

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Tuesday, 24 May 1994

CHILDREN, YOUNG PERSONS, AND THEIR FAMILIES AMENDMENT BILL

Proposed Amendments

RICHARD NORTHEY, in Committee, to move the following amendments:

New clause 4: To insert, after line 8 on page 8, the following clause:

4. New sections substituted—(1) The principal Act is hereby amended by repealing section 15, and substituting the following sections:

“15. Definition of child abuse—For the purposes of sections 15A and 15B of this Act, the term ‘abused’ means harmed (whether physically, emotionally, or sexually), ill-treated, abused, neglected, or deprived.

“15A. Reporting of child abuse—Any person who believes that any child or young person has been, or is likely to be, abused may report the matter to a Social Worker or a member of the Police.

“15B. Mandatory reporting of child abuse—(1) This section applies to any person who is—

“(a) A member of the Police:

“(b) A Social Worker:

“(c) A registered medical practitioner:

“(d) A person registered or enrolled as a nurse under the Nurses Act 1977:

“(e) A school dental therapist:

“(f) A registered psychologist:

“(g) A teacher employed in a registered school within the meaning of section 2 (1) of the Education Act 1989:

“(h) A probation officer:

“(i) A member of the clinical staff of a licensed hospital as defined in section 118 of the Hospitals Act 1957:

“(j) Employed in the specialty of social work by a licensed hospital as defined in section 118 of the Hospitals Act 1957.

“(2) Notwithstanding any enactment or rule of law, every person to whom this section applies who, in the course of

carrying out the duties of that person's occupation or profession, has reasonable grounds for believing—

“(a) That any child has been abused in a manner that has caused serious harm to that child and that such abuse is likely to recur or continue; or

“(b) That any child is likely to be abused in a manner that is likely to cause serious harm to that child—

shall report the matter to a Social Worker or a member of the Police.

“(3) Every member of the Police or Social Worker who is required to report any matter under subsection (2) of this section shall,—

“(a) In the case of a Social Worker, make the report to another Social Worker or to a member of the Police:

“(b) In the case of a member of the Police, make the report to another member of the Police or to a Social Worker.

“(4) Nothing in subsection (2) of this section applies to any person who has reasonable grounds for believing that a child has been, or is likely to be, abused, where that belief arises by reason of that person acting as a counsellor under Part II of the Family Proceedings Act 1980, section 37A of the Domestic Protection Act 1982, or pursuant to a direction made under section 74 of this Act.

“15c. **Offence**—Every person commits an offence and is liable on summary conviction to a fine not exceeding \$2,000 who, being required by section 15B (2) of this Act to report any matter to a Social Worker or a member of the Police, fails, without reasonable excuse, to comply with that requirement.

“15d. **No civil liability for failure to report**—No person who is required by section 15B (2) of this Act to report any matter to a Social Worker or a member of the Police shall be under any civil liability in respect of the failure of that person to comply with that requirement.”

(2) Section 16 of the principal Act (as amended by section 5 of this Act) is hereby consequentially amended by omitting the expression “section 15”, and substituting the expression “section 15A or section 15B”.

(3) Section 17 of the principal Act (as amended by section 6 of this Act) is hereby consequentially amended by omitting the expression “section 15” wherever it occurs, and substituting in each case the expression “section 15A or section 15B”.

(4) This section shall come into force on the 1st day of July 1995.

EXPLANATORY NOTE

This SOP is proposed in order to reinstate appropriate and limited provisions for mandatory reporting of serious child abuse in a form similar to those provided in the Children, Young Persons, and Their Families Amendment Bill when it was originally introduced to the House last year. The Select Committee has deleted these provisions but I still believe that some provisions for mandatory reporting are required and therefore that this SOP is necessary.

This SOP:

1. Reduces the list of those required to report child abuse essentially to the very limited list originally recommended in the Mason Report.
2. Deletes from the list any group that is not a professional required to have had training and qualifications relevant to identifying child abuse.
3. Deletes lawyers and counsellors, who could have had conflicting professional obligations.

4. Deletes the reference to young persons of 14–16 years of age and limits the mandatory requirement to report to victims who are children, usually of pre-secondary school age.

5. Limits the mandatory requirement to report to circumstances where that abuse is likely to occur or continue in the future.

6. Limits the mandatory requirement to report to abuse that has caused or is likely to cause serious harm.

7. Adds a provision for a summary offence and a fine where a person fails to report in the limited circumstances envisaged by the SOP.

8. Provides that there can be no civil liability for failure to report.

9. Exempts those who obtain the information or belief regarding child abuse while acting as a counsellor under this and related Acts.

10. Provides that references to a social worker always refer to a social worker acting for the Children and Young Persons Service.

Key points in favour of limited mandatory reporting of serious child abuse include:

11. It places an obligation on specified professionals working with children to report serious child abuse that is likely to occur or continue to the Police or the Children and Young Persons Service.

12. Such a report need not lead to criminal charges being laid or the breaking up of the family, but it does ensure that the responsible agencies are aware of the alleged abuse so that they can respond in the most appropriate and effective way.

13. This shared knowledge clearly increases the likelihood that the child will be protected.

14. The SOP is directed at ensuring that children are safer than they often are now.

15. The SOP resolves a major dilemma for the person who discovers likely serious abuse by requiring them to report it to the responsible agencies who can then share in developing the most appropriate strategies and providing the resources so as best to protect the child.