

House of Representatives

Supplementary Order Paper

Wednesday, 15 September 2004

Children, Young Persons, and Their Families Amendment Bill (No 4)

Proposed amendments

Hon Steve Maharey, in Committee, to move the following amendments:

Clause 2

To insert, after *subclause (2)* (after line 21 on page 3), the following subclause:

- (2A) **Section 5A** and the heading before **section 5A** (which relate to responses to reports of child abuse) come into force on a date to be appointed by the Governor-General by Order in Council.

New heading and new clause 5A

To insert, after *clause 5* (after line 8 on page 6), the following heading and clause:

Responses to reports of child abuse

5A New sections 17 to 17E substituted

- (1) The principal Act is amended by repealing section 17, and substituting the following sections:

“17 Preliminary assessment of matters contained in report of ill-treatment or neglect of child or young person

- “(1) As soon as practicable after receiving a report under section 15 a Social Worker or member of the police must undertake or arrange for the undertaking of a preliminary assessment of—

- “(a) the matters contained in the report; and
“(b) the risk of harm to the child or young person raised by those matters.

- “(2) In the undertaking of the preliminary assessment, regard may be had to any information—

- “(a) held by the department or the New Zealand Police, or obtained for the purpose of making the assessment; and

- “(b) about the child or young person, his or her parents or guardians, or any other persons for the time being having care of the child or young person.
- “(3) A report requires no further action if the preliminary assessment indicates that any or all of the following apply to it:
 - “(a) there is no substance to it:
 - “(b) it is vexatious or an abuse of process:
 - “(c) it raises only matters already known to the department or, as the case requires, the New Zealand Police.

“17A **Duty to take actions following preliminary assessment**

- “(1) As soon as practicable after the completion of a preliminary assessment under **section 17**, the Social Worker who received the report must, unless he or she considers it is one that requires no further action, take any or all of the following actions that he or she considers appropriate to the circumstances of the case:
 - “(a) undertake or arrange for the undertaking of any investigation that may be necessary or desirable into the matters contained in the report and, as soon as practicable after the investigation has commenced, to consult with a Care and Protection Resource Panel in relation to the investigation:
 - “(b) undertake or arrange for the undertaking by another Social Worker, or by an Iwi Social Service, Cultural Social Service, Child and Family Support Service, or Community Service of a child and family assessment in respect of the child or young person and the matters contained in the report:
 - “(c) refer the child or young person to some other person, body, organisation, or department for the purposes of providing, to any or all of the following, any services referred to, or to help to attain the objects set out, in section 4(a) or (b) or (d), and that the preliminary assessment indicates may be necessary or desirable:
 - “(i) that child or young person:
 - “(ii) his or her parents or guardians:
 - “(iii) any other persons for the time being having care of the child or young person:
 - “(d) arrange for the taking of any other action and steps under section 7(1).
- “(2) As soon as practicable after the completion of a preliminary assessment under **section 17**, the member of the police who received the report must, unless he or she considers it is one that requires no further action, either—
 - “(a) take action under **subsection (1)(a)**; or

- “(b) refer the report and preliminary assessment to a Social Worker who must take any or all of the actions specified in **subsection (1)** that he or she considers appropriate to the circumstances of the case.
- “(3) As soon as practicable after making decisions under **section 17** or this section the Social Worker or member of the police must, unless it is impracticable or undesirable to do so, inform the person who made the report under section 15 whether any further action has been taken with respect to it.

“**17B Matters Social Worker or member of police must have regard to in deciding actions under sections 17A and 17D**

In deciding under **section 17A(1) or (2)(b) or section 17D(5)** what actions are appropriate to the circumstances of the case, and in deciding under **section 17A(2)** what actions to take, the Social Worker or member of the police must have regard to—

- “(a) the findings of the preliminary assessment; and
- “(b) whether the preliminary assessment indicates that the child or young person may be in need of care or protection and, if it does,—
 - “(i) the ground in section 14(1) that is relevant; and
 - “(ii) the severity and duration of the harm the child or young person is suffering, or is likely to suffer:
- “(c) the extent to which the parents or guardians of, or any other persons for the time being having care of, the child or young person are likely to co-operate in the undertaking of a child and family assessment:
- “(d) whether harm to the child or young person would be reduced or prevented by the provision of services to the child or young person, his or her parent or guardian, or any other persons for the time being having care of the child or young person:
- “(e) any other matters that the Social Worker or member of the police considers relevant.

“**17C Procedure if investigation under section 17A(1)(a) shows child or young person in need of care or protection**

- “(1) This section applies to a Social Worker or member of the police to whom a report under section 15 was made if—
 - “(a) he or she decides to undertake or arrange for the undertaking under **section 17A(1)(a)** of an investigation into the matters contained in the report (regardless, for a Social Worker, of whether that action is taken alone or with others specified in **section 17A(1)**); and
 - “(b) after that investigation is completed, he or she believes on reasonable grounds that the child or young person to

whom the report relates is in need of care or protection (other than on the ground specified in section 14(1)(e)).

- “(2) The Social Worker or member of the police must, in accordance with section 18(1), notify a Care and Protection Co-ordinator of the matters in **subsection (1)(b)** of this section.
- “(3) This section does not limit section 18(2) and (3).

“17D Child and family assessments under section 17A(1)(b)

- “(1) An assessor must undertake a child and family assessment under **section 17A(1)(b)** in accordance with all requirements (if any) the chief executive has specified for the time being for the purposes of this subsection.
- “(2) An assessor may provide or arrange for the provision of services to a child or young person, his or her parents or guardians, or any other persons for the time being having the care of the child or young person both while undertaking, and after having completed, a child and family assessment in respect of the child or young person.
- “(3) Before embarking on, or at any stage of, a child and family assessment, an assessor who is not a Social Worker may refer the report and preliminary assessment back to the following, so he or she may take further action under **section 17A(1)**:
 - “(a) the Social Worker who under **section 17A(1)(b)** arranged for the undertaking of the assessment; or
 - “(b) another Social Worker designated for the purpose by the chief executive.
- “(4) A referral back under **subsection (3)** must be accompanied by the assessor’s reasons for making the referral back.
- “(5) A Social Worker to whom a case is referred back under **subsection (3)** must, in the light of the referral back, either decide the report is one that requires no further action or take any or all actions specified in **section 17A(1)** that he or she considers appropriate to the circumstances of the case.
- “(6) In this section and **section 17E**, assessor means a Social Worker undertaking, or a Social Worker, Iwi Social Service, Cultural Social Service, Child and Family Support Service, or Community Service arranged by a Social Worker under **section 17A(1)(b)** to undertake, a child and family assessment.

“17E Procedure after child and family assessment completed

- “(1) After completing a child and family assessment, an assessor who is not a Social Worker (whether required to act by **subsection (2)** or not) must give a copy of the assessment to a Social Worker.
- “(2) An assessor who is not a Social Worker and, after completing a child and family assessment, believes on reasonable grounds

that a child or young person to whom a report under section 15 relates is in need of care or protection (other than on the ground specified in section 14(1)(e)), must, as soon as practicable,—

“(a) give notice of those matters to a Social Worker; or

“(b) refer the matter to a Care and Protection Co-ordinator under section 19.

“(3) A Social Worker who is given notice of matters under **subsection (2)(a)** may, in accordance with section 18(1), notify a Care and Protection Co-ordinator of those matters.

“(4) An assessor who is a Social Worker and, after completing a child and family assessment, believes on reasonable grounds that a child or young person to whom a report under section 15 relates is in need of care or protection (other than on the ground specified in section 14(1)(e)), must, in accordance with section 18(1), notify a Care and Protection Co-ordinator of those matters.

“(5) The references to inquiry in sections 18(1) and 19(1)(a) each include a reference to a child and family assessment.

“(6) This section does not limit sections 18(2) and (3) and 19.”

(2) Section 2(1) of the principal Act is consequentially amended by inserting, after the definition of **child abuse**, the following definition:

“**child and family assessment**—

“(a) means an assessment, for the purpose of identifying the care and protection needs (if any) of a child or young person, of the circumstances of—

“(i) the child or young person; and

“(ii) his or her parents and guardians; and

“(iii) any other persons for the time being having the care of the child or young person; and

“(b) to avoid doubt, may include an assessment of the needs of the parents and guardians of, or of any other persons for the time being having the care of, the child or young person, and the identification of measures associated with them that, if implemented, may help to avoid or mitigate risk to the safety and wellbeing of the child or young person”.

Explanatory note

This Supplementary Order Paper sets out an amendment to the Children, Young Persons, and Their Families Amendment Bill (No 4). The amendment inserts a *new clause 5A*, which amends the principal Act by repealing section 17 and substituting *new sections 17 to 17E*.

Section 17 relates to the investigation of a report of ill-treatment or neglect of a child or young person. It requires a Social Worker or member of the police,—

- as soon as practicable after receiving the report, to undertake or arrange for the undertaking of any investigation that may be necessary or desirable into the matters contained in the report; and
- as soon as practicable after the investigation has commenced, to consult with a Care and Protection Resource Panel in relation to the investigation.

In contrast, under *new sections 17 and 17A*, Social Workers and members of the police have different roles.

A Social Worker to whom a report of ill-treatment or neglect of a child or young person is made must—

- undertake or arrange for the undertaking of a preliminary assessment of the matters contained in the report, and of the risk of harm to the child or young person raised by those matters; and
- after having had regard to the findings of that assessment and other matters specified in *new section 17B*, and unless he or she considers that the report requires no further action, take any or all actions specified in *new section 17A(1)* that he or she considers appropriate to the circumstances of the case.

In general terms, the actions specified in *new section 17A(1)* are to—

- undertake or arrange for the undertaking of an investigation into the matters raised in the report and, as soon as practicable after the investigation has commenced, to consult with a Care and Protection Resource Panel in relation to the investigation:
- undertake or arrange for the undertaking by another Social Worker, or by an Iwi Social Service, Cultural Social Service, Child and Family Support Service, or Community Service of a child and family assessment in respect of the child or young person and the matters raised in the report:
- refer the child or young person to some other person or body or organisation for the purpose of providing specified services to the child or young person or to his or her parent or guardian or to any other person having the care of the child or young person:
- arrange for the taking of any other action and steps under section 7(1).

A member of the police who receives a report of ill-treatment or neglect must also undertake or arrange for the undertaking of a preliminary assessment of the matters contained in the report. However, after completion of the preliminary assessment, the member of the police must, unless he or she considers that the report requires no further action, and after having had regard to the matters specified in *new section 17B*, either—

- undertake or arrange for the undertaking of an investigation under *new section 17A(1)(a)*; or

- refer the case to a Social Worker who must take any or all of the actions specified in *new section 17A(1)* that he or she considers appropriate to the circumstances of the case.

New section 17C specifies the procedure to be followed if an investigation shows that the child or young person is in need of care or protection.

New section 17D contains provisions relating to child and family assessments.

New section 17E specifies the procedure to be followed after a child and family assessment has been completed.

New clause 5A(2) consequentially amends section 2(1) of the principal Act by inserting a definition of **child and family assessment**.

Implementation of the amendments made by *new clause 5A* will involve considerable planning and organisation. *New clause 2(2A)* therefore ensures *clause 5A* and the heading before it come into force on a date to be appointed by the Governor-General by Order in Council.
