker” with “chief executive”.~~

~~In section 305(b), replace “social worker” with “chief executive” in each place.~~

~~In section 305(c), replace “that social worker” with “the chief executive”.~~

~~In section 305(d), replace “that social worker” with “the chief executive”.~~

~~In section 305(e), replace “social worker” with “chief executive”.~~

~~In section 305(f), replace “social worker” with “chief executive”.~~

Section 305

Replace section 305 with:

305 Conditions of supervision order

(1) If the court makes an order under section 283(k), the following conditions apply:

(a) the supervisor may, at all reasonable times, visit and enter the building or place in which the young person is living:

(b) the young person must report to the supervisor as and when he or she is required to do so by the supervisor:

(c) the young person must not reside at an address at which the supervisor has directed him or her not to reside:

(d) the young person may only continue in employment, or continue to engage in any occupation, approved by the supervisor:

Section 305—*continued*

- (e) the young person must ensure that the supervisor knows at all times the address at which he or she is residing;
- (f) the young person must not associate with any specified person or any specified class of persons that the supervisor has, in writing, warned him or her not to associate with.
- (2) For the purposes of this section and section 306, **supervisor** means any of the following people who are to provide or are providing supervision of a young person:
- (a) a person who has been delegated the chief executive’s functions or powers under section 283(k);
- (b) the person named in the order;
- (c) a person who is acting on behalf of the organisation named in the order.

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Section 306

In section 306(1)(a), replace “social worker or person or organisation” with “~~chief executive~~supervisor”.

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Section 308B

In section 308B(2), replace “a social worker or constable” with “the chief executive or a constable”.

Section 308C

In section 308C(1), replace “a social worker” with “the chief executive”.

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In section 308C(3)(b), replace “social worker” with “chief executive”.

In section 308C(4), replace “social worker” with “chief executive”.

Section 312

~~In section 312(2), replace “any constable or any social worker” with “the chief executive or any constable”.~~

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In section 312(2), replace “any social worker” with “the chief executive (acting through his or her delegate)”.

Section 318

~~In section 318(1), replace “any constable or any social worker” with “the chief executive or any constable”.~~

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In section 318(1), replace “any social worker” with “the chief executive (acting through his or her delegate)”.

In section 318(2), replace “Every constable or social worker or other person” with “Any A person”.

**Children, Young Persons, and Their Families
(Advocacy, Workforce, and Age Settings) Amendment
Bill**

Schedule 2

Section 320

In section 320(1), replace “social worker” with “chief executive”.

Section 329

In section 329(1)(i), replace “any social worker” with “the chief executive”.

Section 335

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In section 335(2)(b), replace “a social worker” with “the chief executive”.

Section 373

In section 373(1)(j), replace “any social worker” with “the chief executive”.

Section 385

~~In section 385(2), replace “any constable or a social worker” with “the chief executive or any constable”.~~ 10

In section 385(2), replace “a social worker” with “the chief executive (acting through his or her delegate)”.

In section 385(4), replace “a social worker” with “the chief executive”.

Section 386

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In section 386(1), replace “a social worker” with “the chief executive”.

In section 386(1), replace “or social worker” with “or the chief executive ~~or any other person named in the warrant~~”.

After section 386(1), insert:

(1A) The function of executing a warrant issued in the name of the chief executive may be performed by a social worker or any other person authorised under a delegation to carry out that function (see **section 7BA**). 20

Section 400

In section 400(1), replace “Any social worker or other officer of the department authorised by the” with “The”. 25

In section 400(2), replace “Every social worker or officer of the department” with “~~The person~~ The chief executive’s delegate”.

Section 401

~~In section 401(1), delete “a social worker or other officer of the department authorised by”.~~ 30

In section 401(1), replace “a social worker or other officer” with “the chief executive’s delegate or an officer”.

In section 401(2), replace “Every social worker or officer shall give reasonable notice of that person’s intention to enter any premises pursuant to subsection (1)(a)” with “A

Section 401—*continued*

person intending to enter any premises must give reasonable notice of his or her intention to do so”.

In section 401(3), replace “Every social worker or officer shall, on entering any premises under this section, and when requested” with “The person must on entering any premises, and if requested”.

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In section 401(4), replace “Any social worker or officer” with “The person”.

Section 408

In section 408(1), replace “Any social worker or other officer of the department authorised by the” with “The”.

In section 408(2), replace “Every social worker or officer of the department” with “~~The person~~ The chief executive’s delegate”.

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Section 409

~~In section 409(1), delete “a social worker or other officer of the department authorised by”.~~

In section 409(1), replace “a social worker or other officer” with “the chief executive’s delegate or an officer”.

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Replace section 409(2) with:

- (2) A person intending to enter any premises must give reasonable notice of his or her intention to do so to the service concerned.

In section 409(3), replace “Every social worker or officer shall” with “The person must”.

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In section 409(4), replace “Any social worker or officer” with “The person”.

Section 429

~~In section 429(a), after “to provide advice to social workers,” insert “other delegates of the chief executive.”~~

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Replace section 429(a) with:

- (a) to provide advice to social workers, other delegates of the chief executive, subdelegates, care and protection co-ordinators, and constables on the exercise or performance, by those persons, of the functions, powers, and duties conferred or imposed on them by or under Part 2 or 3, a delegation referred to in **sections 7A to 7BA**, or a subdelegation referred to in **section 7CA**:

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Section 438

In section 438(2)(a)(ii), after “social workers”, insert “, or other delegates of the chief executive or subdelegates”.

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**Children, Young Persons, and Their Families
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Schedule 2

Section 445A

In section 445A, replace “Every social worker, constable, or other person” with “Any person”.

Section 446

In section 446(2)(d), after “any social worker or other officer of the department”, insert “or delegate of the chief executive or subdelegate”. 5

Schedule 3

Consequential amendments to other Acts

s 11

Crown Proceedings Act 1950 (1950 No 54)

After section 6(4A)(a), insert:

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- (ab) in relation to delegates performing functions or exercising powers of the chief executive under the Children, Young Persons, and Their Families Act 1989, a court may find the Crown liable in tort for the actions or omissions of those delegates; and

Search and Surveillance Act 2012 (2012 No 24)

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In the Schedule, item relating to the Children, Young Persons, and Their Families Act 1989, replace “social worker” with “chief executive” in each place.

Vulnerable Children Act 2014 (2014 No 40)

In section 15(1), definition of **child**, replace paragraph (b) with:

- (b) a young person as defined in **paragraphs (a) and (e)** of the definition of young person in section 2(1) of the Children, Young Persons, and Their Families Act 1989 (because the person is,—
 - (i) for the purposes of Parts 2 to 3A of that Act, a person of or over the age of 14 years but under the age of 18 years; and
 - (ii) not a person who is or has been married or in a civil union)

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Legislative history

1 June 2016
15 June 2016

Introduction (Bill 142–1)
First reading and referral to Social Services Committee