

To :
The Health Communities Disability Services & Domestic & Family Violence Prevention Sub-Committee

From:

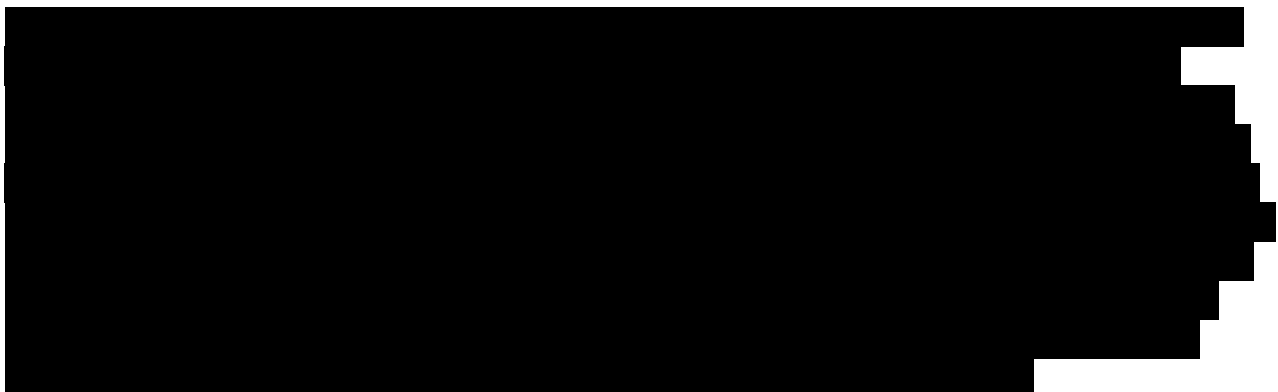

Re:
Disability Services & Other Legislation (Worker Screening) Ammendment Bill 2018

Submission:

As a person with teaching qualifications, skills and experience, aptitude for conducting academic research, designing courses, experience managing my own research projects, academic skills gained while completing my undergraduate degree and honours course, experience as a support worker for people with disabilities both as a professional and volunteer, experience as an interpersonal counsellor, experience as a disability advocate, mentor, child carer, au pair, nanny, childrens fitness leader, house manager, mother and sole parent, as well as experience caring for my only daughter, who has an autism condition, experience developing and providing a successful early intervention from autism for my daughter on a low income, conducting research into autism, mental health and psychology, having experience training carers and groups, being a book author about early intervention from autism, psychology, self-help and marine science, managing websites, consulting with the community about disability and DV issues, being keenly interested in law reform and writing submissions to government inquiries, being both a victim of domestic violence and an alleged perpetrator, experiencing the unfairness of family court which caused me loss of my daughters care homelessness, trauma, unemployment and defamation of my character, and being a person with a disability, I have keen personal interest in this Bill.

Exemptions and Critical Care Givers

If possible, an ammendment be made to grant assessment exemption to parents providing ongoing disability supports and care to their children. Some parental relationships in which a parent provides critical disability support or care as a carer under centrelink, need protection to best protect children with disabilities from loss of that parent through family court and loss of that relationship for a child with a disability. Where a parent is providing a program of care or administering a grant for services for the child, disruptions to this role should be minimised and the program of care carefully considered so that it can be maintained.





Categories for Expanded Criminal History Information

The Intergovernmental Agreement for a National Exchange of Criminal History Information for people working with children (ECHIPWC) signed on 5 August 2013, lists some of the topics in expanded criminal history information now exchanged between state parties in Australia.

Listed in 4.3 & 4.4 of (ECHIPWC) :

- 4.3.1 spent convictions
- 4.3.2 pending charges
- 4.3.3 non-conviction charges

- 4.4.1 when the offence occurred
- 4.4.2 age of the offender (the person)
- 4.4.3 age of any victim
- 4.4.4 if a child was involved
- 4.4.5 relationship between the offender (the person) and any child
- 4.4.6 **behaviour; circumstances, and nature of the offence**
- 4.4.7 any other relevant risk to children (or other people)

A person who is assessed as no risk to children may still be a risk to children by the way they treat other people and/or people with disabilities. They may also be more of a risk due to the degree of conflict they have with others and the nature of those conflicts etc.

Domestically violent relationships need to be considered as a provoking factor and ongoing pressure on an individual directly effecting their behaviour. Consideration needs to be given to the fact that a perpetrator may also be a victim. Family Court should not be able to 'quash' womens reports that they had to leave with the children due to domestic violence.

In criminal matters in which a child was not involved, fair consideration needs to be given to the probability of any similar incident occurring when children are present, considering the character, moral code and beliefs of the person.

The above categories are straight forward, however 4.4.6, requires much further detail and may become highly contentious in your review because it is ambiguous.

Reporting Behaviour Information

It is my submission that 4.4.6, above, poses a very significant problem for the accuracy of reporting information about criminal offences which is relevant to the exchange of expanded criminal history information and needs careful consideration.

In the context of this inquiry, 4.4.6 will likely become an issue for the police to address, in terms of training in reporting methods, and in the precise use of words to describe behaviour for the adoption of behaviour 'terms' and 'categories', if this is not in progress already.

Reporting a persons behaviour can be highly subjective and influenced by the reporters opinions, beliefs and assumptions about the person, their appearance and reactions to their behaviour. It is very easy to inaccurately report and 'frame' motives, morals or character using poorly chosen unfairly judgemental words. Choice of words to describe behaviour must be able to be accurate, easily categorised and measurable, free from racism, sexism and other character inferences.

In family court and criminal matters involving child abuse, police reports can be the critical factor as to whether any charges are made, or not made. Women presenting children to make reports of child sexual abuse, can be 'quashed' by the police when the police make assumptions as to the moral motivation of the mother, claiming she has 'coached' children to make a report, to gain advantage in the family law proceedings, without even conducting an investigation. This is malicious character framing by the police, without grounds, implying that a woman/ mother is engaging in fraud which is also used against them and their children in family court where their efforts are called 'abuse of the father'.

Even if it is only a police tactic to micro-manage a situation of potential danger, it does nothing for the child or the mother. Protective behaviour is viewed as 'criminal/ negative' when in fact it is the reverse. On other occasions women may be quashed by being called 'mentally ill' or 'hysterical' without any evidence of this, simply for being a woman in a family law dispute or a domestic violence relationship.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

People can have a mental illness and still have strong morals, normal beliefs and a noble character. They may have also experienced sexual abuse or suffered drug addiction but be perfectly safe when caring for children. There is a broad unfair assumption by the community that people with mental health conditions are unsuitable to care for others or for children because their conditions cause them to be violent, anti-social or to have insane thoughts and ideas, however that is not always the case.

Case by Case Assessments Required

Any judgement of morals, beliefs and character about a person at the scene of a crime which does not involve children, should occur via an established assessment method or detailed questionnaire rather than by assumption based on the persons social status, disability, mental state or reputation at the time of an event.

This assessment could then be used to define those specific personality characteristics most likely to pose a risk to children and people with disabilities, (these may be used already).

It is very unfair to claim that behaviour which occurred once, is behaviour that could / will occur again, or that it is behaviour which would occur in the presence of children, all factors considered.

I believe it is very important to compare incidences of undesirable behaviour in the presence of children with likely behaviour occurring in mainstream society; eg. Use of swear words; on average, most people in the broader community swear regularly or a minimum amount which is to be considered 'normal' and is not criminal or a danger to others or children.

eg. Shouting; on occasion most people in the broader community may shout given certain circumstances, even in the presence of children and this is to be considered 'normal' not criminal or a danger to others or children.

eg. Schools; children in schools teach each other swear words and this is to be considered 'normal' so that on average no child can be protected from swear words permanently.

Developing a national standard behaviour assessment and reporting method would be ideal.

Reporting Situational Information

Circumstances in place at the time of a criminal event need to be reported and included in an assessment of expanded criminal history information;

- any obvious aggravating factors; provocation, harassment, addiction issues, medication
- housing / homelessness pressures
- financial employment and social pressures
- the degree of application of these pressures (in years)
- any significant social factors; children, family, spousal arguments, separation, divorce, robbery, car accident
- any obvious / probable mental health factors; psychosis, disability, shock, suicide, suicidal
- any counter complaints or charges being made by the person committing an offence
- is there a DV relationship
- is there a critical care relationship / care giver & caree
- was there a suspected inappropriate relationship or abusive relationship; incest or violence, person being exploited etc

These subsequent factors should ideally be recorded at the time of any criminal event or as soon as possible afterwards. The basis of including these is that for the most part, people are law abiding and will not become violent towards others without a lot of provocation. There needs to be consideration of how people are coping with their life situation and their unique set of life circumstances.

Child / Disabled Person Specific Information in Relation to Risk

What is the capacity of the client and the organisation to protect the client from abuse?

What is provided to clients to enable them / assist them to report abuse or to get help in their caring environment?

Evidence

Reports of behaviour observations and situational factors, should be listed on criminal charges outcome records to prevent mis-reporting of information about offences, so that there are at least two points of reference to the information.

Where possible any allegation or charges made are backed by evidence about the outcome or to prove the allegation made.

Allegations of mental illness, drug addiction, failing health must be backed up by medical reports.

With regards to reporting information about people with mental health conditions, it is not acceptable to label people with mental health conditions as being 'non-compliant with medical treatment' as that is a very serious malicious character inference.

Heresay evidence be disregarded.

Updating Criminal History

As well as automatic information exchanges between police, child safety, blue card services etc, I make the suggestion that all persons, agencies and organisations working with children and people with a disability be required to complete a regular or 3yearly review of their suitability, safety and capacity, including parents.

Criminal history updates need to include changes to the status of Domestic violence protection orders, including appeals against these orders and the results of judgements of any breaches.

[Redacted]

[Redacted]

[Redacted]

[Redacted]

I suggest that the Committee defines exactly what the expanded criminal history categories will be, then review them for their merit as evidence via an ethical standard and adopt any of

the above suggestions.

I would appreciate being informed about this enquiry and activities of your sub-committee as an interested person and I am more than willing to put forward ideas and suggestions, as possible in the review process.

Yours sincerely
from

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