

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:

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](http://www.legislation.act.gov.au).

---

© Australian Capital Territory 2010