

2010

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Ms Meredith Hunter)

Children and Young People (Death Review) Amendment Bill 2010

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Legislation amended	2
4 New chapter 19A	2
5 Dictionary, new definitions	12

2010

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Ms Meredith Hunter)

Children and Young People (Death Review) Amendment Bill 2010

A Bill for

An Act to amend the *Children and Young People Act 2008*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

J2010-229

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 **1 Name of Act**

2 This Act is the *Children and Young People (Death Review)*
3 *Amendment Act 2010*.

4 **2 Commencement**

5 This Act commences 3 months after its notification day.

6 *Note* The naming and commencement provisions automatically commence on
7 the notification day (see Legislation Act, s 75 (1)).

8 **3 Legislation amended**

9 This Act amends the *Children and Young People Act 2008*.

10 **4 New chapter 19A**

11 *insert*

12 **Chapter 19A Children and Young People**
13 **Death Review Committee**

14 **Part 19A.1 Establishment and functions of**
15 **committee**

16 **727A Establishment of committee**

17 The Children and Young People Death Review Committee (the *CYP*
18 *death review committee*) is established.

1 **727B Functions of committee**

2 The CYP death review committee has the following functions:

- 3 (a) to keep a register of deaths of children and young people under
4 part 19A.3;
- 5 (b) to identify patterns and trends in relation to the deaths of
6 children and young people;
- 7 (c) to undertake research that aims to help prevent or reduce the
8 likelihood of the death of children and young people;
- 9 (d) to identify areas requiring further research by the committee or
10 another entity in relation to the deaths of children and young
11 people;
- 12 (e) to make recommendations about legislation, policies, practices
13 and services for implementation by the Territory and
14 non-government bodies to help prevent or reduce the
15 likelihood of the death of children and young people;
- 16 (f) to monitor the implementation of the committee's
17 recommendations;
- 18 (g) to report to the Minister under part 19A.4;
- 19 (h) any other function given to the committee under this chapter.

20 **727C Committee members**

21 The CYP death review committee is made up of—

- 22 (a) the chief executive; and
- 23 (b) the children and young people commissioner; and
- 24 (c) the members appointed by the Minister under section 727D;
25 and
- 26 (d) the chair appointed under section 727E.

1 **727D Appointment of committee members**

2 (1) The Minister must appoint 1 of each of the following as a member
3 of the CYP death review committee:

4 (a) a psychologist who is registered under the *Health Practitioner
5 Regulation National Law (ACT) Act 2010* to practice
6 psychology, and has experience in child health and
7 development;

8 (b) a paediatrician with experience in child forensic medicine;

9 (c) a health practitioner with experience in working with children
10 and young people and families in a community setting;

11 (d) someone with expertise and experience in designing and
12 modifying products and systems in relation to safety;

13 **Example**

14 industrial design engineer

15 *Note* An example is part of the Act, is not exhaustive and may extend,
16 but does not limit, the meaning of the provision in which it
17 appears (see Legislation Act, s 126 and s 132).

18 (e) a teacher who holds, or someone within the administrative unit
19 responsible for the *Education Act 2004* who has held, an
20 executive position in a school;

21 **Examples**

22 principal or deputy principal of a school, head of a school department

23 (f) a social worker with expertise and experience working with
24 children and young people and families in a community
25 setting, and who is a member of a professional body
26 representing social workers;

27 **Example—professional body**

28 Australian Association of Social Workers

1 (g) someone nominated by the Aboriginal and Torres Strait
2 Islander Elected Body, under the *Aboriginal and Torres Strait*
3 *Islander Elected Body Act 2008*, to represent the interests of
4 Aboriginal and Torres Strait Islander children and young
5 people;

6 (h) a senior manager of the administrative unit responsible for
7 administering the *Health Act 1993*, part 3.

8 *Note 1* For the making of appointments (including acting appointments), see
9 the Legislation Act, pt 19.3.

10 *Note 2* In particular, a person may be appointed for a particular provision of a
11 law (see Legislation Act, s 7 (3)) and an appointment may be made by
12 naming a person or nominating the occupant of a position (see
13 Legislation Act, s 207).

14 *Note 3* Certain Ministerial appointments require consultation with an Assembly
15 committee and are disallowable (see Legislation Act, div 19.3.3).

16 (2) However, if it is not reasonably practicable to appoint a person
17 mentioned in subsection (1) to the committee, the Minister need not
18 appoint someone until it is reasonably practicable to appoint a
19 person.

20 (3) The appointment of a member under subsection (1) is for the term
21 stated in the appointment.

22 (4) The conditions of appointment of a member under subsection (1) are
23 the conditions stated in the appointment.

24 **727E Appointment of chair of committee**

25 (1) The Minister must appoint someone as the chair of the CYP death
26 review committee.

27 (2) However, the chair must not be someone who is otherwise a
28 member of the CYP death review committee.

29 (3) The appointment of the chair is for the term stated in the
30 appointment.

- 1 (4) The conditions of appointment of the chair are the conditions stated
2 in the appointment.

3 **727F Ending member appointments**

4 The Minister may end the appointment of a member of the CYP
5 death review committee appointed under section 727D or the
6 chair—

- 7 (a) for misbehaviour; or
8 (b) if the member is convicted, or found guilty, in Australia of an
9 indictable offence; or
10 (c) if the member is convicted, or found guilty, outside Australia
11 of an offence that, if it had been committed in the ACT, would
12 be an indictable offence; or
13 (d) if the member is absent from 3 consecutive meetings of the
14 committee, otherwise than on approved leave; or
15 (e) for physical or mental incapacity, if the incapacity substantially
16 affects the exercise of the member's functions.

17 *Note* A person's appointment also ends if the person resigns (see Legislation
18 Act, s 210).

19 **727G Arrangements for staff**

- 20 (1) The chief executive must, on request of the CYP death review
21 committee, make arrangements with the committee to use public
22 servants in the administrative unit under the chief executive's
23 control.

24 *Note* The chief executive means the chief executive of the administrative unit
25 responsible for this section (see Legislation Act, s 163 (References to a
26 chief executive or the chief executive)). Administrative units are
27 established under the administrative arrangements (see *Public Sector*
28 *Management Act 1994*, s 13).

- 1 (2) The *Public Sector Management Act 1994* applies to the management
2 by the committee of public servants who are the subject of an
3 arrangement under subsection (1).

4 **Part 19A.2 Meetings of committee**

5 **727H Meetings**

- 6 (1) The CYP death review committee must meet at least 4 times each
7 year.
- 8 (2) The chair must give the committee at least 14 days written notice of
9 a meeting.

10 **727I Presiding member at meetings**

11 The chair presides at all meetings of the CYP death review
12 committee.

13 **727J Quorum at meetings**

- 14 (1) Business may be carried on at a meeting of the CYP death review
15 committee only if at least $\frac{3}{4}$ of the members (other than the chair)
16 are present.
- 17 (2) A member must not be represented at a meeting by anyone else.

18 **727K Voting at meetings**

- 19 (1) At a meeting of the CYP death review committee, each member,
20 other than the chair, has a vote on each question to be decided.
- 21 (2) A question is decided by a majority of the votes of the members
22 present and voting.

1 **Part 19A.3 Register of deaths of children**
2 **and young people**

3 **727L Children and young people deaths register**

4 (1) The CYP death review committee must keep a register (the *children*
5 *and young people deaths register*) of—

- 6 (a) the deaths of children and young people that occur in the ACT;
7 and
8 (b) the deaths that occur outside the ACT of children and young
9 people who normally live in the ACT.

10 *Note* Information in the register is protected information (see ch 25).

11 (2) The register must include the following information in relation to
12 the death of a child or young person that is available to the CYP
13 death review committee:

- 14 (a) the cause of the death of the child or young person;
15 (b) the age and sex of the child or young person;
16 (c) whether the child or young person is Aboriginal or a Torres
17 Strait Islander;
18 (d) whether the child or young person was—
19 (i) identified under this Act as being in need of care and
20 protection within the 3 years before his or her death; or
21 (ii) the sibling of a child or young person identified under
22 this Act as being in need of care and protection;
23 (e) anything else prescribed by regulation.

24 (3) The register may contain—

- 25 (a) any other demographic data available to the CYP death review
26 committee; and

- 1 (b) any information about a child or young person, or the
2 circumstances of the child or young person's death, that the
3 committee considers relevant to exercise its reporting functions
4 under part 19A.4; and
- 5 (c) anything else the committee considers relevant.
- 6 (4) The CYP death review committee—
- 7 (a) must index the deaths on the register according to cause of
8 death and age and sex of the children and young people; and
- 9 (b) may also index the deaths in any other way the committee
10 considers relevant.

11 **727M Power to ask for information, documents and other**
12 **things**

- 13 (1) This section applies if the CYP death review committee believes on
14 reasonable grounds that a person can give information or produce a
15 document or something else that the committee considers necessary
16 to allow it to exercise its functions.
- 17 (2) The CYP death review committee may, by written notice given to
18 the person, require the person to give the information in writing or
19 produce the document or other thing.
- 20 (3) The notice must state how, and the time within which, the person
21 must comply with the requirement.
- 22 (4) A person commits an offence if—
- 23 (a) the person is required by a notice under this section to give
24 information in writing or produce a document or other thing to
25 the CYP death review committee; and

1 (b) the person fails to give the information or produce a document
2 or other thing to the committee as required.

3 Maximum penalty: 50 penalty units.

4 *Note 1* The Legislation Act, s 170 and s 171 deal with the application of the
5 privilege against selfincrimination and client legal privilege.

6 *Note 2* Giving false information is an offence against the Criminal Code, s 338.

7 (5) Subsection (4) does not apply if the person has a reasonable excuse
8 for failing to give the information or produce the document or other
9 thing to the CYP death review committee as required.

10 **727N Children and young people deaths register—who may**
11 **have access?**

12 (1) The CYP death review committee must ensure that the register is
13 accessed only by the following:

14 (a) committee members;

15 (b) staff mentioned in section 727G;

16 (c) someone authorised by the committee to have access to the
17 register.

18 (2) An authorisation is a notifiable instrument.

19 *Note* A notifiable instrument must be notified under the Legislation Act.

1 **Part 19A.4** **Annual reports about deaths of** 2 **children and young people**

3 **727O** **Annual report**

4 (1) For each financial year, the CYP death review committee must
5 report to the Minister about the following in relation to the deaths of
6 children and young people included on the children and young
7 people deaths register during the year:

8 (a) the number of deaths of children and young people;

9 (b) the age and sex of each child or young person who died, and
10 whether the child or young person was—

11 (i) identified under this Act as being in need of care and
12 protection within the 3 years before his or her death; or

13 (ii) the sibling of a child or young person identified under
14 this Act as being in need of care and protection;

15 (c) the patterns or trends (if any) identified in relation to the deaths
16 of children and young people—

17 (i) generally; and

18 (ii) who were identified under this Act as being in need of
19 care and protection within the 3 years before their death.

20 *Note* There are restrictions on recording and divulging protected and sensitive
21 information (see ch 25).

22 (2) The CYP death review committee may include in the report—

23 (a) its recommendations (if any) about legislation, policies,
24 practices and services for implementation by the Territory and
25 non-government bodies to help prevent or reduce the
26 likelihood of the death of children and young people; and

- 1 (b) information about the implementation of any previous
2 recommendations of the committee; and
3 (c) any other matter it considers relevant.
- 4 (3) The CYP death review committee must give the Minister the report
5 within 4 months after the end of the financial year.
- 6 (4) The Minister must present the report in the Legislative Assembly
7 within 6 sitting days after the day the report is given to the Minister.
- 8 (5) However, the Minister may amend the report (including by omitting
9 part of the report) before presenting it to the Legislative Assembly
10 to prevent the report—
- 11 (a) disclosing the identity of a child or young person who has died;
12 or
13 (b) allowing the identity of a child or young person who has died
14 to be worked out.

15 **5 Dictionary, new definitions**

16 *insert*

17 *children and young people deaths register*—see section 727L.

18 *CYP death review committee* means the Children and Young People
19 Death Review Committee established under section 727A.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2010.

2 Notification

Notified under the Legislation Act on 2010.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

© Australian Capital Territory 2010