

2011

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

CHILDREN AND YOUNG PEOPLE (DEATH REVIEW) BILL 2010

ACT GOVERNMENT AMENDMENTS

SUPPLEMENTARY EXPLANATORY STATEMENT

**Presented by
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**ACT Government Amendments to the
Children and Young People (Death Review) Amendment Bill 2010
Private Members Bill**

Outline

The ACT Government amendments to the *Children and Young People (Death Review) Amendment Bill 2010* provide support for the establishment of a Child Death Review Committee to report on trends and patterns of child deaths and make recommendation that may prevent future deaths of children and young people on a three yearly basis.

The amendments provide clarity and consistency with provisions of the *Children and Young People Act 2008* regarding the appointment of the Chair and members of the Committee, the maintenance of the Register of deaths of children and young people, information sharing requirements and enabling the engagement of advisors and the making of agreements which would enable broader information gathering and information sharing.

Clause 2 – Section 727A - Commencement of the amendments

This clause provides that the proposed amendments commence on a day fixed by the Minister or automatically, 6 months and one day after notification of the Bill.

Clause 4 – Section 727B (d) - Functions of the Committee

This clause provides clarity to function (d), indicating that further research identified by the Committee or other entity is to be linked to the patterns and trends identified in relation to the deaths of children and young people.

Clause 4 – Section 727B (2) - Functions of the Committee

This new clause provides clarity as to the functions of the Committee which specifically does not include the review of the death of a particular child or young person. This is a role of existing child review mechanisms in the ACT.

Clause 4 – Section 727E (3), (4), (5) and (6) – Appointment of the Chair

This clause, at section 727E (3) requires the Minister to appoint a person as the Chair when satisfied the person has the expertise or experience to be the Chair of the Committee or is otherwise considered to be suitable to be the Chair.

This clause, at section 727E(4), states that in determining the suitability of a person as Chair, the Minister shall consider the relevant suitability criteria as stated at section 65(1) of the *Children and Young People Act 2008* and other suitability criteria.

This new clause at section 727E(5) specifies that the appointment of the Chair is for a period no longer than three years, consistent with the duration of appointments of Committee members and the duration of the reporting period.

This new clause at section 727E (6) specifies that the conditions of appointment of the Chair are the conditions of the appointment, subject to any determination under the *Remuneration Tribunal Act 1995*.

Clause 4 – Section 727EA – Conflict of Interest

This new clause, at section 727EA requires each Committee member to take all reasonable steps to prevent a possible conflict of interest during the time the member is performing a function of the Committee. The details of the management of any possible or actual conflict of interest will be determined by the Committee.

Clause 4 – Section 727EB – Appointment of advisers

This new clause at section 727EB (1) enables the Minister, at the request of the Committee to appoint advisers to the Committee. The Committee may request for example an adviser with specific expertise on toy safety or may request a specific person as an adviser given their known expertise on toy safety. The Minister shall have discretion regarding who is appointed and number of advisers appointed.

The new clause, at section 727EB(2) requires the Minister to appoint a person as an adviser once satisfied they have the necessary experience or expertise to exercise the function of an adviser.

The new clause at section 727EB(3) states that the appointment of an adviser is subject to the conditions of the appointment.

The new clause at section 727EB(4) states that the adviser is to provide advice to the Committee in relation to their functions or in accordance with any conditions of appointment.

The new clause at section 727EB(5) states that the Minister may end the appointment of an adviser if the adviser breaches a condition of their appointment.

Clause 4 – Section 727H(1) - Meetings

This clause requires that the Committee meet at least four times during a reporting period. A reporting period is defined at section 727O, a three year period commencing with the implementation of the provisions and ending on 30 June in the third year. The regularity of Committee meetings is determined by the Committee.

Clause 4 – Section 727J (1) – Quorum at meetings

This clause provides that business may be carried on at a meeting of the Child Death Review Committee only if at least two thirds of the members (other than the Chair) are present.

Clause 4 – Section 727K (3) – Voting at meetings

This new clause provides that if the Committee is deadlocked, the Chair may exercise a deciding vote.

Clause 4- Section 727L (2) (d)

This clause provides that the Register indicates if the chief executive had parental responsibility for the child or young person at the time of the death of the young person.

Clause 4 – Section 727L (3A) – Children and young people death Register

This new clause at section 727L(3A) specifies that information on the Register should not include information about the cause or circumstances of the death of the child or young person until a Coronial Inquiry or other review has been completed. Other reviews refer to internal reviews undertaken by the Office for Children, Youth and Family Support or joint reviews undertaken by ACT Health and the Office for Children, Youth and Family Support.

Clause 4 – Section 727L (5) and (6) - Children and young people death Register

This new clause at section 727L(5) enables the Committee to include information on the register about deaths of children and young people before 1 January 2004. This may include information that formed part of the ACT Health Child Death Review Report of 2006. In addition, the clause enables the Committee to include information on the register from 1 January 2004, the date from which information to ascertain trends and patterns of child deaths has not been recorded. This will enable information concerning child deaths from 1992 to the present time to be recorded and reported.

This new clause at section 727L(6) places a requirement on the Committee to undertake this work and report on these findings within six years of the commencement of the provisions.

Clause 4 – Section 727LA and Section 727LB – Obtaining information from certain entities

This new clause at section 727LA(1)(a) requires relevant entities, as defined at section 727LA(6) to provide the Committee with information concerning the death of a child or young person within three months of that death having occurred. This information will include the cause of death, the age and sex of the child or young person, whether the child or young person is Aboriginal or Torres Strait Islander and whether the young person was in care of the chief executive.

Section 727LA(1)(b) requires relevant entities as defined at section 727LA(6) to provide other information requested in writing by the committee that the committee considers is necessary to exercise its functions.

Section 727LA(2) requires the information required under 727L (2) concerning the death of a child or young person to be provided within three months of that death having occurred. Except where section 727LA(4) applies.

In addition, section 727LA(1)(b) requires relevant entities to provide the Committee with information the Committee considers necessary to undertake its functions. The Committee shall request this information from the relevant entity in writing.

The new clause at section 727LA(4) states that if the information is subject to an inquest or review it must be given as soon as practicable after the end of the inquest or review.

The new clause at section 727LA(5) states that the relevant entity is only required to provide the Committee with information that is within the knowledge of the entity in accordance with the entity's functions.

The new clause at section 727LA(6) defines who are relevant entity's for the purpose of these provisions. In addition, this section includes the provisions for regulations to broaden the breadth of agencies who may be considered 'relevant entity's' if required.

The new clause at section 727LB enables the Committee to enter into agreements for the purpose of information exchange with an entity who exercises a function under the laws of a State that corresponds, or in the most part corresponds, with a function of the Committee. The term under a law of the State is inclusive of the Northern Territory.

Clause 4 – Section 727M (2) – new note

This new note indicates that information provided under section 727M(2) "The CYP death review committee may, by written notice given to the person, require the person to give the information in writing or produce the document or other thing" is protected information.

Clause 4 – Section 727M (2A) – Power to ask for information, documents and other things

This new clause at section 727M (2A) prohibits the Committee from requesting information or produce a document or something else in relation to the child or young person who has died from a family member. The interpretation of family member must be broadly considered and consistent with Indigenous and other cultures. The power to seek information from others is focused on relevant entity's that during the course of their legislative functions obtain information about a child or young person who has subsequently died.

Clause 4 – Section 727N(1)(ba) – Access to the register

This new clause at section 727N(1)(ba) allows for an adviser appointed under section 727EB of the Bill to have access to the register. This inclusion allows for such access if and when required.

Clause 4 – Section 727N(3) – Access to the register

This new clause places the onus on the Committee to ensure that a person who accesses the register is fully aware of their obligations regarding the information they have accessed. The obligations refer to the information sharing and secrecy provisions at Chapter 25 of the *Children and Young People Act 2008*.

Clause 4 – New Heading – Part 19A.4

This heading refers in general to the reporting requirements of the Committee concerning the death of children and young people.

Clause 4 – Section 727O – New heading

The new heading specifically refers to the three yearly reports that must be prepared by the Committee and provided to the Minister for tabling in the Legislative Assembly.

Clause 4 – Section 727O (1) – Reporting on deaths of children and young people

This new clause at section 727O(1) requires the Committee to report to the Minister for each reporting period in relation to the deaths of children and young people that have been included in the register. The report to the Minister must include information concerning the number of deaths of children and young people, the age and sex of each child or young person who died and the patterns and trends identified in relation to the deaths of children and young people.

This new clause at section 727O(1A) requires the Committee to include in the three yearly reports information concerning any other reports made to the Minister during the reporting period pursuant to the new clause 727P.

Clause 4 – Section 727O (3) - Reporting on deaths of children and young people

This new clause states that the report of the Committee must be provided to the Minister no later than two months after the end of the reporting period.

Clause 4 – Section 727O (5) - Reporting on deaths of children and young people

This new clause defines the term ‘reporting period’ as a three year period ending on 30 June of the third year.

Clause 4 – Section 727P – Other Reports

This new clause at section 727P(1) enables the Committee to make other reports to the Minister on matters arising in connection with the exercise of their functions. For example, such a report could be made by the Committee on a specific systemic issue that the Committee seek to progress.

The amendments at 727P(2a) and (2b) propose that the Committee must not include in other reports any information that would disclose the identity of the child or young person who has died or allow their identity to be worked out.

The new clause at section 727P(3) requires the Minister to report to the Committee within three months of receiving a report as mentioned at section 727P(1) about any action the Minister has taken or will take in relation to the matters raised in the report. Information concerning these reports and their outcomes are included by the Committee in their three yearly reports as outlined at the new section 727O(1A).

Clause 4 – Section 727 Q – Reporting on deaths of children and young people before the commencement of chapter 19A

This new clause at section 727Q(1) refers to the Committee reporting on the deaths of children and young people during the period from 1 January 2004 to the day before the commencement of these provisions. The reporting on these deaths must use the best endeavours of the Committee to report on the number of deaths of children and young people, the age and sex of each child or young person who died and the patterns and trends identified in relation to the deaths of children and young people.

This new clause at section 727Q(2) enables the Committee in their reports of child deaths starting 1 January 2004 and ending the day before the commencement of the Chapter to make recommendations about legislation, policies, practices and services for implementation by the Territory and non-government bodies to help prevent or reduce the likelihood of the death of children and young people and other matters considered relevant.

The new clause at section 727Q(3) specifies that the information in this report must not include any information that would disclose the identity of a child or young person who has died or allow the identity of a child or young person who has died to be worked out. The protection of the privacy of children and young people and their families is consistent with publication of information concerning children and young people who fall within the legislative functions of the *Children and Young People Act 2008*.

The new clause at section 727Q(4) requires the Committee to provide this report within six years after the commencement of these provisions.

The new clause at section 727Q(5) requires the Minister to table this report of the Committee within 6 sitting days of the report being provided to the Minister.

The new clause at section 727Q(6) states the requirement to provide this report to the Minister and its tabling before the Legislative Assembly expires 6 years after the day the Chapter commences.