




Speech By
Hon. Yvette D'Ath

MEMBER FOR REDCLIFFE

Record of Proceedings, 16 February 2016

DIRECTOR OF CHILD PROTECTION LITIGATION BILL

Introduction

 **Hon. YM D'ATH** (Redcliffe—ALP) (Attorney-General and Minister for Justice and Minister for Training and Skills) (2.31 pm): I present a bill for an act to establish the Director of Child Protection Litigation and for related purposes, and to make consequential amendments to this act, the Child Protection Act 1999, the Child Protection (International Measures) Act 2003, the Childrens Court Act 1992, the Family and Child Commission Act 2014 and the Public Service Act 2008. I table the bill and the explanatory notes. I nominate the Legal Affairs and Community Safety Committee to consider the bill.

Tabled paper: Director of Child Protection Litigation Bill 2016 [[155](#)].

Tabled paper: Director of Child Protection Litigation Bill 2016, explanatory notes [[156](#)].

I am pleased to introduce the Director of Child Protection Litigation Bill 2016. Together with the Child Protection Reform Amendment Bill 2016, shortly to be introduced by the Hon. Shannon Fentiman MP, Minister for Communities, Women and Youth, Minister for Child Safety and Minister for the Prevention of Domestic and Family Violence, the bill constitutes the second stage of legislative amendments as part of the government's child and family reform agenda. The child and family reform program of this government implements the recommendations of the July 2013 report by the Queensland Child Protection Commission of Inquiry, *Taking responsibility: a road map for Queensland child protection*. This government is committed to implementing the recommendations of the commission, which are aimed at addressing the risk of systemic failure, and building a sustainable and effective child protection system over the next decade.

This bill and the Child Protection Reform Amendment Bill 2016 implement 11 specific recommendations of the commission and an additional recommendation made by the Court Case Management Committee to introduce new processes for managing applications for child protection orders in the Childrens Court. The Court Case Management Committee, chaired by the president of the Childrens Court, was established on recommendation by the commission to decide on a court case management framework for child protection matters in the Childrens Court. The judicially led court case management framework, envisaged by the commission, will be supported by the bill, the remaking of the Childrens Court Rules and amendments to the Child Protection Act 1999. The bill implements commission recommendation 13.17 for the establishment of an independent statutory agency, the Director of Child Protection, within the Justice portfolio to make decisions as to which matters will be the subject of a child protection application and what type of child protection order will be sought, as well as litigate the applications. Consistent with this recommendation, the bill provides for a new independent statutory officer, the Director of Child Protection Litigation, who will report to the Attorney-General and Minister for Justice.

The bill also provides for the establishment of the Office of the Director of Child Protection Litigation, with staff appointed under the Public Service Act 2008, to help the director perform the director's functions. The bill provides that the director is appointed by the Governor in Council on recommendation of the minister for a term of up to five years but may be reappointed for further terms. To be considered suitable for appointment, the director must be a lawyer who has been admitted to practice for at least 10 years and has demonstrated qualities of leadership, management and innovation in a senior government or private sector role. The main function of the director is to decide which matters will be the subject of a child protection order application, the type of child protection order to be sought and to litigate the child protection order application. The bill, therefore, provides that when the chief executive of the Department of Communities, Child Safety and Disability Services is satisfied that a child is in need of protection and a child protection order is the most desirable and appropriate order to protect the child, it must refer the matter to the director. The director will then be solely responsible for deciding whether or not an application for a child protection order should be made and the type of order that should be sought. If an application for a child protection order is made, the director will be responsible for conducting the legal proceeding in the Childrens Court.

The bill sets out the principles to be followed when the director and staff administer their functions and powers. The main principle is that the safety, wellbeing and best interests of the child are paramount. This paramount principle is consistent with the Child Protection Act 1999 and the requirements of the United Nations Convention on the Rights of the Child.

Other principles under the bill require the director to work collaboratively with Child Safety; only take action that is warranted in the circumstances; and consider whether there is sufficient, relevant and appropriate evidence before applying for a child protection order. The bill also requires decisions by the director to be made in a timely manner to ensure risks to the child are minimised. The director will need to apply the principle under the Child Protection Act 1999, that a delay in making a decision should be avoided, unless it is appropriate for the child.

To facilitate collaboration and cooperation between the director and Child Safety, the bill provides that, when making decisions, the director must consult with Child Safety and, if the director disagrees with the recommendations made by Child Safety, the director must provide written reasons for that decision. Under the bill, the director will also be able to provide legal advice to and represent Child Safety in other child and family related matters, such as family law and adoption matters, if instructed to do so by Child Safety. Child Safety may engage the director to undertake this work on a fee-for-service basis similar to the current arrangements that Child Safety has with Crown Law for these matters.

The director will have the power to issue guidelines that will apply to staff, lawyers engaged by the director, the chief executive of Child Safety and relevant staff within Child Safety. The guidelines will provide guidance and information about matters including: the roles and responsibilities of Child Safety and the Office of the Director during court proceedings; and a process for reviewing decisions made by the director about whether or not to apply for a child protection order.

As Child Safety will no longer be a party to proceedings for child protection orders, the bill makes consequential amendments to the Child Protection Act 1999 to ensure that Child Safety staff are still able to participate in child protection order proceedings as necessary. The bill will also expand the scope of the Child Death and Serious Injury Review Panel established under the Child Protection Act 1999 to ensure the panel is able to review the involvement of the director in relation to a child's death or significant injury in stated circumstances.

To ensure accountability and transparency, the director will be required to provide an annual report about the exercise of the director's functions. The bill also requires a review of the act and the operations of the Office of the Director be undertaken five years after commencement of the act. This will ensure that a formal evaluation of the model is undertaken to investigate whether it is meeting its objectives and identify any areas for improvement.

The establishment of the director and the other court reforms in the Child Protection Reform Amendment Bill 2016 and Childrens Court Rules will improve outcomes for children and their families. The legislation will provide greater accountability and oversight, minimise delay in court proceedings, promote efficiency and ensure the voices of children and families are heard in decisions that impact them.

These important and necessary reforms will ensure that applications for child protection orders filed in the Childrens Court are supported by good quality evidence and that evidence based decision-making forms part of the litigation process. I commend the bill to the House.

First Reading

Hon. YM D'ATH (Redcliffe—ALP) (Attorney-General and Minister for Justice and Minister for Training and Skills) (2.38 pm): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Referral to the Legal Affairs and Community Safety Committee

Madam DEPUTY SPEAKER (Ms Farmer): Order! In accordance with standing order 131, the bill is now referred to the Legal Affairs and Community Safety Committee.