

## **Care of Children Amendment Bill**

Government Bill

As reported from the committee of the whole  
House

This bill was formerly part of the Child and Family Protection Bill as reported from the Justice and Electoral Committee. The committee of the whole House has divided it into the following bills:

- Domestic Violence Amendment Bill (No 2) comprising clauses 1 and 2, and Part 1
- This bill comprising Part 2
- Adoption Amendment Bill comprising Part 3.



*Hon Simon Power*

## **Care of Children Amendment Bill**

Government Bill

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Care of Children Amendment Act **2010**.

**2 Commencement**

This Act comes into force 3 months after the date on which it receives the Royal assent.

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. . . . .

**17 Principal Act amended**

This **Part** amends the Care of Children Act 2004.

**18 Purpose of this Part**

The purpose of this **Part** is to strengthen certain provisions of the principal Act to further promote the safety of children by—

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(a) enhancing the protections against psychological abuse; and

(b) lowering the threshold for obtaining an order preventing the removal of a child from New Zealand, and providing for more flexibility in the terms of those orders; and

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(c) providing for the discharge of an order for the return of a child abducted to New Zealand.

**19 Principles relevant to child’s welfare and best interests**

Section 5(e) is amended by inserting “as defined in section 3(2) to (5) of the Domestic Violence Act 1995” after “violence”.

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- (2) The definition of **violence** in section 58 is repealed.

**23 Allegations of violence made in proceedings relating to parenting orders**

- (1) Section 59 is amended by omitting the heading and substituting the following heading: “**Application of section 60**”. 5
- (2) Section 59(1) is amended by omitting paragraph (b) and substituting the following paragraph:  
 “(b) in which there is a violent party.”

**24 Procedure for dealing with proceedings in section 59(1)**

- (1) Section 60(1) and (2) are repealed. 10
- (2) Section 60 is amended by repealing subsection (3) and substituting the following subsections:  
 “(3) In proceedings to which this section applies in accordance with section 59 (the **proceedings**), the court must not make—  
 “(a) an order giving the violent party the role of providing day-to-day care for the child to whom the proceedings relate; or  
 “(b) any order allowing the violent party contact (other than supervised contact) with that child.  
 “(3A) **Subsection (3)** is subject to subsection (4).” 20
- (3) Section 60(6) is repealed.

**24A New section 61A inserted**

The following section is inserted after section 61:

- “**61A Court may make orders to ensure safety of child in other cases** 25
- “(1) This section applies if—  
 “(a) there are proceedings before the court relating to any of the kinds of application specified in section 59(1)(a); and  
 “(b) section 60 does not apply to the proceedings because— 30  
 “(i) the court is not satisfied that an allegation of violence (as defined in section 58) is proved; and  
 “(ii) there is not otherwise a violent party (as defined in section 58) to the proceedings.

“(2) If the court is satisfied that there is a real risk to the safety of a child, the court may make any order under this Act that it thinks fit in order to ensure the safety of the child.”

## 25 Preventing removal of child from New Zealand

(1) Section 77(2) is amended by omitting “is about to” and substituting “may”. 5

(2) Section 77(3) is amended by repealing paragraph (c) and substituting the following paragraph:

“(c) may, whether or not a warrant has been issued under paragraph (a) (either with or without an additional order under paragraph (b)), order that the child not be removed from New Zealand by— 10

“(i) any person; or

“(ii) any person other than a person named in the order.” 15

(3) Section 77 is amended by inserting the following subsection after subsection (3):

“(3A) An order made under **subsection (3)(c)** may specify that the order is to continue until—

“(a) the expiry of a specified period; or 20

“(b) a further order is made by an authority.”

## 26 New sections 77A and 77B inserted

The following sections are inserted after section 77:

“**77A Orders under section 77(3)(c) in respect of children of or over 16 years** 25

“(1) An order under **section 77(3)(c)** must not be made in respect of a child of or over the age of 16 years unless there are special circumstances.

“(2) An order under **section 77(3)(c)** made in respect of a child under the age of 16 years expires when the child attains that age unless the court in special circumstances orders otherwise on or after making the order. 30

**“77B Orders under section 77(3)(c) may be suspended for specified period**

- “(1) On an application for the purpose by any person, a High Court Judge, a District Court Judge, or a Family Court Judge may suspend an order made under **section 77(3)(c)**. 5
- “(2) On an application for the purpose, a Registrar of the High Court, or of a District Court, may suspend an order made under **section 77(3)(c)** if—
- “(a) the application is made by a party to the proceedings under section 77 in which the order was made (the **earlier proceedings**); and 10
- “(b) every other person who was a party to the earlier proceedings consents.
- “(3) A suspension of an order made under **section 77(3)(c)** must be— 15
- “(a) for a specified time; and
- “(b) in relation to a specified person.”

**27 Preventing removal of child to defeat application**

Section 118(3) is amended by—

- (a) omitting “section 77(4) and (5)” and substituting “sections 77(4) and (5), **77A**, and **77B**”; and 20
- (b) omitting “applies” and substituting “apply”.

**28 New section 122A inserted**

The following section is inserted after section 122:

- “122A Discharge of order under section 105 for return of child” 25**
- “(1) This section applies where a court makes an order under section 105(2) for the return of a child (the **return order**).
- “(2) A party to the proceedings under section 105 in which the return order was made (the **return proceedings**) may apply to the court for the discharge of the return order. 30
- “(3) On an application under **subsection (2)**, the court may discharge the return order if—
- “(a) the application is made not earlier than 1 year after the return order was made, or any appeal in relation to the return order was determined, and the court is satisfied 35 that—



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- “(i) the child is now settled in his or her new environment in New Zealand; and
- “(ii) having regard to all the circumstances of the case, the discharge of the return order is warranted; or
- “(b) every other person who was a party to the return proceedings consents.”

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**Legislative history**

10 August 2011

Divided from Child and Family Protection Bill (Bill 72-2) by committee of the whole House as Bill 72-3B

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