



Queensland

Child Death Review Legislation Amendment Act 2020

Act No. 2 of 2020

An Act to amend the Child Protection Act 1999, the Director of Child Protection Litigation Act 2016 and the Family and Child Commission Act 2014 for particular purposes

[Assented to 13 February 2020]



Queensland

Child Death Review Legislation Amendment Act 2020

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The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Child Death Review Legislation Amendment Act 2020*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

Part 2 Amendment of Child Protection Act 1999

3 Act amended

This part amends the *Child Protection Act 1999*.

4 Amendment of s 7 (Chief executive's functions)

(1) Section 7(1)(p)—

insert—

(iii) to support collaboration and joint learning between the department and other relevant agencies; and

(2) Section 7(2)—

insert—

relevant agency see section 245B.

[s 5]

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

Section 188(3)(d), ‘the chief executive under section 246C’—
omit, insert—
the head of a relevant agency under section 245T

6 Replacement of ch 7A (Child deaths and other matters)

Chapter 7A—
omit, insert—

Chapter 7A Internal agency reviews following child deaths or injuries

Part 1 Preliminary

245 Overview of chapter and purpose of reviews

- (1) This chapter provides for a system under which, if a child dies or suffers serious physical injury after a relevant agency has been involved with the child, the agency’s head must carry out a review of its involvement.
- (2) The system also provides for a review of the office of the litigation director’s involvement in a matter concerning the child if the litigation director has performed a litigation function.
- (3) The purpose of the reviews is to promote the safety and wellbeing of children who come into contact with the child protection system by—

- (a) facilitating ongoing learning and improvement in the provision of services by the agencies and the litigation director; and
 - (b) promoting the accountability of the agencies and the litigation director; and
 - (c) supporting collaboration and joint learning by the agencies.
- (4) In the case of child deaths, review reports are given to an independent board under the *Family and Child Commission Act 2014*, part 3A, which carries out further reviews of relevant systems.

245A Principles underlying chapter

The principles underlying this chapter are—

- (a) relevant agencies should work collaboratively, and in a way that respects each others' functions and expertise, to achieve the purpose of internal agency reviews; and
- (b) if a relevant agency is carrying out an internal agency review, other relevant agencies should share information with the reviewing agency in a timely way, and to the extent that is appropriate, having regard to—
 - (i) the relevance of the information to the review; and
 - (ii) the extent to which sharing the information would advance the purpose of the review; and
 - (iii) the effect of sharing the information on the safety, wellbeing and best interests of children; and

[s 6]

- (c) a relevant agency that has carried out, or is carrying out, an internal agency review should share the outcomes of the review with other relevant agencies in a timely way, and to the extent that is appropriate, having regard to—
 - (i) the relevance of the outcomes to the other agencies' functions; and
 - (ii) the extent to which sharing the outcomes would advance the purpose of the review; and
 - (iii) the effect of sharing the outcomes on the safety, wellbeing and best interests of children.

245B Definitions for chapter

In this chapter—

agency head means the head of a relevant agency.

head, of a relevant agency, means—

- (a) for a department—the chief executive of the department; or
- (b) for a Hospital and Health Service—its health service chief executive; or
- (c) for the Queensland Police Service—the commissioner of the police service.

internal agency review means a review, carried out by the head of a relevant agency, of the agency's involvement with a child.

Minister, for a relevant agency, means—

- (a) for a department—the Minister administering the department; or

- (b) for a Hospital and Health Service—the Minister administering the *Hospital and Health Boards Act 2011*; or
- (c) for the Queensland Police Service—the Minister administering the *Police Service Administration Act 1990*.

outcomes, of an internal agency review, includes—

- (a) findings and recommendations; and
- (b) information considered in forming findings and recommendations.

policies include guidelines, procedures, protocols, standards and systems.

relevant agency means any of the following entities—

- (a) the department in which this Act is administered;
- (b) the department mainly responsible for education;
- (c) the department mainly responsible for public health;
- (d) the department mainly responsible for youth justice services;
- (e) a Hospital and Health Service;
- (f) the Queensland Police Service.

review report see section 245N(1)(c).

triggering event, for an internal agency review, see section 245M.

245C References to providing a service to a child

A reference in this chapter to providing a service to a child includes a reference to interacting with

[s 6]

a child, or a member of a child's family, in relation to a matter relevant to the child's safety and wellbeing.

Part 2 When reviews must be carried out

245D Application of part

This part applies if a child dies or suffers serious physical injury.

245E Department review following involvement with child

The chief executive must carry out a review about the department's involvement with the child if—

- (a) at the time of the child's death or serious physical injury, the child was in the chief executive's custody or guardianship; or
- (b) within 1 year before the child's death or serious physical injury, the chief executive became aware of alleged harm or an alleged risk of harm to the child in the course of performing functions under this Act; or
- (c) within 1 year before the child's death or serious physical injury, the chief executive took action under this Act in relation to the child; or
- (d) the child was less than 1 year old at the time of death or serious physical injury and, before the child was born, the chief executive reasonably suspected the child might be in need of protection after the child was born.

245F Department review at Minister's request

- (1) The chief executive must carry out a review about the department's involvement with the child if the Minister requests a review under this section.
- (2) The Minister may ask the chief executive to carry out a review if the Minister considers the circumstances of the child's death or serious physical injury may be relevant to the chief executive's functions under this Act, having regard to the purpose of reviews stated in section 245(3).

245G Notification about department review

- (1) This section applies if, under section 245E or 245F, the chief executive is required to carry out a review about the department's involvement with the child.
- (2) As soon as the chief executive becomes aware of the requirement to carry out the review, the chief executive must give a written notice to—
 - (a) the head of each other relevant agency other than a Hospital and Health Service; and
 - (b) if the litigation director is performing or has performed a litigation function in relation to the child—the litigation director.
- (3) The notice given to the head of a relevant agency must—
 - (a) state that—
 - (i) the child has died or suffered serious physical injury; and
 - (ii) the chief executive is required to carry out a review under this chapter; and

[s 6]

- (iii) the agency head may also be required to carry out a review under this chapter; and
- (b) include any of the following information held by the chief executive—
 - (i) the child’s name and date of birth;
 - (ii) the date of the child’s death or injury;
 - (iii) any other information the chief executive considers may be relevant to a determination about whether the agency head is required under section 245H to carry out a review.
- (4) As soon as practicable after receiving a notice under subsection (2)(a), the chief executive (health) must—
 - (a) determine whether a Hospital and Health Service may have provided a service to the child within 1 year before the child’s death or serious physical injury; and
 - (b) if so, give a copy of the notice to the head of the Hospital and Health Service.
- (5) In this section—

chief executive (health) means the chief executive of the department mainly responsible for public health.

245H Other relevant agency review following involvement with child

- (1) This section applies in relation to a relevant agency other than the department.
- (2) As soon as practicable after receiving a notice under section 245G, the agency head must—

- (a) determine whether the agency provided a service to the child within 1 year before the child's death or serious physical injury; and
 - (b) if so, carry out a review about the agency's involvement with the child.
- (3) On request by the agency head, the chief executive or the head of another relevant agency may give information to the agency head for use in determining whether a review is required under subsection (2).

Examples of information that may be requested—

- the child's address during the year before the child's death or serious physical injury
- the names of the child's parents and their contact details

245I Other relevant agency review at Minister's request

- (1) This section applies in relation to a relevant agency other than the department.
- (2) The agency head must carry out a review about the agency's involvement with the child if the agency's Minister requests a review under this section.
- (3) In exceptional circumstances, the agency's Minister may ask the agency head to review the agency's involvement with the child even though no notice under section 245G has been given to the agency head or no review is required under section 245H.
- (4) The agency's Minister may make the request if the Minister considers it would be appropriate, having regard to the circumstances of the child's death or serious physical injury and the purpose of reviews stated in section 245(3).

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- (5) The agency head may notify the head of another relevant agency that a review is being carried out under this section.

245J Office of litigation director review

The litigation director must carry out a review about the involvement of the office of the litigation director in a matter concerning the child if—

- (a) the chief executive gives notice to the litigation director under section 245G(2)(b); and
- (b) any of the following applies—
 - (i) at the time of the child's death or serious physical injury, the litigation director was performing a litigation function in relation to the child;
 - (ii) within 1 year before the child's death or serious physical injury, the litigation director performed a litigation function in relation to the child;
 - (iii) the chief executive requests the review in writing.

Part 3 Scope of reviews

245K Scope of relevant agency review

- (1) This section applies to a review about a relevant agency's involvement with a child.
- (2) The agency head must decide the extent of, and terms of reference for, the review.
- (3) Without limiting subsection (2), the terms of reference may include any of the following

matters so far as they are relevant to the purpose of reviews stated in section 245(3)—

- (a) finding out whether the agency's involvement with the child complied with legislative requirements and the agency's policies;
 - (b) considering the adequacy and appropriateness of the agency's involvement with the child;
 - (c) commenting on the adequacy of the agency's involvement with other entities in the provision of services to the child;
 - (d) commenting on the adequacy of legislative requirements and the agency's policies relating to the child;
 - (e) making recommendations relating to matters mentioned in paragraphs (a) to (d) and suggesting strategies to put into effect the recommendations.
- (4) The terms of reference must not include considering whether disciplinary action should be taken against an employee of the agency.

245L Scope of litigation director review

- (1) This section applies to a review about the involvement of the office of the litigation director in a matter concerning the child.
- (2) The litigation director must decide the extent of, and terms of reference for, the review.
- (3) Without limiting subsection (2), the terms of reference may include any of the following—
 - (a) considering whether the office of the litigation director complied with—
 - (i) legislative requirements; and

[s 6]

- (ii) guidelines made by the director under the *Director of Child Protection Litigation Act 2016*, section 39; and
 - (iii) any policies relevant to the performance of a litigation function in relation to the child;
- (b) commenting on the adequacy of the legislative requirements, guidelines and policies mentioned in paragraph (a) for performing litigation functions;
 - (c) commenting on whether sufficient evidence was made available to the office of the litigation director for the purposes of making decisions under the *Director of Child Protection Litigation Act 2016*;
 - (d) making recommendations relating to matters mentioned in paragraphs (a) to (c) and suggesting strategies to put into effect the recommendations.
- (4) The terms of reference must not include considering whether disciplinary action should be taken against an employee of the office of the litigation director.

Part 4 **Conduct of reviews and reporting**

245M Triggering event for review

- (1) The *triggering event* for an internal agency review is—
 - (a) for a review by the chief executive under section 245E—the chief executive becoming aware of the child’s death or serious physical injury; or

-
- (b) for a review by the chief executive under section 245F—the chief executive receiving the Minister’s written request; or
 - (c) for a review by the head of a relevant agency other than the department under section 245H—the agency head determining under that section that a review is required; or
 - (d) for a review by the head of a relevant agency other than the department under section 245I—the agency head receiving the agency’s Minister’s written request.
- (2) The **triggering event** for a review by the litigation director is—
- (a) for a review under section 245J(b)(i) or (ii)—the director receiving notice from the chief executive under section 245G(2)(b); or
 - (b) for a review under section 245J(b)(iii)—the director receiving the chief executive’s written request.

245N Review to be completed and report prepared

- (1) As soon as practicable, and not more than 6 months, after the triggering event for a review, the agency head or litigation director must—
 - (a) decide the extent of, and terms of reference for, the review; and
 - (b) complete the review; and
 - (c) prepare a report about the review (the **review report**); and
 - (d) give the review report to the entities required under sections 245O to 245Q.
- (2) In carrying out an internal agency review, an agency head must seek to—

[s 6]

- (a) work with other relevant agencies to coordinate the reviews and other processes carried out in that agency and other relevant agencies; and
- (b) avoid unnecessary duplication of the reviews and other processes carried out in that agency and other relevant agencies.

245O Giving report to child death review board

- (1) This section applies in relation to a review following the death of a child.
- (2) The agency head or litigation director who carries out the review must give the child death review board—
 - (a) a copy of the review report; and
 - (b) copies of any documents obtained by the agency head or litigation director and used for the review.

245P Giving report to State Coroner

- (1) This section applies in relation to a review following the death of a child that is a reportable death under the *Coroners Act 2003*.
- (2) The agency head or litigation director who carries out the review must give a copy of the review report to the State Coroner for use by the coroner to help in an investigation under the *Coroners Act 2003*.
- (3) If the report does not identify the child, the copy given to the State Coroner must be accompanied by a document stating—
 - (a) the child's name and date of birth; and
 - (b) the date of the child's death.

245Q Giving report to department or litigation director

If the litigation director and the chief executive are both required to carry out a review for the same child, each of them must give a copy of their review report to the other.

245R Giving report to relevant agency or litigation director

- (1) If the litigation director and the head of a relevant agency other than the department are both required to carry out a review for the same child, each of them may give a copy of their review report to the other.
- (2) If 2 or more agency heads are each required to carry out a review for the same child, any of them may give a copy of their review report to any of the other agency heads.
- (3) Before giving a copy of a review report under subsection (1) or (2), the litigation director or agency head who prepared the report must redact it to ensure it does not include any information that may identify an individual other than a child to whom the review relates.
- (4) In this section—
review report includes part of a review report.

Part 5 Information sharing and protection from liability

245S Purpose

The purpose of this part is to enable the sharing of information, while protecting its confidentiality,

[s 6]

so that relevant agencies can effectively carry out internal agency reviews and share the outcomes.

245T Confidential information may be given to relevant agencies

- (1) The head of a relevant agency who is carrying out an internal agency review may ask another entity for stated information that may be relevant to the review.
- (2) Any entity may give confidential information to the head of a relevant agency for the purpose of an internal agency review.
- (3) The head of a relevant agency may give confidential information to the head of another relevant agency for the purpose of sharing the outcomes of an internal agency review.
- (4) Information may be given to the head of a relevant agency under subsection (2) or (3) whether or not the agency head requested the information.
- (5) Subsections (2) to (4) do not apply to information about the identity of a notifier under section 186.
- (6) Section 186(2)(a) does not apply to a disclosure of the identity of a notifier, in the course of performing functions under this part, to or by the head of a relevant agency other than the department.

Note—

Chapter 6, part 6 provides for the confidentiality of information obtained under this part. See, in particular, the offences under sections 186 to 188 for disclosing particular information other than as authorised under those sections.

245U Interaction with other laws

- (1) This chapter does not limit a power or obligation

under another Act or law to give information.

- (2) This part applies to information despite any other law that would otherwise prohibit or restrict the giving of the information.
- (3) However, if a person may claim privilege in relation to information under another Act or law, the privilege is not affected only because the information may be, or is, disclosed under this part.

245V Protection from liability for giving information

- (1) This section applies if a person, acting honestly, gives information under this chapter.
- (2) The person is not liable, civilly, criminally or under an administrative process, for giving the information.
- (3) Also, merely because the person gives the information, the person cannot be held to have—
 - (a) breached any code of professional etiquette or ethics; or
 - (b) departed from accepted standards of professional conduct.
- (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

[s 7]

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

245W No liability for defamation if report made in good faith

It is a lawful excuse for the publication of a defamatory statement made in a report under this chapter that the publication is made in good faith and is, or purports to be, made for this Act.

7 Insertion of new ch 9, pt 12

Chapter 9—

insert—

Part 12 Transitional provisions for Child Death Review Legislation Amendment Act 2020

276 Definitions for part

In this part—

former, for a provision of this Act, means the provision as in force from time to time before the commencement.

new, for a provision of this Act, means the provision as in force from the commencement.

original review documents means original review documents under former section 246D(2).

277 Current reviews by chief executive or litigation director

- (1) This section applies if—

- (a) the chief executive or litigation director was required to carry out a review under former chapter 7A, part 1, division 2; and
 - (b) immediately before the commencement, the chief executive or litigation director had not yet completed the review and given the original review documents to a review panel under former section 246D.
- (2) Despite their repeal, former sections 245 to 246D and former sections 246E, 246F and 246H continue to apply in relation to the review.
 - (3) However, a reference in former section 246D or 246E to a review panel is taken to be a reference to the child death review board.

278 Dissolution of review panels and pool of members

On the commencement—

- (a) the appointment of a person to a pool under former section 246HA ends; and
- (b) each review panel established under former section 246HE is dissolved; and
- (c) all documents that were held by a review panel under former chapter 7A become documents of the child death review board.

279 Child death review board may obtain documents for reviews under former provisions

- (1) This section applies to an original review document or other document held by the chief executive that relates to a review started before the commencement under former chapter 7A.
- (2) On request by the child death review board, the chief executive must give the document, or a copy

of it, to the board.

280 Annual report about review panels

Despite its repeal, former section 246HL applies to the chief executive in relation to the financial year starting on 1 July 2019.

8 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definitions *original review documents*, *pool* and *review panel*—
omit.
- (2) Schedule 3—
insert—

agency head, for chapter 7A, see section 245B.

child death review board means the board established by the *Family and Child Commission Act 2014*, section 29C.

head, of a relevant agency, for chapter 7A, see section 245B.

Hospital and Health Service means a Hospital and Health Service established under the *Hospital and Health Boards Act 2011*.

internal agency review, for chapter 7A, see section 245B.

Minister, for a relevant agency, for chapter 7A, see section 245B.

office of the litigation director means the Office of the Director of Child Protection Litigation under the *Director of Child Protection Litigation Act 2016*.

outcomes, of an internal agency review, for chapter 7A, see section 245B.

[s 13]

insert—

**Division 1 Transitional provisions for
Act No. 23 of 2016**

**13 Amendment of s 43 (Meaning of *pre-amended* for this
part)**

Section 43, ‘this part’—

omit, insert—

this division

14 Insertion of new pt 7, div 2

After section 47—

insert—

**Division 2 Transitional provision for
Child Death Review
Legislation Amendment
Act 2020**

48 Annual report

(1) Despite its amendment, former section 40(2) applies to the report for the financial year starting on 1 July 2019.

(2) In this section—

former section 40(2) means section 40(2) as in force immediately before the commencement of the *Child Death Review Legislation Amendment Act 2020*.

[s 20]

omit, insert—

25 Principal commissioner to keep register

20 Amendment of s 26 (Other functions relating to child deaths)

(1) Section 26, heading, ‘deaths’—

omit, insert—

death register

(2) Section 26(b), after ‘entities’—

insert—

, relevant to the register

21 Amendment of s 27 (Requests by principal commissioner for information relevant to child deaths)

Section 27, heading, ‘deaths’—

omit, insert—

death register

22 Amendment of s 29 (Reports)

(1) Section 29(1)(b), ‘about child deaths’—

omit, insert—

under section 26

(2) Section 29(1)(d), after ‘made’—

insert—

under section 26

23 Insertion of new pt 3A

After part 3—

insert—

Part 3A Child Death Review Board

Division 1 Preliminary

29A Purposes of board's reviews

- (1) This part establishes the Child Death Review Board to carry out systems reviews following child deaths connected to the child protection system.
- (2) The reviews consider matters relating to the provision of services to, and other interactions with, children and their families by government and non-government entities.
- (3) The reviews do not include an investigation of the death of any particular child.
- (4) The purposes of the reviews are—
 - (a) to identify opportunities for continuous improvement in systems, legislation, policies and practices; and
 - (b) to identify preventative mechanisms to help protect children and prevent deaths that may be avoidable.

29B Child deaths *connected to the child protection system*

For this part, a child death is *connected to the child protection system* if it is a child death in relation to which an internal agency review was carried out under the *Child Protection Act 1999*, chapter 7A.

Division 2 Establishment, functions and powers

29C Establishment

The Child Death Review Board is established.

29D Functions

The board has the following functions—

- (a) to carry out reviews relating to the child protection system following child deaths connected to the system;
- (b) to analyse data, and apply research, to identify patterns, trends and risk factors relevant to reviews under paragraph (a);
- (c) to carry out, or engage persons to carry out, research relevant to reviews under paragraph (a);
- (d) to make recommendations about—
 - (i) improvements to systems, policies and practices for implementation by government and non-government entities that provide services to, or otherwise interact with, children and their families; and
 - (ii) legislative change;
- (e) to monitor the implementation of its recommendations.

29E Powers

- (1) The board may do all things necessary or convenient to be done for or in connection with the performance of its functions.

- (2) Without limiting subsection (1), the board may engage appropriately qualified persons to—
 - (a) conduct research relevant to the board's functions; or
 - (b) provide legal advice relevant to the board's functions; or
 - (c) prepare reports to help the board perform its functions.

29F Board must act independently and in the public interest

- (1) In performing its functions, the board must act independently and in the public interest.
- (2) Without limiting subsection (1)—
 - (a) the board is not subject to direction by the Minister or anyone else about how it performs its functions; and
 - (b) despite section 22, a commissioner is not subject to direction by the Minister in performing the commissioner's functions as the board's chairperson or other board member.

Note—

See, however, section 29I under which the Minister may ask the board to carry out a stated review or to consider a stated system or issue as part of a review.

29G Board to coordinate with other entities

In performing its functions, the board must—

- (a) avoid unnecessary duplication of the processes carried out in other entities; and
- (b) to the extent it considers appropriate, coordinate its reviews and the reviews carried out by other entities.

Division 3 Conduct of reviews

29H Board may carry out reviews

- (1) The board may carry out reviews for the purposes stated in section 29A.
- (2) The board must decide the extent of, and terms of reference for, each review.
- (3) The board may, for example, decide to review an issue, about a particular system, arising from internal agency reviews.

Note—

Under the *Child Protection Act 1999*, section 245O, the board receives the reports prepared for internal agency reviews following child deaths.

- (4) Matters that the board may consider in a review include the following—
 - (a) the effectiveness of, or interaction between—
 - (i) services that were provided to a child or a child's family before the child's death; or
 - (ii) services provided to children or families that could have been, but were not, provided to a child or a child's family before the child's death;
 - (b) issues relating to practices or systems that may expose children to risk;
 - (c) ways of improving practices or systems relating to identifying or responding to risks;
 - (d) ways of improving communication and collaboration between service providers.
- (5) The terms of reference for a review must not

include considering whether disciplinary action should be taken against any person.

29I Minister may ask board to carry out review

- (1) In exceptional circumstances, the Minister may ask the board to carry out a stated review, or to consider a stated system or issue as part of a review, if the Minister considers it would be appropriate, having regard to the purposes stated in section 29A.
- (2) The matters to which a request relates may include matters relating to the child protection system other than child deaths connected to the system.

Example—

A request may relate to an issue arising from the serious physical injury of a child, or from a child death not connected to the child protection system, if the injury or death is relevant to the child protection system.

- (3) The board must comply with the Minister's request.
- (4) The board must—
 - (a) for a request to carry out a review—decide the extent of, and terms of reference for, the review; and
 - (b) after completing the review that was requested or to which the request relates—
 - (i) advise the Minister of the outcomes; and
 - (ii) if appropriate, include the outcomes in a report under section 29J or 29K.
- (5) This section applies despite section 29F.

Division 4 Reporting

29J Annual reports

- (1) By 31 October after the end of each financial year, the board must give the Minister a report of its operations during the financial year.
- (2) The report may include—
 - (a) recommendations made under section 29D(d); and
 - (b) information about the progress made by government or non-government entities in the implementation of previous recommendations of the board.
- (3) Within 14 sitting days after receiving the report, the Minister must table a copy in the Legislative Assembly.

29K Other reports

- (1) At any time, the board may prepare a report about the outcomes of a review or another matter arising from the performance of its functions.
- (2) The board may give a report to the Minister and, if so, must also give the Minister a recommendation about whether the report should be tabled in the Legislative Assembly.
- (3) In deciding whether to table a report in the Legislative Assembly, the Minister must have regard to whether it includes—
 - (a) personal information about an individual; or
 - (b) information that may prejudice the investigation of a contravention or possible contravention of the law; or
 - (c) anything else relevant to whether tabling the report would be in the public interest.
- (4) If a report includes a matter mentioned in subsection (3)(a) or (b), or a recommendation

made under section 29D(d), the board must not publish the report to the public unless the Minister has tabled the report.

(5) If a matter in a report is relevant to the functions of a relevant agency, the board may give a copy of the report to the chief executive of the agency.

(6) In this section—

personal information see the *Information Privacy Act 2009*, section 12.

29L Consultation before including particular information in reports

(1) The board must not include in a report under section 29J or 29K any adverse information about an entity identifiable from the report unless the entity has been given a copy of the information and is allowed a reasonable opportunity to make a submission about it.

(2) If an entity makes a submission under subsection (1), the board—

(a) must have regard to the submission before finalising the report; and

(b) must not include the information in the report unless the board also includes the entity's submission, or a fair summary of it, in the report.

(3) If the board proposes to recommend in a report that a particular entity take particular action, the board must consult with the entity, and any other entities likely to be affected, about the recommendation before finalising the report.

(4) In this section—

information includes comment.

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29M Board may respond to internal agency review reports

- (1) The board may provide comments and information to an agency head or the litigation director in response to a report received under the *Child Protection Act 1999*, section 245O.
- (2) The board must not include the comments or information in a report under section 29J or 29K or another document published to the public.

Division 5 Information sharing and protection from liability

29N Definitions for div 5

In this division—

chairperson means the chairperson of the board.

information includes a document.

29O Underlying principle

It is a principle underlying this part that public entities should give information requested by the chairperson for the purpose of the board's functions—

- (a) in a timely way; and
- (b) to the extent that is appropriate, having regard to—
 - (i) the relevance of the information to the board's functions; and
 - (ii) the effect of giving the information on the safety, wellbeing and best interests of children.

29P Information may be given to chairperson

- (1) The chairperson may ask any entity for stated information for the purpose of the board's functions.
- (2) Any entity may give confidential information to the chairperson for the purpose of the board's functions, whether or not the chairperson has requested the information.

Examples of entities that may give information—

- a public entity
- a non-government agency that provides a service to children or families
- a private hospital
- a medical practitioner
- the principal of a school
- the approved provider of an education and care service

29Q Chairperson may disclose confidential information

- (1) The chairperson may disclose confidential information to an entity for the performance of the board's functions under this part, including for the purpose of—
 - (a) obtaining information the chairperson requests under section 29P(1); or
 - (b) performing the board's functions in the way stated in section 29G.
- (2) This section does not limit section 36(3).

29R Information sharing arrangements

The chairperson may enter into an arrangement with the commission, the State Coroner, the Domestic and Family Violence Death Review and

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Advisory Board or another entity about sharing or exchanging information under this part.

Example—

The chairperson may enter into an information sharing arrangement with the State Coroner that includes arrangements for obtaining investigation documents under the *Coroners Act 2003*, section 54.

29S Interaction with other laws

- (1) This part does not limit a power or obligation under another Act or law to give information.
- (2) Information may be given under this part despite any other law that would otherwise prohibit or restrict the giving of the information.
- (3) However, if a person may claim privilege in relation to information under another Act or law, the privilege is not affected only because the information may be, or is, disclosed under this part.

29T Protection from liability for giving information

- (1) This section applies if a person, acting honestly, gives information under this part.
- (2) The person is not liable, civilly, criminally or under an administrative process, for giving the information.
- (3) Also, merely because the person gives the information, the person cannot be held to have—
 - (a) breached any code of professional etiquette or ethics; or
 - (b) departed from accepted standards of professional conduct.
- (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.

29U No liability for defamation if report made in good faith

It is a lawful excuse for the publication of a defamatory statement made in a report under this part that the publication is made in good faith and is, or purports to be, made for this Act.

Division 6 Membership of board

29V Composition of board

The board consists of the chairperson and not more than 11 other members appointed by the Minister.

29W Chairperson

- (1) The Minister must appoint the principal commissioner or another commissioner as the chairperson.
- (2) The chairperson is responsible for leading the board, and directing its activities, to ensure it

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appropriately performs its functions.

- (3) The chairperson holds office for the term stated in the person's instrument of appointment as chairperson.
- (4) A person ceases to be chairperson if the person—
 - (a) resigns office as chairperson by signed notice given to the Minister; or
 - (b) ceases to be a commissioner.

29X Other members

- (1) This section applies to the board members other than the chairperson.
- (2) The Minister may appoint a person as a member of the board if satisfied the person is eligible and suitable for appointment.
- (3) A person is eligible for appointment if the person—
 - (a) has expertise in the field of paediatrics and child health, forensic pathology, mental health, investigations or child protection; or
 - (b) has expertise in litigation relating to child protection proceedings or proceedings of a similar nature; or
 - (c) is otherwise, because of the person's qualifications, experience or membership of an entity, likely to make a valuable contribution to the work of the board.
- (4) However, a person is ineligible for appointment if the person—
 - (a) has a conviction for an indictable offence; or
 - (b) is an insolvent under administration under the Corporations Act, section 9; or
 - (c) is a member of the Legislative Assembly.

- (5) The Minister must not appoint a person if the person does not consent to a criminal history check before appointment.
- (6) Without limiting the matters to which the Minister may have regard in deciding a person's suitability for appointment, the Minister may have regard to the person's criminal history.
- (7) The Minister must ensure the board's membership—
 - (a) reflects the social and cultural diversity of the Queensland community; and
 - (b) includes at least 1 Aboriginal or Torres Strait Islander person; and
 - (c) includes persons with a range of experience, knowledge or skills relevant to the board's functions; and
 - (d) does not include a majority of persons who are public service employees.

29Y Deputy chairperson

- (1) The Minister may appoint a board member to be the deputy chairperson.
- (2) If the chairperson is not an Aboriginal or Torres Strait Islander person, the Minister must appoint a board member who is an Aboriginal or Torres Strait Islander person as deputy chairperson.
- (3) The Minister may not appoint a board member who is a commissioner as deputy chairperson.
- (4) A person may be appointed as a board member and deputy chairperson at the same time.
- (5) A person ceases to be deputy chairperson if the person—
 - (a) resigns office as deputy chairperson by signed notice given to the Minister; or

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- (b) ceases to be a board member.
- (6) The deputy chairperson is to act as chairperson—
 - (a) during a vacancy in the office of chairperson; and
 - (b) during all periods when the chairperson is absent or cannot perform the functions of the office.

29Z Conditions of appointment

- (1) A board member is to be paid the remuneration and allowances decided by the Minister.
- (2) A board member who is a State employee is not entitled to be paid remuneration for holding office as a member.
- (3) For matters not provided for by this Act, a board member holds office on the terms and conditions decided by the Minister.

29ZA Term of appointment

- (1) A board member is appointed for the term, of not more than 3 years, stated in the member's instrument of appointment.
- (2) A board member may be reappointed.

29ZB Vacation of office

- (1) The office of a board member becomes vacant if—
 - (a) the member—
 - (i) completes the member's term of office and is not reappointed; or
 - (ii) resigns from office by signed notice given to the Minister; or

- (iii) becomes ineligible for appointment under section 29X(4); or
 - (b) the Minister ends the member's appointment under subsection (2).
- (2) The Minister may, by signed notice given to a board member, terminate the member's appointment if—
- (a) the member is absent from 3 consecutive meetings of the board without the board's permission and without reasonable excuse; or
 - (b) the Minister is satisfied the member is incapable of satisfactorily performing the member's functions.

29ZC Criminal history reports

- (1) This section applies in relation to—
- (a) a person who has consented to a criminal history check for the purpose of the person's appointment as a board member; and
 - (b) a board member.
- (2) The Minister may ask the police commissioner for—
- (a) the person's criminal history; and
 - (b) a brief description of the circumstances of a conviction or charge mentioned in the person's criminal history.
- (3) The police commissioner must comply with the request in relation to information in the police commissioner's possession or to which the police commissioner has access.
- (4) The Minister must destroy a report given to the Minister under this section as soon as practicable after it is no longer needed for the purpose for

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which it was requested.

29ZD Members must disclose new convictions

- (1) This section applies if a person is convicted of an indictable offence during the term of the person's appointment as a board member.
- (2) The person must immediately give notice of the conviction to the Minister under this section, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (3) The notice must include—
 - (a) the existence of the conviction; and
 - (b) when the offence was committed; and
 - (c) details adequate to identify the offence; and
 - (d) the sentence imposed on the person.

Division 7 Proceedings of the board

29ZE Time and place of meetings

- (1) The board may hold its meetings when and where it decides.
- (2) The chairperson—
 - (a) may call a meeting at any time; and
 - (b) must call a meeting if asked by at least 3 other members.

29ZF Quorum

A quorum for a meeting is at least half of the board members, including at least 1 member who is an Aboriginal or Torres Strait Islander person.

29ZG Presiding at meetings

- (1) The chairperson is to preside at all meetings at which the chairperson is present.
- (2) If the chairperson is not present at a meeting, the deputy chairperson is to preside.
- (3) If neither the chairperson nor the deputy chairperson is present at a meeting, the board member chosen by the members present is to preside.

29ZH Conduct of meetings

- (1) Subject to this division, the board may conduct its proceedings, including its meetings, as it considers appropriate.
- (2) The board may hold meetings, or allow board members to take part in meetings, by using any technology allowing reasonably contemporaneous and continuous communication between persons taking part in the meeting.
- (3) A board member who takes part in a meeting under subsection (2) is taken to be present at the meeting.
- (4) A question at a meeting is to be decided by a majority of the votes of the board members present at the meeting.
- (5) If the votes are equal, the board member presiding has a casting vote.
- (6) A resolution is a valid resolution of the board, even though it is not passed at a meeting of the board, if—
 - (a) at least half of the board members give written agreement to the resolution; and
 - (b) notice of the resolution is given under procedures approved by the board.

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- (7) The board may invite persons other than board members to attend a meeting to advise or inform the board about any matter.

29ZI Minutes and other records

The board must keep—

- (a) minutes of its meetings; and
- (b) a record of its decisions and resolutions.

29ZJ Disclosure of interests

- (1) This section applies if—
 - (a) a board member has a direct or indirect interest in a matter being considered, or about to be considered, at a meeting; and
 - (b) the interest could conflict with the proper performance of the member's duties about the consideration of the matter.
- (2) As soon as practicable after the relevant facts come to the board member's knowledge, the member must disclose the nature of the interest at a meeting.
- (3) Particulars of the disclosure must be recorded by the board in a register of interests kept for the purpose.
- (4) Unless the board otherwise directs, the board member must not—
 - (a) be present when the board considers the matter; or
 - (b) take part in a decision of the board about the matter.
- (5) The board member must not be present when the board is considering whether to give a direction under subsection (4).

- (6) A contravention of this section does not invalidate a decision of the board.
- (7) However, if the board becomes aware the board member contravened this section, the board must reconsider a decision made by the board in which the member took part in contravention of this section.

29ZK Attendance by proxy

- (1) A board member may attend a meeting of the board by proxy.
- (2) The proxy holder—
 - (a) may participate in the meeting, but not vote, on the board member's behalf; and
 - (b) is not entitled to preside at the meeting only because the person is the proxy holder for the chairperson or deputy chairperson; and
 - (c) is not counted for the purpose of deciding whether a quorum is present under section 29ZF.
- (3) For section 29ZB(2)(a), an absent board member is not taken to have attended a meeting only because a proxy holder for the member attended the meeting.

24 Amendment of s 36 (Confidentiality of information)

- (1) Section 36(2)—
insert—
 - (ba) a member of the board; or
- (2) Section 36(2)(ba) to (e)—
renumber as section 36(2)(c) to (f).

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25 Insertion of new pt 6, div 1, hdg

After part 6, heading—

insert—

**Division 1 Transitional provisions for
Act No. 27 of 2014**

26 Amendment of s 44 (Definitions for pt 6)

(1) Section 44, heading, ‘pt 6’—

omit, insert—

division

(2) Section 44, ‘this part’—

omit, insert—

this division

27 Insertion of new pt 6, div 2

After section 48—

insert—

**Division 2 Transitional provision for
Child Death Review
Legislation Amendment
Act 2020**

49 Reports from current reviews

(1) A reference in part 3A to an internal agency review includes a reference to a review carried out by the chief executive (child safety) under the *Child Protection Act 1999*, chapter 7A, as in force from time to time before the commencement of the *Child Death Review Legislation Amendment Act 2020*.

(2) In this section—

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

28 Amendment of sch 1 (Dictionary)

(1) Schedule 1—

insert—

board means the Child Death Review Board established under section 29C.

chairperson, for part 3A, division 5, see section 29N.

connected to the child protection system, in relation to a child death, for part 3A, see section 29B.

criminal history, of a person, means—

- (a) every conviction of the person for an offence, in Queensland or elsewhere, and whether before or after the commencement of this definition, including spent convictions; and
- (b) every charge made against the person for an offence, in Queensland or elsewhere, and whether before or after the commencement of this definition; and
- (c) every disqualification order made under the *Working with Children (Risk Management and Screening) Act 2000* in relation to the person, whether before or after the commencement of this definition; and
- (d) every disqualification order and offender prohibition order made under the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* in

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relation to the person, whether before or after the commencement of this definition.

education and care service see the Education and Care Services National Law (Queensland), section 5(1).

information, for part 3A, division 5, see section 29N.

internal agency review see the *Child Protection Act 1999*, section 245B.

spent conviction means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under the Act; and
- (b) that is not revived as prescribed by section 11 of that Act.

State employee see the *Public Service Act 2008*, section 26B(4).

- (2) Schedule 1, definition *child protection system*, paragraph (a)—

omit, insert—

(a) means—

- (i) generally—the system of services provided by relevant agencies to children and young people in need of protection or at risk of harm; and
- (ii) for part 3A—the system of services provided by relevant agencies and other entities to children and young people in need of protection or at risk of harm; and

- (3) Schedule 1, definition *relevant agency*—

insert—

- (ba) the human rights commissioner under the *Anti-Discrimination Act 1991*;
- (bb) the Domestic and Family Violence Death Review and Advisory Board under the *Coroners Act 2003*;

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