

9 October 2019

Our ref: ChLC-BDS

Committee Secretary
Education, Employment and Small Business Committee
Parliament House
George Street
Brisbane Qld 4000

By email: eesbc@parliament.qld.gov.au

Dear Committee Secretary

Child Death Review Legislation Amendment Bill 2019

Thank you for the opportunity to provide comments on the Child Death Review Legislation Amendment Bill 2019. The Queensland Law Society (QLS) appreciates being consulted on this important piece of legislation.

QLS is the peak professional body for the State's legal practitioners. We represent and promote over 13,000 legal professionals, increase community understanding of the law, help protect the rights of individuals and advise the community about the many benefits solicitors can provide. QLS also assists the public by advising government on improvements to laws affecting Queenslanders and working to improve their access to the law.

As there has been only a brief opportunity to review the proposed amendments and due to the commitments of our volunteer legal policy committee members, an in-depth analysis of the Bill has not been conducted. It is possible that there are issues relating to fundamental legislative principles or unintended drafting consequences which we have not identified. We note that the comments made in this submission are not exhaustive and we reserve the right to make further comment on these proposals.

This response has been compiled by the QLS Children's Law Committee, which consists of volunteer committee members with substantial expertise in this area.

1. Clause 6***Proposed section 245 – overview of chapters and purpose of reviews***

The Society is supportive of the system of internal reviews as detailed in proposed section 245. We hope that the reviews will function to enhance the safety of children and young people who have contact with the child protection system.

2. Clause 23 - insertion of new pt 3A

Clause 23 seeks to establish the Child Death Review Board (the Board) which we understand will replace the Child Death Review Panel. The Society supports the creation of a singular professional Board with defined powers and functions.

Proposed section 29D - functions the board

Proposed section 29D details the functions of the Board. Proposed section 29D(a) appears to be broadly drawn, allowing the Board, "to carry out reviews relating to the child protection system following child deaths connected to the system." We anticipate that this broad construction of the Board's functions will allow the Board to maintain the ability to review individual cases and examine whether a particular officer has acted appropriately.

Proposed section 29W - Chairperson

Proposed section 29W deals with the appointment of the Chairperson of the Board. Proposed section 29W(1) states, "the Minister must appoint the principal commissioner or another commissioner as the chairperson." The Society questions whether the appointment of a Queensland Family and Child Commissioner to the role of Chairperson of the Board would maintain the independence of the Board. In our view, the independence of the Chairperson of the Board from government is essential, especially as "the chairperson is responsible for leading the board, and directing its activities, to ensure it appropriately performs its functions."¹ This concern is heightened by the fact that the Chairperson is only appointed for a stated term,² and that the Board will be hosted by the Queensland Family and Child Commission and will receive secretariat support from the Queensland Family and Child Commission. The Society considers that the appointment of the Chairperson should be made with bipartisan support.

Proposed section 245V - Protection from liability for giving information

The Bill preserves the privilege associated with disclosed documents so that the disclosure does not abrogate the privilege to a third party. However, it does not protect privileged documents from being provided when requested under the Bill.³

Proposed section 245V provides protection from liability for giving information. The provision applies, "if a person, acting honestly, gives information under this chapter."⁴ However, it is the view of the Society that the Bill should not enable the compulsion of the provision of any privileged document. A practitioner who discloses a privileged document has the protection of proposed sections 29T and 245V. However, these provisions offer no protection to a client. Therefore, we propose the provision be amended so it specifically preserves privileged documents from the requirements of disclosure.

¹ Proposed section 29W(2) of the Bill.

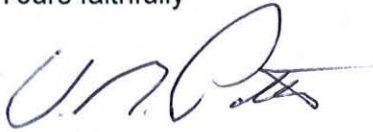
² Proposed section 29W(3) of the Bill.

³ Proposed sections 29S and 245U of the Bill.

⁴ Proposed section 245V(1) of the Bill.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via policy@qls.com.au or by phone on (07) 3842 5930.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Bill Potts', with a stylized flourish at the end.

Bill Potts
President