Oranga Tamariki Amendment Bill

Government Bill

As reported from the Social Services and Community Committee

Commentary

Recommendation

The Social Services and Community Committee has examined the Oranga Tamariki Amendment Bill and recommends by majority that it be passed. We recommend all amendments unanimously.

Introduction

The Oranga Tamariki Amendment Bill would amend the Oranga Tamariki Act 1989. The bill proposes to partially repeal the subsequent-child provisions which came into effect on 30 June 2016. It also proposes repealing a redundant data-sharing provision, and making various amendments to improve the clarity, consistency, and workability of the legislation.

Currently, a subsequent child is any child, born or unborn, who has a parent:

- who has been convicted of the murder, manslaughter, or infanticide of a child or young person in their care or custody; or
- who has had a previous child or young person removed from their care and there is no realistic prospect that the child or young person will be returned to the person's care.

This bill seeks to partially repeal the subsequent-child provisions so that they would apply in fewer circumstances. Under the bill, they would only apply in relation to a parent who has been convicted of the murder, manslaughter, or infanticide of a child or young person in their care or custody.

The existing legislation enables the chief executive of Oranga Tamariki to assess whether the parent or parents of a subsequent child are able to demonstrate that they are unlikely to inflict the same kind of harm to the subsequent child that they had previously to another child.

The Family Court has oversight of this assessment. The chief executive of Oranga Tamariki must, following the assessment, either apply for a care or protection order or apply for confirmation from the court of its decision not to apply for a care or protection order. Under the proposed change, only parents of a subsequent child who have been convicted of the murder, manslaughter, or infanticide of a child or young person in their care or custody would be required to be assessed.

A separate bill has been introduced that would reform oversight of the Oranga Tamariki system. The two bills are unrelated, as this bill proposes amendments to Oranga Tamariki's operations, and the other to the oversight of Oranga Tamariki. Some submitters chose to submit on both bills, and made comments that were not directly related to this bill. We discuss some of these issues briefly at the end of this commentary.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We had some initial concerns, which we note below, but we are satisfied that they have been addressed.

Disclosures of confidential information to courts

We were interested in how the courts consider the confidential information of children. Clause 22 of the bill, amending section 196 of the Act, appeared to change how the disclosure of a child's confidential information would work in court. Clause 22 sought to remove reference to an obsolete legislative provision (the Evidence Amendment Act 1980) and replace it to reflect current provisions in the Evidence Act 2006.

We were informed that the protections against disclosure of protected communications in civil proceedings in the Evidence Amendment Act 1980 were not carried over into the Evidence Act 2006. Instead, a general discretion to protect confidential communications was introduced. As a result, there was a potential risk for a child or young person that, because their interests were not specifically represented in a civil proceeding, confidential information may be shared inappropriately or without oversight of the lawyer for the child.

The proposed amendment to clause 22 seeks to address this by updating the legislative reference. The proposed amendment would also clarify that the court must give the lawyer for the child an opportunity to be heard before the court exercises its discretion to direct that certain confidential information not be disclosed in a proceeding. This change increases protection for children as it provides a mechanism for the child's lawyer to be specifically heard in relation to these applications.

Payment of fees and expenses to youth advocates

We also looked into proposed changes to the Act that would enable court registrars to set fees for youth advocates. We learned that court registrars already have broad discretion to charge fees and expenses. The proposed amendments are designed to bring those fees and expenses into line with the fees and expenses set for lawyers appointed to represent the child or young person in proceedings.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

Family group conferences

Various provisions in the Act and bill deal with family group conferences. These are meetings with family or whānau to consider matters related to the care or protection or wellbeing of a child or young person or youth offending. The care and protection family group conference is a formal meeting where the whānau or family comes together with professionals to talk about the wellbeing concerns for a child or young person, and come up with a plan. The youth justice family group conferences give the child or young person—with their family and whānau, victims and professionals—a chance to help find solutions when they have offended.

The Act uses language that suggests a conference needs to decide between agreement on care or protection grounds; or a decision the child or young person is in need of assistance to make a plan, and this language was reflected in the bill. Submitters suggested that the term "in need of assistance" was subjective, and that subjectivity could hamper the work of conferences. In particular, they believed disagreement might arise about whether a young person needs assistance, and thus limit the ability of family group conferences to agree and intervene.

We recommend that section 28 of the Act be amended to make clear the function of family group conferences. The function of family group conferences is to make decisions and recommendations, and formulate such plans as the conference considers necessary or desirable for the child or young person's care, protection, or well-being. This should occur without the conference being required to first choose between those outcomes, which may increase the possibility of dissent and disagreement, preventing a plan being developed.

The effect of the change is to advance the wellbeing of tamariki by having more (and earlier) plans agreed to provide support to children, young people, and their whānau. We recommend inserting clause 6B accordingly.

We also recommend amending clauses 33 and 34 to achieve the same effect for youth justice family group conferences. These amendments together would ensure that the family group conferences are consistent in purpose and effect throughout the Act.

Family group conferences and restraining orders

Section 87 of the Act provides for a court to make a restraining order to ensure a child or young person's care or protection. Section 87 interacts with sections 70 and 72, which provide that a care and protection order (which includes restraining orders) cannot be made until a family group conference takes place.

The Act as currently worded would require a family group conference to occur before a restraining order could be made. This has created a significant administrative burden which hinders the availability of restraining orders, especially when they are needed at short notice.[1] This can also create unintended and undesirable outcomes where

a restraining order is sought against an abuser, such as the possibility of participants being retraumatised at an additional Family Group Conference.

Clause 9 seeks to address the problems with restraining orders; however, we consider that further amendments are needed to achieve the intention of clause 9. We recommend amending clause 9 to ensure that, once a care and protection order has been made, a family group conference is not required for a restraining order to be made.

Chief executive or delegate of the chief executive may have been entitled to attend family group conferences

We recommend amending section 22(2) to make it clear that the chief executive of Oranga Tamariki or their delegate would not be entitled to be present during whānau discussion and deliberation time at a family group conference. This would correct an oversight in the wording of section 22(2).

Care providers

The Act provides authority for the chief executive of Oranga Tamariki to place a child in their custody with certain persons or organisations. Persons and organisations approved by the chief executive can include external organisations that care for children.

Clause 43 of the bill, as introduced, would remove the ability for regulations to set out assessment criteria for the suitability of care providers. We recommend that clause 43 (which would amend section 447) be amended to provide that regulations may be made to set out the steps or actions that must be taken for the purpose of assessing the suitability of organisations in which children or young persons may be placed. For clarity and consistency with other terms used in the Act, we also recommend amending clause 43 to change the term "care providers" to "organisations in which children or young persons may be placed".

Existing applications of the subsequent child provisions

The bill proposes partially repealing the subsequent child provisions. This includes nullifying existing applications of the provisions that would be repealed by the bill. We recommend amending the transitional provision in the bill. Our recommendation would make it clear that existing determinations and agreements made about there being no realistic possibility that the child or young person will be returned to the person's care, would cease to have effect. Any proceedings in respect of making such a determination would also cease. This would ensure that no individuals continue to be affected by the provisions if they are repealed. This is important for ensuring that the bill actually achieves its stated goal of partial repeal.

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[1] Section 87 of the Oranga Tamariki Act defines restraining order as an order restraining any person named in the order from doing a number of things, such as residing with a specific child or young person and threatening or using violence against that child or young person.

Sections moved to other legislation

Clause 40 of the bill proposed changes to the heading of section 350 to bring it in line with the substance of the provision. However, section 350 also contains references to (the now repealed) section 349. Section 349 enabled the High Court to refer appeals back to the Family Court for reconsideration, but it has since been repealed and moved into other legislation. We recommend that clause 40 be amended to delete any references to the repealed section 349.

References to regulations in the Act

Clause 41 refers to "prescribed requirements", which were intended to refer to the standards under the Oranga Tamariki (National Care Standards and Related Matters) Regulations 2018. However, as the regulations themselves set out who the regulations apply for, the inclusion of the term "prescribed requirements" in this bill is redundant and could result in confusion. We recommend that clause 41(a) be removed.

Other matters we considered

We consider that further work is needed regarding social work practice where parts of the subsequent child provisions still apply. We consider that the proposed change would require clear communications and training for social workers to ensure the wellbeing and safety of children and young people.

Some submitters raised the issue of time served in detention in the youth justice system. In particular, the submitters noted that time spent in pre-sentence detention is not counted as time served for a sentence. Submitters would like to see the Oranga Tamariki Act amended to change this to recognise time served in pre-sentence detention as time served.

Although these issues were outside of the scope of the bill, we took a particular interest in them. We would like to see these issues investigated further in future.

National Party differing view

This bill amends the Oranga Tamariki Act 1989 by partially repealing the subsequent-child provisions, repealing a redundant information-sharing provision, and amending technical errors and ambiguities.

Main provisions

Partial repeal of subsequent-child provisions

Subsequent-child provisions were introduced by the National Party in 2014 and came into effect on 30 June 2016. Subsequent-child provisions apply when Oranga Tamariki receives a report of concern about a child and the parent has previously had a child permanently removed from their care or has a conviction for the death of a child in their care. The provisions were intended to introduce an automatic, mandatory response to ensure greater oversight over the safety of subsequent children. However,

a first principles review of the provisions in 2019 found that they were not operating in a way that promoted the best interests of children, nor as originally intended.

The objective of the partial repeal is to manage concerns that subsequent-child provisions:

- reverse the onus of proof by requiring the parent or parents of a subsequent child to demonstrate that the parent or parents are unlikely to inflict the same kind of harm that they have previously, which, arguably, might set whānau up for failure
- predetermine risk and do not leave room for consideration of any positive changes that a parent or parents may have made following the removal of a previous child
- result in additional Family Court proceedings for the older sibling in care
- restrict engagement with family and whānau because family group conferences are not required before subsequent-child court proceedings
- require the Family Court to have oversight of decisions relating to a subsequent child, even when Oranga Tamariki considers there are no care or protection concerns.

Repeal of section 66D dataset provision

Section 66D of the Act (the dataset provision) came into effect on 1 July 2019 as part of a suite of information-sharing provisions contained in Part 2. Under section 66D(2), any agency that creates a dataset from more than one source of information is required to publicly notify details of that dataset.

The notification must include the following information:

- the types of information used in the combined datasets
- the sources of those types of information
- the purpose or purposes served by creating or analysing the combined datasets
- the privacy safeguards relating to the use of the combined datasets

Oranga Tamariki has found that the dataset provision could place an unnecessary administrative burden on child welfare and protection agencies without achieving the level of public accountability originally envisaged.

In addition, since 2016 when the original dataset provisions were proposed, a number of initiatives across government have effectively rendered the dataset redundant.

The bill also makes some minor and technical changes to the Act to improve clarity, and to address omissions and ambiguous language. These amendments are not policy changes to the application of the Act.

Minority view: to oppose the Oranga Tamariki Amendment Bill "subsequent child" partial repeal

National opposes this bill in relation to the "subsequent-child" partial repeal provision. There are other aspects of the bill opposed which will be debated at the second, committee of the whole House, and the third readings.

National passed legislation that brought in the subsequent-child removal policy under Hon Paula Bennett in 2014, which took effect in 2016. National stands by its policy, which provides an automatic, mandatory response to ensure greater oversight over the safety of subsequent children.

There are concerns that a partial repeal of the provisions will increase subsequent children's likelihood of being exposed to neglect and abuse by a person or parent or caregiver of an earlier child taken into state welfare care and protection.

As it stands, the provisions have only been applied about 19 times since being introduced and therefore there is reason to question the part in this bill which states they are not operating in a way that promoted the best interests of children.

In a report (Te Kuku o te Manawa report), the provisions were said to excuse social workers from carrying out proper up to date assessments, which resulted in social workers not making genuine attempts to enlist whānau, hapū, iwi or community assistance to increase the capacity of a mother to look after her subsequent child.

Therefore, does the problem lie with how individual social workers have applied the provisions rather than in the provisions alone? And does that reinforce that there are issues with practice and procedure at Oranga Tamariki?

The National Party values children and the wellbeing and welfare of all New Zealand children and all of our New Zealand children in state welfare care.

The National Party prioritises and places forefront and foremost the protection of our children, their welfare/wellbeing. The National Party is not convinced that the partial repeal will enhance the care and protection of the subsequent child in the absence of proof that changes have been made by the parents/caregivers.

Appendix

Committee process

The Oranga Tamariki Amendment Bill was referred to the committee on 14 December 2021.

The closing date for submissions on the bill was 20 February 2022. We received and considered 24 submissions from interested groups and individuals. We heard oral evidence from 12 submitters via videoconference.

We received advice on the bill from Oranga Tamariki. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

Committee membership

Angie Warren-Clark (Chairperson)

Glen Bennett

Karen Chhour

Dr Emily Henderson

Anahila Kanongata'a-Suisuiki

Ricardo Menéndez March

Terisa Ngobi

Maureen Pugh

Hon Louise Upston

Harete Hipango participated in our consideration of this bill.

Key to symbols used in reprinted bill

As reported from a select committee

<u>text inserted unanimously</u>

~~text deleted unanimously~~

Hon Kelvin Davis

Oranga Tamariki Amendment Bill

Government Bill

Contents

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Oranga Tamariki Amendment Act **2021**.

2 Commencement

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

3 Principal Act

This Act amends the Oranga Tamariki Act 1989.

Part 1
Amendments to principal Act

4 Section 11 amended (Child's or young person's participation and views)

In section 11(2)(f), replace "young person" with "young person, in a manner and in language appropriate for their age and level of understanding".

5 Section 17 amended (Investigation of report of ill-treatment or neglect of child or young person)

In the heading to section 17, replace "**ill-treatment or neglect**" with "**concerns about safety or well-being**".

6 Section 18B replaced (Person described in this section)

Replace section 18B with:

18B Person described in this section

A person described in this section is a person who has been convicted under the Crimes Act 1961 of the murder, manslaughter, or infanticide of a child or young person who was in the person's care or custody at the time of the child's or young person's death.

6A Section 22 amended (Persons entitled to attend family group conference)

In section 22(2), replace "(d)," with "(d), (da),".

6B Section 28 amended (Functions of family group conference)

In section 28(b),—

(a) delete "where the conference considers that the child or young person in respect of whom it was convened is in need of care or protection, or is in need of assistance "; and

(b) delete "needs,".

7 Section 66D repealed (Public notification of information about combined datasets)

Repeal section 66D.

8 Section 83 amended (Care or protection orders)

Repeal section 83(2A) and (2B).

~~**9 Section 87 amended (Restraining orders)**~~

~~In section 87(1), replace "may make" with "may, on or at any time after becoming satisfied that the child or young person is in need of care or protection, make".~~

9 Section 87 amended (Restraining orders)

(1) In section 87(1), after "protection," insert "or at any time after becoming satisfied that the child or young person is in need of care or protection,".

(2) After section 87(1), insert:

(1A) However, if the court is already satisfied that the child or young person is in need of care or protection, a restraining order may, despite anything in section 70 or 72, be made under subsection (1) without a family group conference having been held under this Part.

10 Section 95 amended (Conditions of support order or interim support order)

In section 95(1)(d), replace "who is the subject of a declaration made" with "who the court is satisfied is in need of care or protection".

11 Section 104 amended (Effect of custody order)

Replace section 104(3)(c) with:

(c) for the purpose of exercising that authority,—

(i) may enter and search any dwelling house, building, aircraft, ship, carriage, vehicle, premises, or place, with or without assistance and by force if necessary; and

(ii) must, on first entering any dwelling house, building, aircraft, ship, carriage, vehicle, premises, or place and, if requested, at any subsequent time,—

(A) produce evidence of their identity; and

(B) disclose that they are exercising that authority under this Act.

12 Section 110 amended (Guardianship orders)

Repeal section 110(4).

13 Section 113A amended (Special guardianship orders)

(1) Before section 113A(1), insert:

(1AA) If a person who is appointed as a sole or additional guardian of a child or young person under section 110 is a natural person, the court may make an order appointing the person as a special guardian of the child or young person (including when the order under section 110 is made at a hearing under section 127).

(2) In section 113A(1), delete "referred to in section 110(4)".

13A Section 116 amended (Review of guardian's decision or refusal to give consent)

In section 116(2), after "110", insert "or 113A".

14 Section 121 amended (Court may make orders for access and exercise of other rights by parents and other persons)

Replace section 121(2)(c) and (ca) with:

(c) makes an order under section 110 or 110AA appointing the chief executive or any other person the sole guardian of a child or young person,—

15 Section 126 amended (Persons who may apply for variation or discharge of order)

Replace section 126(f) with:

(f) any person on whom the application for a care or protection order has been served in accordance with section 152:

16 Section 137 amended (Court to consider report and make directions)

In section 137(1)(f), replace "declaration under section 67" with "care or protection order".

17 Section 144 amended (Agreement not to be made without consent of child or young person)

Replace section 144(1) with:

(1) No agreement may be made under section 140 with respect to a child of or over the age of 12 years or a young person unless—

(a) the child or young person consents to the making of the agreement; and

(b) the consent is recorded.

18 Section 158 amended (Applications may be heard together)

Repeal section 158(2) and (3).

19 Section 165 amended (Payment of lay advocate)

Replace section 165(1) with:

(1) The fees and expenses of a lay advocate appointed under section 163 must—

(a) be determined in accordance with regulations made under this Act or, if no such regulations are made, by the Registrar of the court; and

(b) be paid out of a Crown Bank Account from money appropriated by Parliament for the purpose.

20 Section 186 amended (Report by social worker)

(1) In section 186(1), replace "If the court makes a care or protection order, the" with "The".

(2) In section 186(1)(a)(ii), delete "to whom the declaration relates".

21 Section 187 amended (Cultural and community reports)

(1) In section 187(1), replace "Where the court makes a care or protection order" with "If a court is satisfied".

(2) In section 187(1)(c), replace "where the declaration was made on the ground specified in section 14(1)(a) or (b)" with "if section 14(1)(a) or (b) applies".

22 Section 196 replaced (Special provisions applying to disclosure of communications to medical practitioner or clinical psychologist)

Replace section 196 with:

196 Opportunity to be heard if court to exercise certain discretion

If a court is, in relation to a child or young person, asked to exercise its discretion under section 69 of the Evidence Act 2006, the court must give the lawyer

appointed under section 159 of this Act to represent the child or young person an opportunity to be heard on the matter.

23 Section 198 amended (Special provisions applying to applications for care or protection order on ground of child's offending)

Replace 198(2) with:

(2) Nothing in section 197 applies to any application for a care or protection order on the ground specified in section 14(1)(e).

24 Section 207B amended (Interpretation)

In section 207B, definition of **protection proceedings**, paragraph (b), replace "declaration under section 67 that a child or young person is in need of care or protection" with "care or protection order".

25 Section 207O amended (Appeal against order for transfer)

(1) In section 207O(a), delete "despite section 346(b),".

(2) Replace section 207O(b) with:

(b) the appeal must be brought within 10 working days after the day on which the order was made:

26 Section 207U amended (Appeal against order for transfer)

(1) In section 207U(a), delete "despite section 346(b),".

(2) Replace section 207U(b) with:

(b) the appeal must be brought within 3 working days after the day on which the order was made:

27 Section 207ZC amended (Aboriginal or Torres Strait Islander children or young persons)

In section 207ZC(2), replace "section 5(b)" with "section 5(1)(c)(iv)".

28 Section 214 amended (Arrest of child or young person without warrant)

(1) In section 214(1), delete "section 214A and".

(2) After section 214(2), insert:

(2A) Nothing in subsection (1) prevents a constable from arresting a child or young person without warrant under section 214A if the criteria in that section are met.

29 Section 214A amended (Arrest of child or young person in breach of bail condition)

(1) Replace section 214A(b)(i) with:

(i) the child or young person is in breach of, or has recently breached, a condition of that bail; and

(2) In section 214A, insert as subsections (2) and (3):

(2) If a child or young person appears before a court and the court considers the child's or young person's bail, no breach of a bail condition that occurred before the appearance may be used to support a subsequent arrest under this section.

(3) This section does not apply if a child or young person is arrested without warrant under section 35 of the Bail Act 2000 in accordance with section 214 of this Act.

30 Section 239A repealed (Expiry of sections 238(1A) to (1C), and 239(3))

Repeal section 239A.

31 Section 242 amended (Order under section 238 sufficient authority for detention of child or young person)

In section 242(3), replace "this section" with "subsection (1)(b)".

32 Section 248A amended (Chief executive to appoint youth advocate to represent child or young person if offence punishable by imprisonment of 10 years or more)

(1) Replace section 248A(1) with:

(1) This section applies if—

(a) an offence referred to in section 245(1) is an offence punishable by imprisonment of 10 years or more; and

(b) a youth justice co-ordinator is required to convene a family group conference because they have received a notification under section 247(b) relating to that offence.

(2) Replace section 248A(2) with:

(2) Before the family group conference is convened, the chief executive must appoint a youth advocate to represent the child or young person at the family group conference unless the chief executive is satisfied that legal representation has been arranged (or is to be arranged) for the child or young person in relation to the family group conference.

(2A) If an arrangement described in subsection (2) ceases (or fails to come into being), the chief executive must appoint a youth advocate to represent the child or young person at the family group conference.

33 Section 258 amended (Functions of family group conference)

~~In section 258(1)(a)(ii), after "protection," insert "or is in need of assistance,".~~

(1) In section 258(1)(a)(i), after "protection", insert "or well-being".

(2) In section 258(1)(a)(ii), delete "where the conference considers that the child is in need of care or protection,".

34 Section 261 amended (Family group conference may make decisions, recommendations, and plans relating to care or protection of child or young person)

(1) In the heading to section 261, after "**protection**", insert "~~**or assistance**~~ **or well-being**".

~~(2) In section 261(1),—~~

~~(a) after "section 14),", insert "or is in need of assistance,"; and~~

~~(b) replace "protection matters" with "protection or assistance matters"; and~~

~~(c) after "in relation to the care or protection", insert "or assistance".~~

(2) Replace section 261(1) with:

(1) If a family group conference convened under this Part considers matters relating to the care or protection or well-being of a child or young person for whom the conference is held, the family group conference may, if it has received information and advice on care or protection matters under section 255(1), make or formulate the decisions, recommendations, and plans that it considers necessary or desirable in relation to the care or protection or well-being of the child or young person.

35 Section 272 amended (Jurisdiction of Youth Court and children's liability to be prosecuted for criminal offences)

Replace section 272(1A)(b)(i) with:

(i) makes a care or protection order on that ground; or

36 Section 273 amended (Manner of dealing with offences (other than murder or manslaughter))

(1) In the heading to section 273, replace "**murder or manslaughter**" with "**murder, manslaughter, or offence specified in Schedule 1A**".

(2) Replace section 273(1) with:

(1) This section applies if a young person is charged with an offence other than—

(a) murder or manslaughter; or

(b) in the case of a young person who is aged 17 years,—

(i) murder or manslaughter; or

(ii) an offence specified in Schedule 1A.

37 Section 311 amended (Supervision with residence order)

Replace section 311(3) with:

(3) The order required by subsection (2A)(b) must be made either at the same time as the order made under subsection (1) or after that time but—

(a) before the expiry of the order made under subsection (1); or

(b) before or on the date on which the young person is released from the custody of the chief executive under section 314, if that is earlier than the expiry of the order made under subsection (1).

38 Section 325 amended (Payment of youth advocate)

Replace section 325(1) with:

(1) The fees and expenses of a youth advocate must—

(a) be determined in accordance with regulations made under this Act or, if no such regulations are made, by the Registrar of the court; and

(b) be paid out of a Crown Bank Account from money appropriated by Parliament for the purpose.

39 Section 328A amended (Payment of lay advocate)

Replace section 328A(1) with:

(1) The fees and expenses of a lay advocate appointed under section 326 must—

(a) be determined in accordance with regulations made under this Act or, if no such regulations are made, by the Registrar of the court; and

(b) be paid out of a Crown Bank Account from money appropriated by Parliament for the purpose.

40 Section 350 amended (Decision of High Court and Family Court to be sent to chief executive)

~~In the heading to section 350, replace "**chief executive**" with "**principal manager**".~~

(1) In the heading to section 350,—

(a) delete "**and Family Court**"; and

(b) replace "**chief executive**" with "**principal manager**".

(2) Replace section 350(1) with:

(1) The Registrar of the High Court must send a copy of every decision that the High Court gives under section 348 to the relevant principal manager of the department.

41 Section 365 amended (Chief executive may place children and young persons in residences)

~~() In section 365(1),—~~

~~(a) replace "may" with "may, in accordance with prescribed requirements,"; and~~

~~(b) replace "guardianship" with "sole guardianship".~~

In section 365(1), replace "guardianship" with "sole guardianship".

42 Section 386A amended (Advice and assistance for young persons up to age of 25 years)

~~()~~ ~~In section 386A(1)(a), replace "311" with "311, detention in a youth unit of a prison under section 238(1)(f),".~~

Replace section 386A(1)(a) with:

(a) a residential placement under section 234(c)(ii) or (iii), 235, 238(1)(d), 307(4), or 311:

(aa) Police custody under section 236 or 238(1)(e):

(ab) detention in a youth unit of a prison under section 238(1)(f):

43 Section 447 amended (Regulations)

(1) Replace section 447(1)(fa)(iii) with:

(iii) the provision of training and support for ~~caregivers and care providers:~~—

(A) caregivers; and

(B) organisations in which children or young persons may be placed:

(2) After section 447(1)(fa)(v), insert:

(vi) the assessment of the safety and suitability of caregivers and their households:

(vii) the assessment of the suitability of organisations in which children or young persons may be placed:

Part 2
Amendments to Schedule 1AA of principal Act

44 Schedule 1AA amended

(1) In Schedule 1AA, heading to clause 11, replace "**68**" with "**67**".

(2) In Schedule 1AA, clause 11(2), replace "68" with "67" in each place.

(3) In Schedule 1AA,—

(a) insert the Part set out in the ~~*Schedule*~~ Schedule of this Act as the last Part; and

(b) make all necessary consequential amendments.

Schedule
Schedule 1AA amended

s 44(3)

Part 5
Provisions relating to Oranga Tamariki Amendment Bill **2021**

24 Certain determinations made before commencement date

(1) For the purpose of this clause, **commencement date** means the date on which this clause comes into force.

~~(2) Any determination made under section 83(2A) before the commencement date continues to have effect until it is terminated or expires and this Act continues to apply to those determinations as if the Oranga Tamariki Amendment Act **2021** had not been enacted.~~

(2) A determination made under section 18B(2)(c) or 83(2A) before the commencement date ceases to have effect on and after the commencement date.

(3) An agreement reached under section 18B(2)(c) before the commencement date ceases to have effect on and after the commencement date.

(4) Any proceedings in respect of making a determination under section 18B(2)(c) or 83(2A) that began before the commencement date cease on the commencement date.

Legislative history

25 November 2021	Introduction (Bill 95–1)
14 December 2021	First reading and referral to Social Services and Community Committee

Wellington, New Zealand:
Published under the authority of the House of Representatives—2022