



Queensland

# **Child Safety Legislation Amendment Act (No. 2) 2004**

**Act No. 36 of 2004**





Queensland

# Child Safety Legislation Amendment Act (No. 2) 2004

## Contents

---

		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title . . . . .	8
2	Commencement . . . . .	8
<b>Part 2</b>	<b>Amendment of Births, Deaths and Marriages Registration Act 2003</b>	
3	Act amended in pt 2 . . . . .	8
4	Amendment of s 48A (Registrar to give notice of registration of child death to commissioner) . . . . .	8
<b>Part 3</b>	<b>Amendment of Child Care Act 2002</b>	
5	Act amended in pt 3 . . . . .	9
6	Amendment of s 26 (Suitability of licensee and related persons)	9
7	Amendment of s 97 (Suitability of other persons in a home) . . . .	9
8	Insertion of new s 165A . . . . .	9
	165A Pending application for a suitability notice—corporate licensee . . . . .	9
9	Insertion of new s 166A . . . . .	10
	166A Pending application for a suitability notice—licensed home based service . . . . .	10
<b>Part 4</b>	<b>Amendment of Child Protection Act 1999</b>	
10	Act amended in pt 4 . . . . .	10
11	Insertion of new s 3A . . . . .	11
	3A Notes in text . . . . .	11
12	Amendment of s 6 (Provisions about Aboriginal and Torres Strait Islander children) . . . . .	11
13	Amendment of s 7 (Chief executive's functions) . . . . .	11
14	Amendment of s 22 (Protection from liability for notification of, or information given about, alleged harm or risk of harm) . . . . .	12
15	Insertion of new ch 2, pt 3A . . . . .	12

	Part 3A	Case planning	
	Division 1	Preliminary	
	51A	What is case planning . . . . .	12
	51B	What is a case plan . . . . .	13
	51C	Children for whom case plans are required . . . . .	13
	51D	How case planning must be carried out . . . . .	14
	51E	Who is a child's family group . . . . .	15
	51F	Meaning of parent in pt 3A . . . . .	15
	Division 2	Family group meetings	
	51G	Purposes . . . . .	16
	51H	Convening a meeting . . . . .	16
	51I	Private convenors . . . . .	16
	51J	Function . . . . .	17
	Division 3	Case planning at a family group meeting	
	51K	Application of div 3 . . . . .	17
	51L	Who should be involved . . . . .	17
	51M	Preparing for the meeting . . . . .	19
	51N	Obtaining the views of persons not attending . . . . .	19
	51O	Recording the case plan developed at the meeting . . . . .	20
	51P	Development of plan at more than 1 meeting . . . . .	20
	Division 4	Other steps in the case planning process	
	51Q	Dealing with a case plan developed at a meeting . . . . .	20
	51R	Dealing with an inappropriate plan . . . . .	20
	51S	Preparing the plan if not developed at a meeting . . . . .	21
	51T	Distributing and implementing the plan . . . . .	22
	Division 5	Periodically reviewing the case plan	
	51U	Application of div 5 . . . . .	22
	51V	Plan must be reviewed . . . . .	23
	51W	Who may participate . . . . .	23
	51X	Report about the review . . . . .	24
	51Y	Distributing and implementing the revised case plan . . . . .	25
16		Amendment of s 59 (Making of child protection order) . . . . .	26
17		Amendment of s 68 (Court's other powers on adjournment of proceedings for child protection orders) . . . . .	26
18		Insertion of new s 83A . . . . .	27
	83A	Giving information to carers and children . . . . .	27
19		Amendment of s 84 (Agreements to provide care for children) . . . . .	28

20	Omission of s 88 (Chief executive to regularly review arrangements for child's protection) . . . . .	29
21	Amendment of s 95 (Report about person's criminal history etc.)	29
22	Omission of s 96 (Family meetings) . . . . .	30
23	Omission of s 158 (Coordination) . . . . .	30
24	Insertion of new ch 5A . . . . .	30
	Chapter 5A Service Delivery Co-ordination and Information Exchange	
	Part 1 Preliminary	
	159A Purpose . . . . .	31
	159B Principles for co-ordinating service delivery and exchanging information . . . . .	31
	159C What is relevant information . . . . .	32
	159D Other definitions for ch 5A . . . . .	33
	159E Reference to family services . . . . .	34
	Part 2 Service delivery co-ordination	
	159F Service providers' responsibilities . . . . .	35
	159G Chief executive's responsibilities . . . . .	35
	159H Chief executive may ask particular prescribed entities to provide a service . . . . .	35
	Part 3 The SCAN system	
	159I Establishment of system . . . . .	36
	159J Purpose . . . . .	36
	159K Members . . . . .	37
	159L Responsibilities of the core members . . . . .	37
	Part 4 Information exchange	
	159M Particular prescribed entities giving and receiving relevant information . . . . .	38
	159N Information requirement made by chief executive or authorised officer . . . . .	39
	Part 5 Release of health information or information relevant to coronial investigation	
	159O Release of information by health service employees . . . . .	40
	159P Release of information for an investigation under the Coroners Act . . . . .	41
	Part 6 Protection from liability and interaction with other laws	
	159Q Protection from liability for giving information . . . . .	42
	159R Interaction with other laws . . . . .	43
25	Amendment of s 172 (Issue of warrant) . . . . .	43

26	Amendment of s 182 (Evidentiary provisions) . . . . .	43
27	Replacement of s 187 (Confidentiality of information obtained by persons involved in administration of Act) . . . . .	44
	187 Confidentiality of information obtained by persons involved in administration of Act . . . . .	44
28	Amendment of s 188 (Confidentiality of information given by persons involved in administration of Act to other persons) . . . . .	46
29	Insertion of new s 188A . . . . .	46
	188A Police use of confidential information . . . . .	46
30	Omission of ch 6 (Enforcement and legal proceedings), pt 6 (Confidentiality), div 4 (General) . . . . .	47
31	Amendment of s 197 (Protection from liability) . . . . .	48
32	Amendment of s 214 (Court may transfer order) . . . . .	48
33	Insertion of new s 248B . . . . .	48
	248B Consultation about investigations and prosecutions . . . . .	48
34	Amendment of s 249 (Regulation-making powers) . . . . .	49
35	Insertion of new ch 9, pt 4 . . . . .	49
	Part 4 Transitional provision for Child Safety Legislation Amendment Act (No. 2) 2004	
	262 Transitional—case planning . . . . .	49
36	Amendment of sch 3 (Dictionary) . . . . .	49
<b>Part 5</b>	<b>Amendment of Commission for Children and Young People and Child Guardian Act 2000</b>	
37	Act amended in pt 5 . . . . .	51
38	Amendment of s 7A (Scope of Act relating to children in the child safety system) . . . . .	51
39	Amendment of s 15 (Commissioner's functions) . . . . .	51
40	Insertion of new s 15AA . . . . .	52
	15AA Monitoring functions . . . . .	52
41	Amendment of s 18 (Way in which commissioner is to perform commissioner's functions) . . . . .	53
42	Amendment of s 31B (Service providers to which this part applies) . . . . .	53
43	Amendment of s 31C (Power to require information or documents) . . . . .	54
44	Amendment of s 31D (Access to documents of the child safety department) . . . . .	54
45	Insertion of new ss 31DA and DB . . . . .	55
	31DA Access to information and documents of a relevant service provider other than the child safety department . . . . .	55

	31DB	Exempt information and documents . . . . .	56
46		Insertion of new ss 31EA—31EC . . . . .	57
	31EA	Protection from liability for giving information . . . . .	57
	31EB	Restricted use of confidential information accessed under this part . . . . .	58
	31EC	Commissioner to advise on-disclosure . . . . .	59
47		Amendment of s 31G (Review of service) . . . . .	59
48		Amendment of s 31H (Recommendations) . . . . .	60
49		Amendment of s 31I (Report to Minister about noncompliance) . . . . .	60
50		Amendment of s 46 (Identity of notifier under Child Protection Act 1999) . . . . .	60
51		Amendment of s 89ZA (Annual report) . . . . .	61
52		Amendment of s 145 (Evidentiary provisions) . . . . .	61
53		Amendment of s 152 (Confidentiality of information about criminal history) . . . . .	61
54		Amendment of s 153 (Confidentiality of other information) . . . . .	62
55		Amendment of s 161 (Protection from liability) . . . . .	62
56		Amendment of sch 4 (Dictionary) . . . . .	62
<b>Part 6</b>	<b>Amendment of Coroners Act 2003</b>		
57		Act amended in pt 6 . . . . .	63
58		Amendment of s 53 (Access to investigation documents for research purposes) . . . . .	63
59		Amendment of s 54 (Access to investigation documents for other purposes) . . . . .	63
60		Amendment of sch 2 (Dictionary) . . . . .	64
<b>Part 7</b>	<b>Amendment of Family Services Act 1987</b>		
61		Act amended in pt 7 . . . . .	64
62		Insertion of new s 30A . . . . .	64
	30A	Delegation . . . . .	64
<b>Part 8</b>	<b>Amendment of Health Act 1937</b>		
63		Act amended in pt 8 . . . . .	65
64		Amendment of s 5 (Interpretation) . . . . .	65
65		Replacement of pt 3, div 6, hdg (Maltreatment of children) . . . . .	65
66		Replacement of s 76K (Notification of maltreatment) . . . . .	65
	76K	Definitions for div 6 . . . . .	66
	76KA	Meaning of parent for div 6 . . . . .	66
	76KB	Relationship with Child Protection Act 1999 . . . . .	67
	76KC	Mandatory reporting—immediate notice . . . . .	67

	76KD	Mandatory reporting—follow-up notice. . . . .	68
	76KE	Offence. . . . .	68
	76KF	Further information may be required . . . . .	69
	76KG	Protection from liability for giving information to professional . . . . .	69
	76KH	Confidentiality of notifiers . . . . .	70
67		Amendment of s 76L (Temporary custody of children). . . . .	72
68		Omission of s 76M (Meaning of child for division) . . . . .	73
	<b>Part 9</b>	<b>Amendment of Juvenile Justice Act 1992</b>	
69		Act amended in pt 9 . . . . .	73
70		Amendment of s 257 (Interpretation) . . . . .	73
71		Amendment of s 259 (Show cause hearing) . . . . .	73
72		Amendment of sch 4 (Dictionary) . . . . .	74





Queensland

# **Child Safety Legislation Amendment Act (No. 2) 2004**

## **Act No. 36 of 2004**

---

**An Act to amend particular Acts to increase child safety, and  
for other purposes**

**[Assented to 27 October 2004]**

**The Parliament of Queensland enacts—****Part 1 Preliminary****1 Short title**

This Act may be cited as the *Child Safety Legislation Amendment Act (No. 2) 2004*.

**2 Commencement**

- (1) Parts 1, 2, 3, 7 and 9 commence on assent.
- (2) The remaining provisions of this Act commence on a day to be fixed by proclamation.

**Part 2 Amendment of Births, Deaths and Marriages Registration Act 2003****3 Act amended in pt 2**

This part amends the *Births, Deaths and Marriages Registration Act 2003*.

**4 Amendment of s 48A (Registrar to give notice of registration of child death to commissioner)**

Section 48A(3)(b)(ii), before ‘place’—

*insert—*

‘date and’.



- (c) an application for a suitability notice is made for the individual.
- ‘(2) Section 26(2) does not apply to the individual until the application is decided, or is withdrawn or lapses.’.

## **9 Insertion of new s 166A**

After section 166—

*insert—*

### **‘166A Pending application for a suitability notice—licensed home based service**

- ‘(1) This section applies to a carer in a licensed home based service if—
  - (a) an occupant of the carer’s home, who does not have a suitability notice, becomes an adult; and
  - (b) an application for a suitability notice is made for the occupant.
- ‘(2) Until the application is decided, or is withdrawn or lapses, the carer does not commit an offence against section 97(1)<sup>3</sup> merely by providing child care in the carer’s home, in the course of the service, while the occupant does not have a current positive suitability notice.’.

## **Part 4 Amendment of Child Protection Act 1999**

### **10 Act amended in pt 4**

This part amends the *Child Protection Act 1999*.

---

3 Section 97 (Suitability of other persons in a home)

**11 Insertion of new s 3A**

Chapter 1, part 1, after section 3—

*insert—*

**‘3A Notes in text**

‘A note in the text of this Act is part of this Act.’.

**12 Amendment of s 6 (Provisions about Aboriginal and Torres Strait Islander children)**

Section 6(4), ‘family meetings’—

*omit, insert—*

‘family group meetings’.

**13 Amendment of s 7 (Chief executive’s functions)**

(1) Section 7(1), after ‘children’—

*insert—*

‘or provide services to children in need of protection or their families’.

(2) Section 7(m), ‘licensed residential facilities’—

*omit, insert—*

‘care’.

(3) Section 7—

*insert—*

‘(2) In this section—

*child in care* means a child—

(a) who is in the chief executive’s custody or guardianship;  
or

(b) who, under an agreement entered into by the chief executive and a parent of the child, has been placed in the care of someone other than a parent of the child.’.

**14 Amendment of s 22 (Protection from liability for notification of, or information given about, alleged harm or risk of harm)**

(1) Section 22(2)—

*omit, insert—*

‘(2) The person is not liable, civilly, criminally or under an administrative process, for giving the notification or information.’.

(2) Section 22—

*insert—*

‘(4) Without limiting subsections (2) and (3)—

(a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information; and

(b) if the person would otherwise be required to maintain confidentiality about the information under an Act, oath or rule of law or practice, the person—

(i) does not contravene the Act, oath or rule of law or practice by giving the information; and

(ii) is not liable to disciplinary action for giving the information.’.

**15 Insertion of new ch 2, pt 3A**

Chapter 2, after part 3—

*insert—***‘Part 3A Case planning****‘Division 1 Preliminary****‘51A What is case planning**‘*Case planning* is the process of developing a case plan for a child and then regularly reviewing it.

**‘51B What is a case plan**

- ‘(1) A *case plan* for a child is a written plan for meeting the child’s protection and care needs.
- ‘(2) A case plan may include any of the following matters—
- (a) a goal or goals to be achieved by implementing the plan;
  - (b) arrangements about where or with whom the child will live, including interim arrangements;
  - (c) services to be provided to meet the child’s protection and care needs and promote the child’s future wellbeing;
  - (d) matters for which the chief executive will be responsible, including particular support or services;
  - (e) the child’s contact with the child’s family group or other persons with whom the child is connected;
  - (f) arrangements for maintaining the child’s ethnic and cultural identity;
  - (g) matters for which a parent or carer will be responsible;
  - (h) a proposed review day for the plan.

**‘51C Children for whom case plans are required**

‘The chief executive must ensure a case plan is developed for each child who the chief executive is satisfied—

- (a) is a child in need of protection; and
- (b) needs ongoing help under this Act.

*Notes—*

- 1 Ongoing help under this Act may be, for example—
  - giving support services to the child and his or her family
  - arranging for the child to be placed in someone’s care by agreement with the child’s parents
  - seeking a child protection order for the child.
- 2 A case plan may not be required for a particular child because another entity is working to address the child’s protection and care needs and, as part of the work, is undertaking case planning with the child and the child’s family.

**‘51D How case planning must be carried out**

- ‘(1) The chief executive must ensure case planning for a child is carried out in a way—
- (a) that enables timely decision-making; and
  - (b) that is consistent with the principles for administering this Act;<sup>4</sup> and
  - (c) that encourages and facilitates the participation of—
    - (i) the child; and
    - (ii) the child’s parents; and
    - (iii) other appropriate members of the child’s family group; and
    - (iv) for an Aboriginal or Torres Strait Islander child—Aboriginal or Torres Strait Islander agencies and persons; and

*Note—*

Section 6(4) requires consultations, negotiations, family group meetings and other proceedings involving an Aboriginal person or Torres Strait Islander to be conducted in a way and in a place that is appropriate to Aboriginal tradition or Island custom.

- (v) other appropriate persons; and
- (d) that facilitates input from other appropriate entities; and

*Example of input from another entity—*

Information given by a local health agency about services available to a family.

- (e) that gives priority to the child’s needs for long-term stable care and continuity of relationships; and
- (f) that enables the persons involved to understand it.

*Examples for paragraph (f)—*

- 1 The chief executive should explain the case planning process to a child using language appropriate to the child’s age, language skills and circumstances.

---

4 See section 5 (Principles for administration of Act)



- 2 The chief executive should tell a child's parents about child protection concerns, and explain steps in the case planning process to them, in a way that helps them to understand, ask questions and participate in any discussion. For a parent from a non-English speaking background, this may involve the use of an interpreter.
- '(2) The chief executive must give participants in case planning the information they reasonably need to participate effectively.
- '(3) The information must be given to the participants in a timely way to facilitate their effective participation.

### **'51E Who is a child's family group**

For this part, a child's *family group* includes—

- (a) members of the child's extended family; and
- (b) if the child belongs to a clan, tribe or similar group—members of that group; and
- (c) anyone else recognised by persons mentioned in paragraph (a) or (b) as belonging to the child's family.

### **'51F Meaning of parent in pt 3A**

In this part—

*parent*, of a child, means each of the following persons—

- (a) the child's mother or father;
- (b) a person in whose favour a residence order or contact order for the child is in operation under the *Family Law Act 1975* (Cwlth);
- (c) a person, other than the chief executive, having custody or guardianship of the child under a law of the State or another State;
- (d) if the child is in a person's custody or guardianship under this Act—
  - (i) the child's mother or father; and

- (ii) anyone else who would be the child's parent under paragraph (b) or (c) if the child were not in the person's custody or guardianship under this Act.

## **'Division 2            Family group meetings**

### **'51G    Purposes**

'The purposes of family group meetings are—

- (a) to provide family-based responses to children's protection and care needs; and
- (b) to ensure an inclusive process for planning and making decisions relating to children's wellbeing and protection and care needs.

### **'51H    Convening a meeting**

- '(1) The chief executive must convene a family group meeting, or have a private convenor convene a family group meeting, to develop a case plan for a child.
- '(2) A family group meeting convened to develop a case plan is a *case planning meeting*.
- '(3) The chief executive may also convene a family group meeting or have a private convenor convene a family group meeting—
  - (a) to review a case plan under division 5 and prepare a revised case plan; or
  - (b) to consider, make recommendations about, or otherwise deal with, another matter relating to the child's wellbeing and protection and care needs.
- '(4) Also, under section 68, the Childrens Court may order that a family group meeting be convened.

### **'51I    Private convenors**

- '(1) A *private convenor* is a person, other than the chief executive or a delegate or other representative of the chief executive,

who convenes a family group meeting under this part by arrangement with the chief executive.

- ‘(2) The chief executive may have a person convene a family group meeting as a private convenor only if the chief executive is satisfied the person is appropriately qualified.
- ‘(3) If the chief executive has a private convenor convene a family group meeting, the chief executive must ensure the private convenor complies with this part in relation to the meeting.
- ‘(4) For section 197(3),<sup>5</sup> definition *official*, a private convenor is a person acting under the direction of the chief executive.

### **‘51J Function**

- ‘(1) The function of a family group meeting is to deal with the matters, relating to a child’s protection and care needs or wellbeing, for which the meeting was convened.
- ‘(2) For a case planning meeting, this includes—
  - (a) considering the child’s protection and care needs; and
  - (b) agreeing on a plan to meet those needs and promote the child’s wellbeing.

## **‘Division 3 Case planning at a family group meeting**

### **‘51K Application of div 3**

‘This division applies to a case planning meeting.

### **‘51L Who should be involved**

- ‘(1) The convenor must give the following persons a reasonable opportunity to attend and participate in the meeting—
  - (a) the child, unless it would be inappropriate because of the child’s age or ability to understand;

---

<sup>5</sup> Section 197 (Protection from liability)

- (b) the child's parents;
- (c) other members of the child's family group who the convenor considers likely to make a useful contribution to the plan's development at the meeting;
- (d) other persons with whom the child has a significant relationship;

*Example—*

A foster carer may be someone with whom the child has a significant relationship.

- (e) any legal representative of the child;
  - (f) if the child is an Aboriginal or Torres Strait Islander child—a member of the recognised Aboriginal or Torres Strait Islander agency for the child;
  - (g) anyone else who the convenor considers likely to make a useful contribution to the plan's development at the meeting;
  - (h) if the convenor is a private convenor—the chief executive.
- ‘(2) The convenor must also allow the child or a parent of the child to have someone attend and participate in the meeting to give help or support to the child or parent.

*Examples—*

- a youth worker
- an Aboriginal or Torres Strait Islander elder
- a representative within the child's cultural community
- a legal representative

- ‘(3) To remove any doubt, it is declared that a requirement to allow a person to attend or participate in the meeting under subsection (1) or (2) applies whether or not the child's parents agree to the person's attendance or participation.

- ‘(4) The convenor is not required to allow a particular person to attend or participate in the meeting under subsection (1)(b) to (d) or (2) if the convenor is satisfied that person's attendance or participation would be contrary to the purposes of the meeting or not in the child's best interests.

**‘51M Preparing for the meeting**

- ‘(1) Before holding the meeting, the convenor must inform the invitees—
- (a) that the chief executive considers the child is a child in need of protection; and
  - (b) the assessed risks to the child and the child’s assessed needs; and
  - (c) details of the proposed meeting, including—
    - (i) the proposed day, time and venue for the meeting; and
    - (ii) the purpose and functions of the meeting; and
    - (iii) particular issues to be addressed at the meeting; and
    - (iv) the opportunities for attendees to identify issues or deal with particular issues.
- ‘(2) In this section—
- invitee* means a person mentioned in section 51L(1) other than a person mentioned in section 51L(4).

**‘51N Obtaining the views of persons not attending**

‘The convenor must take reasonable steps to ascertain before the meeting, and make known at the meeting, the views relevant to the meeting of the following persons and entities—

- (a) the child, if the child’s views may reasonably be ascertained and the convenor does not expect the child to be attending;
- (b) another person mentioned in section 51L(1) who notifies the convenor that he or she will not be attending;
- (c) a member of the child’s family group who, under section 51L(4), has not been invited to the meeting but whose views, in the convenor’s opinion, should be obtained;
- (d) a relevant service provider.

*Example of a relevant service provider—*

A member of the SCAN system involved in assessing and responding to the child's protection needs.

**'51O Recording the case plan developed at the meeting**

'If a case plan is developed at the meeting, the convenor must record the plan in the approved form and, if the convenor is a private convenor, give it to the chief executive.

**'51P Development of plan at more than 1 meeting**

'A case plan may be developed at more than 1 meeting under this division.

**'Division 4 Other steps in the case planning process**

**'51Q Dealing with a case plan developed at a meeting**

'Within 7 days after a case plan is developed at a case planning meeting, the chief executive must endorse the plan unless section 51R applies.

**'51R Dealing with an inappropriate plan**

- '(1) This section applies if the chief executive is satisfied a case plan developed at a case planning meeting, or something in the plan, is clearly impracticable or not in the child's best interests.
- '(2) The chief executive may—
- (a) reconvene, or have a private convenor reconvene, the case planning meeting under division 3 to develop an amended case plan; or
  - (b) convene, or have a private convenor convene, another case planning meeting under division 3 to develop an amended case plan; or
  - (c) amend the case plan and endorse the amended plan.

- ‘(3) The chief executive may amend the case plan under subsection (2)(c)—
- (a) only to the extent necessary to ensure the plan is practicable and in the child’s best interests; and
  - (b) only within 7 days after the case planning meeting at which it was developed; and
  - (c) if the meeting was convened by a private convenor, only after consulting with the private convenor.
- ‘(4) If the chief executive amends the case plan under subsection (2)(c), the chief executive must give written notice of the amendment, and the reasons for the amendment, to each person who was at the meeting at which the plan was developed.

### **‘51S Preparing the plan if not developed at a meeting**

- ‘(1) This section applies if a case plan is not developed at the case planning meeting or meetings held under division 3.
- ‘(2) This section also applies if it has not been possible for the chief executive to convene a family group meeting, or have a private convenor convene a family group meeting, under section 51H(1).
- ‘(3) The chief executive must—
- (a) take reasonable steps to obtain the views of any of the following persons and entities whose views have not yet been obtained—
    - (i) the child, if the child’s views may reasonably be ascertained;
    - (ii) another person mentioned in section 51L(1);
    - (iii) another member of the child’s family group whose views, in the chief executive’s opinion, should be obtained;
    - (iv) a relevant service provider; and
  - (b) having regard to the views (if any), prepare a case plan, in the approved form, that the chief executive is satisfied

best meets the child's protection and care needs and endorse the plan.

- (4) If the meeting mentioned in subsection (1) was convened under a court order under section 68(1)(d)(i), the chief executive must file the plan prepared under this section in the court.

### **'51T Distributing and implementing the plan**

'After a case plan has been recorded in the approved form and endorsed, the chief executive must—

- (a) give a copy of the plan to the child, unless that would be inappropriate having regard to the child's age and ability to understand; and
- (b) explain the plan to the child in a way, and to an extent, that is reasonable, having regard to the child's age and ability to understand; and
- (c) give a copy of the plan to—
  - (i) the child's parents; and
  - (ii) anyone else affected by the plan or who the chief executive considers should receive a copy; and

*Examples of persons who may be given a copy—*

- a foster carer
- an elder or other respected person of the child's community

- (d) support the implementation of the plan.

*Example of supporting the implementation of the plan—*

The chief executive may provide, or arrange for another entity to provide, a service to the child's family.

## **'Division 5 Periodically reviewing the case plan**

### **'51U Application of div 5**

'This division applies to a child for whom a case plan has been developed, while—



- (a) a child protection order is in force for the child; or
- (b) the child otherwise remains a child mentioned in section 51C.

**‘51V Plan must be reviewed**

- ‘(1) The chief executive must regularly review the case plan.
- ‘(2) In deciding when, or how often, to review the plan, the chief executive must have regard to—
  - (a) the child’s age and circumstances; and
  - (b) the nature of the arrangements in place under the plan; and
  - (c) any problems or potential problems with the plan, or ways the plan might be improved, of which the chief executive is aware; and
  - (d) if a child protection order for the child is in force—the duration of the order.
- ‘(3) In any case, the review must happen at least every 6 months.
- ‘(4) After reviewing the plan, the chief executive must prepare—
  - (a) a report about the review under section 51X; and
  - (b) a revised case plan.

**‘51W Who may participate**

- ‘(1) The chief executive must give the following persons a reasonable opportunity to participate in the review and preparation of the revised case plan—
  - (a) the child, unless it would be inappropriate because of the child’s age or ability to understand;
  - (b) the child’s parents;
  - (c) other members of the child’s family group who the chief executive considers are likely to make a useful contribution;
  - (d) other persons with whom the child has a significant relationship;

*Example—*

A foster carer may be someone with whom the child has a significant relationship.

- (e) any legal representative of the child;
  - (f) if the child is an Aboriginal or Torres Strait Islander child—a member of the recognised Aboriginal or Torres Strait Islander agency for the child;
  - (g) a relevant service provider;
  - (h) anyone else who the chief executive considers is likely to make a useful contribution to the review.
- ‘(2) To enable the participation, the chief executive may convene a family group meeting or have a private convenor convene a family group meeting.
- ‘(3) If a family group meeting or other meeting is convened for the purpose of the review and the child or a parent of the child attends, the convenor must allow the child or parent to have someone attend and participate in the meeting to give help or support to the child or parent.
- ‘(4) To remove any doubt, it is declared that a requirement to allow a person to attend or participate in a meeting under this section, or otherwise participate in the review, applies whether or not the child’s parents agree to the person’s attendance or participation.
- ‘(5) The convenor of a meeting under this section is not required to allow a particular person to attend or participate in the meeting, under subsection (1)(b) to (d) or (3), if the convenor is satisfied that person’s attendance or participation would be contrary to the purposes of the meeting or not in the child’s best interests.

**‘51X Report about the review**

- (1) The report about the review must include the following matters—
- (a) the goals in the previous case plan that have been achieved or are yet to be achieved;
  - (b) any changes to the goals in the revised case plan;

- (c) any services provided to the child under the previous case plan or the revised case plan;
  - (d) the extent to which the living arrangements and contact arrangements under the previous case plan have been meeting the child's needs;
  - (e) who participated in the review and how they participated, including whether a family group meeting was held and who attended.
- (2) The report must also address how the revised case plan gives priority to the child's need for long-term stable care.
- (3) For subsection (2), if the child is placed in the care of someone other than a parent of the child under a child protection order granting custody or short-term guardianship of the child, the report must state—
- (a) the risks and benefits of returning the child to the care of a parent; and
  - (b) whether there is a real risk that the child's need for long-term stable care will not be able to be met by returning the child to the care of a parent within a timeframe appropriate to the child's age and circumstances; and
  - (c) if there is a real risk mentioned in paragraph (b), the progress made in planning for alternative long-term arrangements for the child, for example—
    - (i) arrangements for the child to live with a member of the child's family under a child protection order granting long-term guardianship of the child; or
    - (ii) for a young child—arrangements for the child's adoption under the *Adoption of Children Act 1964*; or
    - (iii) for an older child—arrangements for the child's transition to independent living.

**'51Y Distributing and implementing the revised case plan**

- (1) This section applies after the chief executive has prepared the revised case plan.

- ‘(2) The chief executive must—
- (a) give a copy of the plan to the child, unless that would be inappropriate having regard to the child’s age and ability to understand; and
  - (b) explain any changes in the plan to the child in a way, and to an extent, that is reasonable, having regard to the child’s age and ability to understand; and
  - (c) give a copy to the child’s parents and anyone else affected by the plan or who the chief executive considers should receive a copy; and
  - (d) support the implementation of the plan.’.

## **16 Amendment of s 59 (Making of child protection order)**

- (1) Section 59(1)(b)—  
*omit, insert—*
- ‘(b) there is a case plan for the child—
- (i) that has been developed or revised under part 3A; and
  - (ii) that is appropriate for meeting the child’s assessed protection and care needs; and’.
- (2) Section 59(2) to (5)—  
*renumber* as section 59(3) to (6).
- (3) Section 59—  
*insert—*
- ‘(2) The court must not make a child protection order unless a copy of the child’s case plan and, if it is a revised case plan, a copy of the report about the last revision under section 51X have been filed in the court.’.

## **17 Amendment of s 68 (Court’s other powers on adjournment of proceedings for child protection orders)**

- (1) Section 68(1)(b), after ‘examination’—  
*insert—*

‘or treatment’.

(2) Section 68(1)(d)—

*omit, insert—*

‘(d) an order requiring the chief executive—

- (i) to convene a family group meeting to develop or revise a case plan and file the plan in the court; or
- (ii) to convene a family group meeting to consider, make recommendations about, or otherwise deal with, another matter relating to the child’s wellbeing and protection and care needs;’.

## **18 Insertion of new s 83A**

After section 83—

*insert—*

### **‘83A Giving information to carers and children**

‘(1) Before placing the child in care under section 82, the chief executive must—

- (a) give to the proposed carer the information that the chief executive has about the child that the proposed carer reasonably needs to help him or her make an informed decision whether to agree to the placement; and
- (b) give the child information the chief executive has about the proposed carer and members of the proposed carer’s household that the child reasonably needs to participate meaningfully in the decision about who will be the child’s carer; and
- (c) if possible, give the child an opportunity to meet the proposed carer and members of the proposed carer’s household.

‘(2) When placing the child in care, and while the child is in care, the chief executive must give the carer information that the chief executive has relating to the child that the carer reasonably needs—

- (a) to provide care for the child under this Act; and

- (b) to ensure the safety of the child, the carer and other members of the carer's household.
- '(3) If the child is placed in the care of a licensed care service—
  - (a) a requirement under subsection (1) or (2) to give information to the proposed carer or carer applies to the licensee instead of the chief executive; and
  - (b) the chief executive must give the licensee the information that the chief executive has about the child that the licensee needs to comply with the requirement.
- '(4) In deciding the information about the child to give to someone under this section, the chief executive must have regard to—
  - (a) the views and wishes of the child, having regard to the child's age and ability to understand; and
  - (b) the proposed length of time of the placement; and
  - (c) the child's right to privacy under the charter of rights.
- '(5) Before giving information about the child to someone under this section, the chief executive must tell the child what information is being given and why it is being given.
- '(6) In this section—
 

*carer*, in relation to a child, means—

  - (a) if the child is placed in the care of a licensed care service—the individual who directly provides care to the child; or
  - (b) otherwise—the approved foster carer or other individual in whose care the child is placed.'

## **19 Amendment of s 84 (Agreements to provide care for children)**

Section 84, after subsection (1)—

*insert—*

*Note—*

Provisions of the agreement may be included in the child's case plan.'

**20 Omission of s 88 (Chief executive to regularly review arrangements for child's protection)**

Section 88—

*omit.*

**21 Amendment of s 95 (Report about person's criminal history etc.)**

(1) Section 95(1), 'This section'—

*omit, insert—*

'Subsection (2)'.

(2) Section 95—

*insert—*

'(2A) Also, if an authorised officer is investigating an allegation of harm or risk of harm to a child or assessing a child's need of protection under section 14, the chief executive may—

(a) ask the commissioner of the police service to give the chief executive a written report about the criminal history and domestic violence history of—

(i) a parent of the child; or

(ii) an adult member of a parent's household; or

(iii) an adult against whom the allegation of harm or risk of harm has been made; and

(b) ask the chief executive for transport to give the chief executive a written report about the traffic history of a parent of the child.'

(3) Section 95(3), 'the request'—

*omit, insert—*

'a request under subsection (2) or (3)'.

(4) Section 95(4), 'Subsection (2)(a) applies'—

*omit, insert—*

'Subsections (2)(a) and (3)(a) apply'.

(5) Section 95(5), 'Subsection (3)'—

*omit, insert—*

‘Subsection (4)’.

- (6) Section 95(6), ‘Subsection (7)’—

*omit, insert—*

‘Subsection (8)’.

- (7) Section 95(6), after ‘(2)’—

*insert—*

‘or (3)’.

- (8) Section 95(2A) to (7)—

*renumber* as section 95(3) to (8).

**22 Omission of s 96 (Family meetings)**

Section 96—

*omit.*

**23 Omission of s 158 (Coordination)**

Section 158—

*omit.*

**24 Insertion of new ch 5A**

After chapter 5—

*insert—*



## **‘Chapter 5A Service Delivery Co-ordination and Information Exchange**

### **‘Part 1 Preliminary**

#### **‘159A Purpose**

‘The purpose of this chapter is to provide for service providers to appropriately and effectively meet the protection and care needs of children by—

- (a) co-ordinating the delivery of services to children and families; and
- (b) exchanging relevant information, while protecting the confidentiality of the information.

#### **‘159B Principles for co-ordinating service delivery and exchanging information**

‘The principles underlying this chapter are as follows—

- (a) the State is responsible for ensuring that children in need of protection receive protection and care services that ensure their safety and promote their wellbeing;
- (b) the chief executive has the primary responsibility for investigating, assessing and responding to allegations of harm to children, including by making plans for their protection and care;
- (c) each service provider should contribute, within the provider’s own sphere of responsibility, to assessing and meeting the protection and care needs of children and supporting their families;
- (d) children in need of protection and their families should receive co-ordinated services that meet their needs in a timely and effective way;

- (e) service providers should work collaboratively and in a way that respects the functions and expertise of other service providers;
- (f) because a child's welfare and best interests are paramount,<sup>6</sup> their protection and care needs take precedence over the protection of an individual's privacy.

### **'159C What is relevant information**

'(1) In this chapter—

*relevant information* means—

- (a) in relation to giving information to the chief executive or an authorised officer—information that the holder of the information reasonably believes may—
  - (i) help an authorised officer to investigate an allegation of harm or risk of harm to a child or assess a child's need for protection; or
  - (ii) help the chief executive to take action under section 14; or
  - (iii) help an authorised officer to investigate or assess, before the birth of a child, the likelihood that the child will need protection after he or she is born; or
  - (iv) help the chief executive in offering help and support to a pregnant woman under section 21A; or
  - (v) help the chief executive to develop, or assess the effectiveness of, a child's case plan; or
  - (vi) help the chief executive to assess or respond to the health, educational or care needs of a child in need of protection; or
  - (vii) otherwise help the chief executive to make plans or decisions relating to, or provide services to, a child in need of protection or the child's family; or

---

<sup>6</sup> See section 5(1) (Principles for administration of Act).

- (b) in relation to giving information to another service provider—information that the holder of the information reasonably believes may help the service provider to—
  - (i) decide whether information about suspected harm or risk of harm to a child should be given to the chief executive; or
  - (ii) assess or respond to the health, educational or care needs of a child in need of protection; or
  - (iii) otherwise make plans or decisions relating to, or provide services to, a child in need of protection or the child’s family.
- ‘(2) Relevant information may be information about a child in need of protection, the child’s family or someone else.
- ‘(3) Relevant information may be comprised of facts or opinion.
- ‘(4) Relevant information does not include information about a person’s criminal history to the extent it relates to a conviction—
  - (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
  - (b) that is not revived as prescribed by section 11<sup>7</sup> of that Act.

### ‘159D Other definitions for ch 5A

‘In this chapter—

***prescribed entity*** means each of the following entities—

- (a) the chief executive;
- (b) an authorised officer;
- (c) a licensee;
- (d) the chief executive of a department that is mainly responsible for any of the following matters—

---

<sup>7</sup> *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 11 (Revival of convictions)

- (i) adult corrective services;
- (ii) community services;
- (iii) disability services;
- (iv) education;
- (v) housing services;
- (vi) public health;
- (e) the commissioner of the Queensland Police Service;
- (f) the principal of a school that is accredited, or provisionally accredited, under the *Education (Accreditation of Non-State Schools) Act 2001*;
- (g) the person in charge of a student hostel;
- (h) the chief executive of another entity, that provides a service to children or families, prescribed under a regulation.

***service provider*** means—

- (a) a prescribed entity; or
- (b) another person providing a service to children or families.

***student hostel*** means—

- (a) a student hostel conducted under the *Education (General Provisions) Act 1989*, section 18(1)(b); or
- (b) a hostel conducted with a grant, allowance or subsidy provided under the *Education (General Provisions) Act 1989*, section 142.

### **‘159E Reference to family services**

‘A reference in this part to providing a service to families includes providing a service to pregnant women.





- ‘(2) The purpose is to be achieved by facilitating—
- (a) the sharing of relevant information between members of the system; and
  - (b) the planning and co-ordinating of actions to assess and respond to children’s protection needs; and
  - (c) a holistic and culturally responsive assessment of children’s protection needs.

### **‘159K Members**

‘The members of the SCAN system are—

- (a) the chief executives of the following entities (the *core members*)—
  - (a) the department;
  - (b) the department mainly responsible for public health;
  - (c) the department mainly responsible for education;
  - (d) the Queensland Police Service;
  - (e) in relation to the protection needs of an Aboriginal or Torres Strait Islander child—the recognised Aboriginal or Torres Strait Islander agency for the child; and
- (b) from time to time, other service providers contributing to the operation of the system by invitation of the core members.

### **‘159L Responsibilities of the core members**

‘The responsibilities of the core members are as follows—

- (a) to contribute to the operation of the SCAN system through representatives who have appropriate knowledge and experience in child protection;
- (b) to use their best endeavours to agree on recommendations to give to the chief executive about assessing and responding to the protection needs of particular children and, for that purpose, to—

- (i) share relevant information about the children, their families and other relevant persons; and
- (ii) identify relevant resources of members or other entities;
- (c) to take the action required under the recommendations;
- (d) to monitor the implementation of the recommendations and review their effectiveness;
- (e) to invite and facilitate contributions from other service providers with knowledge, experience or resources that would help achieve the purpose of the SCAN system.

## **‘Part 4 Information exchange**

### **‘159M Particular prescribed entities giving and receiving relevant information**

- ‘(1) This section applies to the following prescribed entities—
  - (a) the chief executive;
  - (b) an authorised officer;
  - (c) the chief executive of a department that is mainly responsible for any of the following matters—
    - (i) adult corrective services;
    - (ii) community services;
    - (iii) disability services;
    - (iv) education;
    - (v) housing services;
    - (vi) public health;
  - (d) the commissioner of the Queensland Police Service.
- ‘(2) A prescribed entity mentioned in subsection (1) may give relevant information to any other service provider.
- ‘(3) A service provider may give relevant information to a prescribed entity mentioned in subsection (1).



**‘159N Information requirement made by chief executive or authorised officer**

- ‘(1) If the chief executive or an authorised officer asks a prescribed entity for particular relevant information in the entity’s possession or control, the entity must comply with the request.
- ‘(2) For subsection (1), information is not taken to be in the prescribed entity’s control merely because of an agreement between the prescribed entity and another entity under which the other entity must give the information to the prescribed entity.
- ‘(3) Subsection (1) does not apply to relevant information if the prescribed entity reasonably considers that—
  - (a) giving the information could reasonably be expected to—
    - (i) prejudice the investigation of a contravention or possible contravention of a law in a particular case; or
    - (ii) prejudice an investigation under the *Coroners Act 2003*; or
    - (iii) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of a law, to be ascertained; or
    - (iv) endanger a person’s life or physical safety; or
    - (v) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of a law; and
  - (b) it would not be in the public interest to give the information.
- ‘(4) A person does not commit an offence merely by failing to comply with subsection (1).

## ‘Part 5 Release of health information or information relevant to coronial investigation

### ‘1590 Release of information by health service employees

- ‘(1) A health service employee may, for this Act, give a relevant person or the Childrens Court confidential information if—
- (a) for a relevant person or the Childrens Court—the information is relevant to the protection or welfare of a child; or
  - (b) for a relevant person who is the chief executive and without limiting paragraph (a)—the information is relevant to the chief executive’s review, or the preparation of a supplementary report, under chapter 7A.<sup>8</sup>
- ‘(2) Subsection (1)(a) includes the giving of information, before a child is born, that is relevant to the protection or welfare of the child after he or she is born.
- ‘(3) This section does not limit a power or obligation under this chapter to give relevant information.
- ‘(4) In this section—

***confidential information*** means information mentioned in the *Health Services Act 1991*, section 63(1).

***health service employee*** means an officer, employee or agent of the department in which the *Health Services Act 1991* is administered.

***relevant person*** means—

- (a) the chief executive; or
- (b) an authorised officer; or
- (c) a police officer.

**‘159P Release of information for an investigation under the Coroners Act**

- ‘(1) This section applies if a coroner is investigating the death of a child.
- ‘(2) The chief executive may give to the coroner, or to a police officer helping the coroner to investigate the death, information about any of the following matters—
- (a) whether, before the death, the child or a sibling of the child was a child in care;
  - (b) whether the chief executive became aware, before the death happened, of alleged harm or alleged risk of harm to the child or a sibling of the child and, if so—
    - (i) the identity of a notifier; and
    - (ii) other information about how or when the chief executive became aware;
  - (c) action taken by the chief executive, before the child’s death, relating to the child or a sibling of the child.
- ‘(3) The coroner or police officer to whom the information is given and anyone else to whom the information is subsequently given under this subsection—
- (a) must not use or disclose the information other than—
    - (i) for a purpose of the investigation; or

*Example—*

The coroner orders a doctor to perform an autopsy as part of the investigation of the child’s death and, for that purpose, gives the information to the doctor. The doctor may include the information in the doctor’s autopsy report under the *Coroners Act 2003*, section 25.

  - (ii) as otherwise required or permitted under this or another Act; and
- (b) if the information includes the identity of a notifier, must not disclose the identity to anyone unless—
  - (i) for a disclosure by the coroner—the coroner is satisfied that disclosure of the identity is of critical importance for the investigation; or



- (b) if the person would otherwise be required to maintain confidentiality about the information under an Act, oath or rule of law or practice, the person—
- (i) does not contravene the Act, oath or rule of law or practice by giving the information; and
  - (ii) is not liable to disciplinary action for giving the information.

### **‘159R Interaction with other laws**

- ‘(1) This chapter does not limit a power or obligation under another Act or law to give relevant information.
- ‘(2) This part applies to information despite any other law that would otherwise prohibit or restrict the giving of the information.

*Examples of other laws—*

- *Education (General Provisions) Act 1989*, section 25
- *Health Services Act 1991*, section 63
- *Police Service Administration Act 1990*, section 10.1’.

### **25 Amendment of s 172 (Issue of warrant)**

Section 172(1)—

*insert—*

- ‘(c) the child has been lawfully removed from a person’s custody or guardianship under this Act but kept beyond the period allowed for the removal.’.

### **26 Amendment of s 182 (Evidentiary provisions)**

Section 182(4)(g), ‘family meeting’—

*omit, insert—*

‘family group meeting’.

**27 Replacement of s 187 (Confidentiality of information obtained by persons involved in administration of Act)**

Section 187—

*omit, insert—*

**‘187 Confidentiality of information obtained by persons involved in administration of Act**

‘(1) This section applies to a person who—

(a) is or has been—

(i) a public service employee, a person engaged by the chief executive, or a police officer, performing functions under or in relation to the administration of this Act; or

(ii) a licensee or the executive officer of a corporation that is a licensee; or

(iii) a person employed or engaged by a licensee to perform functions under or in relation to the administration of this Act; or

(iv) an approved foster carer or other carer in whose care a child has been placed under this Act; or

(v) a member of, or person employed or engaged by, a recognised Aboriginal or Torres Strait Islander agency; or

(vi) a person attending a case planning meeting or participating in another way in the development of a child’s case plan; or

(vii) a person participating in the revision of a child’s case plan; or

(viii) a member of the SCAN system, or a representative of a member, performing functions under or in relation to chapter 5A, part 3; or

(ix) a prescribed entity, or person engaged by a prescribed entity, performing functions under or in relation to chapter 5A, part 4; and

(b) in that capacity acquired information about another person’s affairs or has access to, or custody of, a document about another person’s affairs.

- ‘(2) The person must not use or disclose the information, or give access to the document, to anyone else.

Maximum penalty—100 penalty units or 2 years imprisonment.

- ‘(3) However, the person may, subject to section 186, use or disclose the information or give access to the document to someone else—

- (a) to the extent necessary to perform the person’s functions under or in relation to this Act; or
- (b) if the use, disclosure or giving of access is for purposes directly related to a child’s protection or welfare; or

*Example—*

An approved foster carer in whose care a child has been placed under this Act may disclose relevant information about the child to a person, including, for example, a school teacher or member of the carer’s immediate family, to help the person understand and meet the child’s needs.

- (c) if the use, disclosure or giving of access—
- (i) relates to the chief executive’s function of cooperating with government entities that have a function relating to the protection of children or that provide services to children in need of protection or their families; or
- (ii) is otherwise required or permitted by law.

- ‘(4) Also, a person may disclose the information or give access to the document to another person to the extent that the information or document is about the other person.

- ‘(5) Also, a police officer may use or disclose the information or give access to the document to someone else under section 188A.

- ‘(6) To remove any doubt, it is declared that a person participating in the development, implementation or revision of a child’s case plan under this Act is performing a function under this Act.’.

**28 Amendment of s 188 (Confidentiality of information given by persons involved in administration of Act to other persons)**

- (1) Section 188(1), before ‘police’—  
*insert*—  
‘another prescribed entity, a’.
- (2) Section 188(1), ‘duties’—  
*omit, insert*—  
‘functions’.
- (3) Section 188(2) and (3), ‘disclose’—  
*omit, insert*—  
‘use or disclose’.
- (4) Section 188(3)(a) and (b), ‘disclosure’—  
*omit, insert*—  
‘use, disclosure or giving of access’.
- (5) Section 188(3)(c), ‘disclosure’—  
*omit, insert*—  
‘use, disclosure’.

**29 Insertion of new s 188A**

After section 188—

*insert*—

**‘188A Police use of confidential information**

- ‘(1) This section applies if a police officer acquires information as provided for in section 187(1).
- ‘(2) The officer, and any other police officer to whom the information is disclosed under this section, may use the information to the extent necessary to perform his or her functions as a police officer.
- ‘(3) A police officer must not use the information under this section for an investigation or for a proceeding for an offence



unless the officer, or another police officer, has consulted with the following entities about the proposed use—

- (a) the chief executive;
  - (b) if the information was acquired under chapter 5A, part 3, from a member of the SCAN system—the member;
  - (c) if the information was acquired from a prescribed entity under chapter 5A, part 4—the prescribed entity.
- ‘(4) The purpose of a consultation under subsection (3) is to consider whether the proposed use of the information for the investigation or proceeding would be in the best interests of any child.
- ‘(5) Subsection (3) does not apply—
- (a) if the information concerns an offence committed against a child; or
  - (b) to the extent that the police officer needs to use the information immediately to perform the officer’s functions as a police officer.
- ‘(6) This section applies subject to section 186.
- ‘(7) In this section—

*information* includes a document.

*use*—

- (a) in relation to information, includes disclose; and
- (b) in relation to a document, includes give access to.

*Note*—

Section 248B also requires a police officer to consult with the chief executive about particular investigations and proceedings.’

### **30 Omission of ch 6 (Enforcement and legal proceedings), pt 6 (Confidentiality), div 4 (General)**

Chapter 6, part 6, division 4—

*omit.*

**31 Amendment of s 197 (Protection from liability)**

Section 197(3), definition *official*—

*insert*—

‘(d) a member of the SCAN system or a representative of a member.’.

**32 Amendment of s 214 (Court may transfer order)**

(1) Section 214—

*insert*—

‘(ba) an appropriate case plan has been prepared under chapter 2, part 3A; and’.

(2) Section 214(c), ‘family meeting’—

*omit, insert*—

‘family group meeting’.

**33 Insertion of new s 248B**

After section 248A—

*insert*—

**‘248B Consultation about investigations and prosecutions**

- ‘(1) This section applies to an offence committed against a child who a police officer knows or suspects is a child in need of protection.
- ‘(2) When investigating the offence, the officer must consult with the chief executive for the purpose of planning the most appropriate way of conducting the investigation.
- ‘(3) Before starting a proceeding for the offence, the officer must consult with the chief executive for the purpose of considering whether the proceeding would be in the best interests of the child.
- ‘(4) Subsections (2) and (3) do not apply to the officer—
- (a) to the extent that the consultation would be impracticable in all the circumstances, including any need to take urgent action; or

- (b) if the officer is aware the consultation has already been carried out by another police officer.’

### **34 Amendment of s 249 (Regulation-making powers)**

- (1) Section 249(2)(d), ‘family meetings’—

*omit, insert—*

‘family group meetings’.

- (2) Section 249(2)—

*insert—*

‘(e) the SCAN system.’.

### **35 Insertion of new ch 9, pt 4**

Chapter 9, after part 3—

*insert—*

## **‘Part 4 Transitional provision for Child Safety Legislation Amendment Act (No. 2) 2004**

### **‘262 Transitional—case planning**

- ‘(1) If, on the commencement day, a child is a child mentioned in section 51C and has a case plan that was prepared before the commencement day, the plan is taken to have been developed under chapter 2, part 3A.

- ‘(2) A family meeting held under the Act before the commencement day is taken to be a family group meeting.

- ‘(3) In this section—

*commencement day* means the day chapter 2, part 3A, commences.’.

### **36 Amendment of sch 3 (Dictionary)**

- (1) Schedule 3, definitions *family meeting* and *government entity*—

*omit.*

## (2) Schedule 3—

*insert—*

**‘case plan** see section 51B.

**case planning** see section 51A.

**case planning meeting** see section 51H(2).

**charter of rights** means the charter of rights for a child in care in schedule 1.

**contact arrangements**, for a child, means arrangements for the child’s contact with members of the child’s family group or other persons with whom the child is connected.

**endorse**, a case plan, means record an endorsement on the plan.

**family group**, for chapter 2, part 3A, see section 51E.

**family group meeting** means a family group meeting under chapter 2, part 3A.

**government entity** means a government entity under the *Public Service Act 1996*, section 21, and includes the Queensland Police Service to the extent it is not a government entity under that section.

**living arrangements**, for a child, means arrangements about where or with whom the child will live.

**prescribed entity**, for chapter 5A, see section 159D.

**private convenor** see section 51I(1).

**relevant information**, for chapter 5A, see section 159C.

**revised case plan** means a case plan prepared under chapter 2, part 3A, division 5.

**SCAN** stands for ‘Suspected Child Abuse and Neglect’.

**service provider** see section 159D.

**student hostel**, for chapter 5A, see section 159D.’.

(3) Schedule 3, definition *parent*—

*insert—*

‘(ba) chapter 2, part 3A, see section 51F;’.

## Part 5 **Amendment of Commission for Children and Young People and Child Guardian Act 2000**

### 37 **Act amended in pt 5**

This part amends the *Commission for Children and Young People and Child Guardian Act 2000*.

### 38 **Amendment of s 7A (Scope of Act relating to children in the child safety system)**

Section 7A, example 1—

*omit, insert—*

‘1 Under section 15AA(1)(b), the commissioner may review the child safety department’s handling of a case of a particular child in the child safety system even though the child is no longer in the child safety system at the time of the review.’.

### 39 **Amendment of s 15 (Commissioner’s functions)**

(1) Section 15(1)(c), including the note—

*omit, insert—*

‘(c) the commissioner’s monitoring functions under section 15AA;’.

(2) Section 15(1)(f)—

*omit.*

(3) Section 15(2)(b)—

*renumber* as section 15(2)(c).

(4) Section 15(2)(a)—

*omit, insert—*

‘(a) the monitoring functions under section 15AA; and

(b) the functions under subsection (1)(d) and (e); and’.

(5) Section 15(3)—

*omit.*

**40 Insertion of new s 15AA**

After section 15—

*insert—*

**‘15AA Monitoring functions**

- ‘(1) The commissioner has the following functions (the *monitoring functions*)—
- (a) to monitor, audit and review the systems, policies and practices of the child safety department and other service providers that affect children in the child safety system;
  - (b) to monitor, audit and review the handling of individual cases of children in the child safety system by the child safety department and licensees under the *Child Protection Act 1999*;
  - (c) to monitor compliance by the chief executive (child safety) with the *Child Protection Act 1999*, section 83.<sup>10</sup>

*Note—*

Part 2A includes powers of the commissioner that may be exercised to perform the monitoring functions, but only in relation to the service providers specified in section 31B.

- ‘(2) To perform the monitoring functions, the commissioner may need to access, under part 2A, information or documents relating to individual cases.
- ‘(3) The systems, policies and practices mentioned in subsection (1)(a) include systems, policies and practices for case handling.
- ‘(4) However, to remove any doubt, it is declared that the monitoring functions under subsection (1)(a) do not include reviewing a decision taken in an individual case.
- ‘(5) Also, subsection (1)(a) does not apply to—
- (a) the systems, policies and practices of the Director of Public Prosecutions or the police service that directly

---

<sup>10</sup> *Child Protection Act 1999*, section 83 (Additional provisions for placing Aboriginal and Torres Strait Islander children in care)

relate to decisions about whether or not to institute, or continue with, a proceeding for an offence; or

- (b) the systems, policies and practices of the police service that directly relate to decisions about whether or not to apply for a protection order under the *Domestic and Family Violence Protection Act 1989*; or
- (c) the systems, policies and practices of Legal Aid Queensland that directly relate to the content of legal advice given by Legal Aid lawyers.’.

**41 Amendment of s 18 (Way in which commissioner is to perform commissioner’s functions)**

Section 18(2)—

*insert—*

- ‘(e) have sufficient regard to the sensitive nature of personal information, and access it only to the extent necessary to perform the functions.’.

**42 Amendment of s 31B (Service providers to which this part applies)**

Section 31B—

*insert—*

- ‘(c) a department that is mainly responsible for any of the following matters—
  - (i) Aboriginal and Torres Strait Islander policy;
  - (ii) administration of justice;
  - (iii) adult corrective services;
  - (iv) community services;
  - (v) disability services;
  - (vi) education;
  - (vii) housing services;
  - (viii) public health;
- (d) the Director of Public Prosecutions;

- (e) Legal Aid Queensland;
- (f) the Public Trust Office;
- (g) the police service.’.

**43 Amendment of s 31C (Power to require information or documents)**

- (1) Section 31C(4) to (6)—

*omit.*

- (2) Section 31C—

*insert—*

- ‘(4) For subsection (1)(b)—

- (a) a document is taken to be in the service provider’s control if, under an agreement between the service provider and another entity, the other entity must give the document to the service provider for the purpose of the commissioner performing the commissioner’s monitoring functions; but
- (b) otherwise, a document is not taken to be in the service provider’s control merely because of an agreement between the service provider and another entity under which the other entity must give the document to the service provider.’.

**44 Amendment of s 31D (Access to documents of the child safety department)**

- (1) Section 31D, heading, before ‘**documents**’—

*insert—*

**‘information and’.**

- (2) Section 31D(2), ‘under section 31C(4)’—

*omit.*

- (3) Section 31D(2)—

*renumber* as section 31D(3).

- (4) Section 31D—



*insert—*

- ‘(2) The notice must state the way in which the information or documents must be given.

*Examples of stated ways—*

- 1 sending the commissioner an electronic copy of a document
- 2 allowing the commissioner to enter the department’s premises and access information or documents’.

- (5) Section 31D—

*insert—*

- ‘(4) The department must comply with the notice.’.

#### **45 Insertion of new ss 31DA and DB**

After section 31D—

*insert—*

##### **‘31DA Access to information and documents of a relevant service provider other than the child safety department**

- ‘(1) This section applies to a notice under section 31C given to a relevant service provider other than the child safety department.

- ‘(2) The notice must state the way in which the commissioner seeks to have the information or documents given.

*Examples of stated ways—*

- 1 sending the commissioner an electronic copy of a document
- 2 allowing the commissioner to enter the service provider’s premises and access information or documents

- ‘(3) The service provider is not required to give the information or documents in the stated way.

- ‘(4) For a requirement to give a document, the service provider may comply with the requirement by giving the information contained in the document.

- ‘(5) The service provider is not required to give information or a document to which section 31DB applies.

- ‘(6) Otherwise, the service provider must comply with the notice.

*Example—*

The commissioner gives a notice to a licensee seeking particular documents by allowing the commissioner entry to the licensee's premises. The licensee does not have to allow the entry. But if the licensee does not allow the entry, the licensee must comply with the requirement, by the stated time, by giving the information contained in the documents or giving the documents in another way.

- '(7) The notice must state the matters mentioned in subsections (3) to (5).

**'31DB Exempt information and documents**

- '(1) This section applies to a relevant service provider other than the child safety department.
- '(2) In response to a notice under section 31C, the service provider is not required to give the commissioner information or a document that is exempt under this section.
- '(3) Information or a document is exempt if giving it could reasonably be expected to—
- (a) prejudice the investigation of a contravention or possible contravention of the law in a particular case; or
  - (b) prejudice an investigation under the *Coroners Act 2003*; or
  - (c) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained; or
  - (d) endanger a person's life or physical safety; or
  - (e) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law.
- '(4) Subsection (3) does not apply if giving the information or document would, on balance, be in the public interest.
- '(5) Also, information or a document is exempt if—
- (a) it relates to a review of a matter, being conducted within the entity that is the relevant service provider, that has not been completed; and

- (b) giving the information or document is likely to prejudice or interfere with the review.
- ‘(6) For subsection (5)(a), a review is taken not to be completed until the end of any period allowed for an appeal from the review and the end of any appeal.
- ‘(7) Also, for Legal Aid Queensland, information or a document is exempt to the extent it contains communications mentioned in the *Legal Aid Queensland Act 1997*, section 75.<sup>11</sup>
- ‘(8) In this section—  
*review* includes investigation.’

#### **46 Insertion of new ss 31EA—31EC**

After section 31E—

*insert—*

##### **‘31EA Protection from liability for giving information**

- ‘(1) This section applies to the giving of information to the commissioner, by a relevant service provider, for the purpose of the commissioner performing the commissioner’s monitoring functions.
- ‘(2) A person may give the information despite any other law that would otherwise prohibit or restrict the giving of the information.
- Examples of other laws—*
- *Education (General Provisions) Act 1989*, section 25
  - *Health Services Act 1991*, section 63
  - *Police Service Administration Act 1990*, section 10.1
- ‘(3) If a person, acting honestly, gives the information to the commissioner, the person is not liable, civilly, criminally or under an administrative process, for giving the information.
- ‘(4) Also, merely because the person gives the information, the person can not be held to have—

---

<sup>11</sup> *Legal Aid Queensland Act 1997*, section 75 (Application of legal professional privilege to Legal Aid and Legal Aid lawyers)

- (a) breached any code of professional etiquette or ethics; or
  - (b) departed from accepted standards of professional conduct.
- ‘(5) Without limiting subsections (3) and (4)—
- (a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information; and
  - (b) if the person would otherwise be required to maintain confidentiality about the information under an Act, oath or rule of law or practice, the person—
    - (i) does not contravene the Act, oath or rule of law or practice by giving the information; and
    - (ii) is not liable to disciplinary action for giving the information.
- ‘(6) This section does not apply to a person giving information in contravention of the *Legal Aid Queensland Act 1997*, section 75.<sup>12</sup>
- ‘(7) In this section—  
*information* includes a document.

### **‘31EB Restricted use of confidential information accessed under this part**

- ‘(1) This section applies to information, given to the commissioner for the purpose of the commissioner performing the commissioner’s monitoring functions, to the extent the information comprises confidential information.
- ‘(2) The commissioner may only use or disclose the information—
- (a) to perform the commissioner’s monitoring functions; or
  - (b) to refer a matter under section 20; or
  - (c) to undertake an investigation under part 3; or
  - (d) if authorised under another Act or required by law; or

---

<sup>12</sup> *Legal Aid Queensland Act 1997*, section 75 (Application of legal professional privilege to Legal Aid and Legal Aid lawyers)

- (e) with the written consent of the person to whom the information relates or, if the person is a child unable to consent, with the written consent of a parent or guardian of the child.
- ‘(3) In this section—  
*information* includes a document.

### **‘31EC Commissioner to advise on-disclosure**

- ‘(1) This section applies to information or a document that the commissioner has obtained from a relevant service provider for the purpose of performing the commissioner’s monitoring functions.
- ‘(2) The commissioner must advise the service provider before giving the information or document to another entity, unless the commissioner considers that doing so would not be in the best interests of a child to whom the information or document relates.’.

### **47 Amendment of s 31G (Review of service)**

- (1) Section 31G(1)(a)(i) and (ii)—  
*omit, insert—*
  - ‘(i) a relevant service provider’s systems, policies or practices affecting children in the child safety system; or
  - (ii) the handling of individual cases of children in the child safety system by the child safety department or a licensee; and’.
- (2) Section 31G(2)(a)—  
*omit, insert—*
  - ‘(a) undertake a review of—
    - (i) if subsection (1)(a)(i) applies—the systems, policies or practices; or
    - (ii) if subsection (1)(a)(ii) applies—the handling of the individual cases; and’.

**48 Amendment of s 31H (Recommendations)**

Section 31H—

*insert—*

- ‘(2) Before making the recommendations, the commissioner must give the service provider a written copy of the proposed recommendations and a reasonable opportunity to comment on them.
- ‘(3) The commissioner must give a copy of the recommendations to the Minister responsible for the service provider.
- ‘(4) The Minister responsible for a relevant service provider mentioned in section 31B(b) is the Minister responsible for the child safety department.’.

**49 Amendment of s 31I (Report to Minister about noncompliance)**

- (1) Section 31I, heading, ‘**Minister**’—

*omit, insert—*

**‘Ministers’.**

- (2) Section 31I(2)—

*omit, insert—*

- ‘(2) The commissioner may prepare a report about the matter and give it to the Minister responsible for the child safety department and the Minister responsible for the service provider.

*Note—*

Sections 60 to 63 establish a process for reports prepared by the commissioner to be tabled in the Legislative Assembly. The process includes giving an opportunity for an entity to respond to adverse comments in a report.’.

**50 Amendment of s 46 (Identity of notifier under Child Protection Act 1999)**

- (1) Section 46, heading, after ‘**1999**’—

*insert—*

**‘or Health Act 1937’.**

- (2) Section 46(1), ‘mentioned in the *Child Protection Act 1999*, section 186’—

*omit.*

- (3) Section 46—

*insert—*

- ‘(3) In this section—

***notifier*** means—

- (a) a notifier mentioned in the *Child Protection Act 1999*, section 186; or
- (b) a notifier mentioned in the *Health Act 1937*, section 76KH whose identity is known to the chief executive (child safety).’.

**51 Amendment of s 89ZA (Annual report)**

Section 89ZA—

*insert—*

- ‘(3) Within 14 sitting days after receiving the report, the Minister must table it in the Legislative Assembly.’.

**52 Amendment of s 145 (Evidentiary provisions)**

- (1) Section 145(3), after ‘commissioner’—

*insert—*

‘, the assistant commissioner’.

- (2) Section 145(4), after ‘commissioner’—

*insert—*

‘or assistant commissioner’.

**53 Amendment of s 152 (Confidentiality of information about criminal history)**

- (1) Section 152(1)(a), after ‘commissioner’—

*insert—*

‘, the assistant commissioner’.

- (2) Section 152(2)(a), after ‘commissioner,’—

*insert—*

‘the assistant commissioner,’.

- (3) Section 152(4)(a), after ‘commissioner’—

*insert—*

‘, the assistant commissioner’.

- (4) Section 152(4)(b), after ‘commissioner,’—

*insert—*

‘the assistant commissioner,’.

**54 Amendment of s 153 (Confidentiality of other information)**

Section 153(3)(a) and (c), after ‘commissioner’—

*insert—*

‘or assistant commissioner’.

**55 Amendment of s 161 (Protection from liability)**

Section 161(3), definition *official*, paragraph (a), after ‘commissioner’—

*insert—*

‘or assistant commissioner’.

**56 Amendment of sch 4 (Dictionary)**

- (1) Schedule 4, definition *government entity*—

*omit, insert—*

‘**government entity** means a government entity under the *Public Service Act 1996*, section 21, and includes the police service to the extent it is not a government entity under that section.’.





1999, section 159P,<sup>15</sup> may only be accessed under section 159P(3) of that Act.’

## 60 Amendment of sch 2 (Dictionary)

Schedule 2, definition *confidential document*—  
*omit, insert—*

‘*confidential document* means a document containing, or the part of a document that contains, information obtained under section 17 or the *Child Protection Act 1999*, section 159P.<sup>16</sup>’

## Part 7 Amendment of Family Services Act 1987

### 61 Act amended in pt 7

This part amends the *Family Services Act 1987*.

### 62 Insertion of new s 30A

After section 30—  
*insert—*

#### ‘30A Delegation

‘(1) The Minister may delegate the Minister’s powers under section 11(3), (4) and (6) to an appropriately qualified public service officer or employee.

‘(2) In this section—

---

15 *Child Protection Act 1999*, section 159P (Release of information for an investigation under the Coroners Act)

16 Section 17 (Disclosure of confidential information to Coroners Court) or the *Child Protection Act 1999*, section 159P (Release of information for an investigation under the Coroners Act)

*appropriately qualified*, for a person to whom a power may be delegated, includes having the qualifications, experience or standing appropriate to exercise the power.’.

## **Part 8 Amendment of Health Act 1937**

### **63 Act amended in pt 8**

This part amends the *Health Act 1937*.

### **64 Amendment of s 5 (Interpretation)**

(1) Section 5(1), definition *parent*—

*omit*.

(2) Section 5(1)—

*insert*—

‘*chief executive (child safety)*, for part 3, division 6, see section 76K.

*child*, for part 3, division 6, see section 76K.

*harm*, for part 3, division 6, see section 76K.

*parent*, for part 3, division 6, see section 76KA.

*professional*, for part 3, division 6, see section 76K.

*registered nurse*, for part 3, division 6, see section 76K.

### **65 Replacement of pt 3, div 6, hdg (Maltreatment of children)**

Part 3, division 6, heading—

*omit, insert*—

**‘Division 6 Harm to children’.**

### **66 Replacement of s 76K (Notification of maltreatment)**

Section 76K—

*omit, insert—*

#### **‘76K Definitions for div 6**

‘In this division—

**chief executive (child safety)** means the chief executive of the department in which the *Child Protection Act 1999* is administered.

**child** means an individual who is under 18.

**harm**, to a child, means any detrimental effect on the child’s physical, psychological or emotional wellbeing—

- (a) that is of a significant nature; and
- (b) that has been caused by—
  - (i) physical, psychological or emotional abuse or neglect; or
  - (ii) sexual abuse or exploitation.

**parent**, for part 3, division 6, see section 76KA.

**professional** means a doctor or registered nurse.

**registered nurse** means a person registered under the *Nursing Act 1992* as a registered nurse.

#### **‘76KA Meaning of parent for div 6**

- ‘(1) For this division, a **parent** of a child is the child’s mother, father or someone else, other than the chief executive (child safety), having or exercising parental responsibility for the child.
- ‘(2) However, a person standing in the place of a parent of a child on a temporary basis is not a parent of the child.
- ‘(3) A parent of an Aboriginal child includes a person who, under Aboriginal tradition, is regarded as a parent of the child.
- ‘(4) A parent of a Torres Strait Islander child includes a person who, under Island custom, is regarded as a parent of the child.
- ‘(5) A reference in this division to the parents of a child or to one of the parents of a child is, if the child has only 1 parent, a reference to the parent.

**‘76KB Relationship with Child Protection Act 1999**

- ‘(1) The *Child Protection Act 1999*, sections 22 and 186,<sup>17</sup> include provision relevant to a professional giving a notice or other information to the chief executive (child safety) under this division.
- ‘(2) If there is in force, for a child, both an order under the *Child Protection Act 1999* and an order under section 76L, the order under the *Child Protection Act 1999* prevails to the extent of any inconsistency.

**‘76KC Mandatory reporting—immediate notice**

- ‘(1) This section applies if—
  - (a) a professional becomes aware, or reasonably suspects, during the practice of his or her profession, that a child has been, is being, or is likely to be, harmed; and
  - (b) as far as the professional is aware, no other professional has notified the chief executive (child safety) under this section about the harm or likely harm.
- ‘(2) The professional must immediately give notice of the harm or likely harm to the chief executive (child safety)—
  - (a) orally; or
  - (b) by facsimile, email or similar communication.
- ‘(3) The notice must include—
  - (a) the following information, to the extent the professional has it or can reasonably obtain it—
    - (i) the child’s name;
    - (ii) the place or places where the child lives;
    - (iii) the names of the child’s parents;
    - (iv) the place or places where the parents live or may be contacted; and

---

17 *Child Protection Act 1999*, sections 22 (Protection from liability for notification of, or information given about, alleged harm or risk of harm) and 186 (Confidentiality of notifiers of harm or risk of harm)

- (b) details of the harm or likely harm of which the professional is aware or that the professional suspects; and
  - (c) the professional's name, address and telephone number.
- ‘(4) To remove any doubt, it is declared that a professional may need to seek further information about harm or likely harm to a child before forming a reasonable suspicion about the matter.

*Example—*

After physically examining a child, a professional considers it possible that the child has been harmed. The professional obtains more information by consulting with a colleague. After obtaining the further information, the professional forms a reasonable suspicion that the child has been harmed.

### **‘76KD Mandatory reporting—follow-up notice**

- ‘(1) This section applies if a professional gives notice orally under section 76KC.
- ‘(2) Within 7 days after giving the oral notice, the professional must give the chief executive (child safety) a written notice about the harm or likely harm.
- ‘(3) The written notice must include the information, as at the time the written notice is given, about the matters stated in section 76KC(3).
- ‘(4) The professional must give the written notice even if the professional no longer believes or suspects the child has been, is being, or is likely to be, harmed.

### **‘76KE Offence**

‘A professional who fails to give a notice under section 76KC or 76KD commits an offence.

Maximum penalty—50 penalty units.

**‘76KF Further information may be required**

- ‘(1) This section applies to a professional who has given the chief executive (child safety) a notice about harm or likely harm under section 76KC or 76KD.
- ‘(2) The chief executive (child safety) may ask the professional, orally or in writing, for stated further information that the chief executive (child safety) reasonably considers is needed to properly assess the harm or likely harm.
- ‘(3) The professional must comply with the request, unless the professional has a reasonable excuse.
- Maximum penalty—50 penalty units.
- ‘(4) A professional is not liable to be prosecuted for an offence against subsection (3) unless the chief executive (child safety), when making the request, warns the professional it is an offence to fail to comply with the request unless the professional has a reasonable excuse.

**‘76KG Protection from liability for giving information to professional**

- ‘(1) This section applies if a person, acting honestly, gives information to a professional by—
- (a) telling the professional that the person is aware, or suspects, that a child has been, is being, or is likely to be, harmed; or
- (b) giving other information relating to the harm mentioned in paragraph (a).

*Examples of persons who may give information to a professional under this section—*

- a fellow professional seeking help to decide whether there are reasonable grounds for forming a suspicion that the child has been harmed
- a health professional, administrative worker in a health practice, emergency services officer, teacher or other person who, in the course of the person’s employment, observed something that raised a suspicion the child had been harmed
- a relative or friend of the child

- ‘(2) The person is not liable, civilly, criminally or under an administrative process, for giving the information.
- ‘(3) Without limiting subsection (2)—
  - (a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information; and
  - (b) if the person would otherwise be required to maintain confidentiality about the information under an Act, oath or rule of law or practice, the person—
    - (i) does not contravene the Act, oath or rule of law or practice by giving the information; and
    - (ii) is not liable to disciplinary action for giving the information.

#### **‘76KH Confidentiality of notifiers**

- ‘(1) This section applies if a person (the *notifier*) gives information under section 76KG(1) to a professional.
- ‘(2) The professional to whom the information is given, or another person who becomes aware of the identity of the notifier, must not disclose the identity of the notifier to another person except—
  - (a) as permitted or required under this division; or
  - (b) in the course of performing functions under a child protection law to another person performing functions under a child protection law; or
  - (c) under the *Child Protection (International Measures) Act 2003*, part 6;<sup>18</sup> or
  - (d) to the ombudsman for the conduct of an investigation under the *Ombudsman Act 2001*; or
  - (e) by way of evidence given in a legal proceeding under subsections (4) and (5).

Maximum penalty—40 penalty units.

---

18 *Child Protection (International Measures) Act 2003*, part 6 (Co-operation and other matters)



- ‘(3) Also, the chief executive (child safety) may disclose the identity of the notifier to the Commissioner for Children and Young People and Child Guardian under the *Commission for Children and Young People and Child Guardian Act 2000*, section 46.
- ‘(4) Subject to subsection (5)—
- (a) evidence of the identity of the notifier or from which the identity of the notifier could be deduced must not be given in a proceeding before a court or tribunal without leave of the court or tribunal; and
  - (b) unless leave is granted, a party or witness in the proceeding—
    - (i) must not be asked, and, if asked, can not be required to answer, any question that can not be answered without disclosing the identity of, or leading to the identification of, the notifier; and
    - (ii) must not be asked to produce, and, if asked, can not be required to produce, any document that identifies, or may lead to the identification of, the notifier.
- ‘(5) The court or tribunal must not grant leave unless—
- (a) it is satisfied—
    - (i) the evidence is of critical importance in the proceeding; and
    - (ii) there is compelling reason in the public interest for disclosure; or
  - (b) the notifier agrees to the evidence being given in the proceeding.
- ‘(6) In deciding whether to grant leave, the court or tribunal must take into account—
- (a) the possible effects of disclosure on the safety or welfare of the notifier and the notifier’s family; and
  - (b) the public interest in maintaining confidentiality of notifiers.

- ‘(7) As far as practicable, an application for leave must be heard in a way that protects the identity of the notifier pending a decision on the application.
- ‘(8) In this section—  
***child protection law*** means—  
 (a) the *Child Protection Act 1999*; or  
 (b) a child welfare law or interstate law of another State within the meanings given by the *Child Protection Act 1999*, schedule 3.’.

## **67 Amendment of s 76L (Temporary custody of children)**

- (1) Section 76L(2)(b)—  
*omit, insert—*  
 ‘(b) the prescribed medical officer becomes aware, or reasonably suspects, that the child has been, is being, or is likely to be, harmed;’.
- (2) Section 76L(3), from ‘suspects’ to ‘danger’—  
*omit, insert—*  
 ‘becomes aware, or reasonably suspects, that the child has been, is being, or is likely to be, harmed’.
- (3) Section 76L(10), after ‘(3)’—  
*insert—*  
 ‘, that officer’.
- (4) Section 76L(16), from ‘—’ to ‘(b)’—  
*omit.*
- (5) Section 76L(17), after ‘subsection (16)’—  
*insert—*  
 ‘or (17)’.
- (6) Section 76L(17)—  
*renumber* as section 76L(18).

(7) Section 76L—

*insert—*

‘(17) As soon as practicable after making an order under subsection (2) or (3), the prescribed medical officer must give the chief executive (child safety) a notice about the order.’.

**68 Omission of s 76M (Meaning of child for division)**

Section 76M—

*omit.*

## **Part 9 Amendment of Juvenile Justice Act 1992**

**69 Act amended in pt 9**

This part amends the *Juvenile Justice Act 1992*.

**70 Amendment of s 257 (Interpretation)**

Section 257, definition *parent*, after ‘chief executive’—

*insert—*

‘(child safety)’.

**71 Amendment of s 259 (Show cause hearing)**

Section 259(12), after ‘chief executive’—

*insert—*

‘(child safety)’.

**72 Amendment of sch 4 (Dictionary)**

Schedule 4—

*insert—*

*‘chief executive (child safety)* means the chief executive of the department in which the *Child Protection Act 1999* is administered.’.