

Legislative Council—No 185

As introduced and read a first time, 10 February 2022

South Australia

Children and Young People (Safety) (Foster and Kinship Carers Advocate) Amendment Bill 2022

A BILL FOR

An Act to amend the *Children and Young People (Safety) Act 2017*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

5 This Act may be cited as the *Children and Young People (Safety) (Foster and Kinship Carers Advocate) Amendment Act 2022*.

Part 2—Amendment of *Children and Young People (Safety) Act 2017*

2—Insertion of Chapter 9A

After Chapter 9 insert:

10 **Chapter 9A—Foster and Kinship Carers Advocate**

119A—Foster and Kinship Carers Advocate

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- (1) There will be a Foster and Kinship Carers Advocate.
 - (2) The Advocate is independent of direction or control by the Crown or any Minister or officer of the Crown.

119B—Appointment of Foster and Kinship Carers Advocate

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- (1) The Governor may, by notice in the Gazette, appoint a person to be the Foster and Kinship Carers Advocate on conditions, and for a term (not exceeding 5 years), determined by the Governor and specified in the instrument of appointment.
 - (2) The Foster and Kinship Carers Advocate is, at the end of a term of appointment, eligible for reappointment for a further term.

(3) The office of Foster and Kinship Carers Advocate becomes vacant if the Foster and Kinship Carers Advocate—

- (a) dies; or
- (b) completes a term of office and is not reappointed; or
- (c) resigns by notice in writing to the Governor; or
- (d) is removed from office by the Governor under subsection (4).

(4) The Governor may terminate the appointment of the Foster and Kinship Carers Advocate for—

- (a) contravention of a condition of appointment; or
- (b) failure or incapacity to carry out official duties satisfactorily; or
- (c) misconduct or conduct that may bring the office of the Foster and Kinship Carers Advocate into disrepute.

119C—Functions

(1) The Foster and Kinship Carers Advocate has the following functions:

- (a) to support, promote and advocate for the interests of foster carers and kinship carers;
- (b) to regularly review all programs designed to meet the needs of foster carers and kinship carers in the public and private sector;
- (c) to identify areas of unmet needs or inappropriately met needs of foster carers and kinship carers and to recommend to the Minister the development of programs for meeting those needs or the improvement of existing programs;
- (d) to make recommendations to the Minister for legislative change in respect of unmet needs or inappropriately met needs of foster carers and kinship carers;
- (e) to advocate for and negotiate on behalf of foster carers and kinship carers in the resolution of any problem faced by them arising out of their role as a foster carer or a kinship carer (as the case may be);
- (f) to advise foster carers and kinship carers on the application and operation of this Act in relation to foster carers and kinship carers;
- (g) to review decisions of the Chief Executive or child protection officers in accordance with this Chapter;
- (h) any other functions assigned to the Foster and Kinship Carers Advocate under this or any other Act.

- (2) In performing their functions, the Foster and Kinship Carers Advocate must regularly consult with foster carers, kinship carers and their families and other groups and persons representative of foster carers and kinship carers.

5 **119D—Delegation**

- (1) The Foster and Kinship Carers Advocate may, by instrument in writing, delegate to a person their functions or powers under this Act.
- (2) A delegation under this section—
- 10 (a) may be conditional or unconditional; and
- (b) is revocable at will; and
- (c) does not prevent the delegator from acting in any matter.

119E—Review of decision of Chief Executive or child protection officer

- 15 (1) A person who is aggrieved by a decision of the Chief Executive or a child protection officer under this Act in relation to foster carers or kinship carers may apply to the Foster and Kinship Carers Advocate for a review of the decision.
- (2) An application for review under this section—
- 20 (a) must be made in a manner and form determined by the Foster and Kinship Carers Advocate; and
- (b) must be made within 30 days after the day on which notice of the decision was given to the applicant (or such longer time as the Foster and Kinship Carers Advocate may allow in a particular case).
- 25 (3) The Foster and Kinship Carers Advocate may—
- (a) confirm the decision; or
- (b) after consultation with the Chief Executive—vary or revoke the decision.
- (4) The Foster and Kinship Carers Advocate—
- 30 (a) must give notice in writing of their decision to the Chief Executive and the applicant; and
- (b) may require the Chief Executive to report to the Foster and Kinship Carers Advocate, within a specified period, what action has been taken in relation to a decision the subject of
- 35 a review under this section.
- (5) The regulations may make further provisions in respect of a review under this section (including, to avoid doubt, by limiting the kinds of decisions that may be the subject of an application for review).
- 40 (6) This section is in addition to and does not derogate from the entitlement of a person to a review under Chapter 12.

119F—Reporting requirements

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- (1) The Foster and Kinship Carers Advocate may, at any time, submit a report to the Minister and to the Attorney-General outlining any concerns they have over matters arising out of or in relation to the performance of their functions under this or any other Act.
- (2) If the Foster and Kinship Carers Advocate so requests, the Attorney-General must, within 6 days after the receipt of a report under subsection (1), cause copies of the report to be laid before each House of Parliament.
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- (3) The Foster and Kinship Carers Advocate must, on or before 30 September in each year, present a report to the Minister and to the Attorney-General on the performance of their functions during the previous financial year.
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- (4) The Attorney-General must, within 6 days after the receipt of a report under subsection (3), cause copies of the report to be laid before each House of Parliament.
- (5) The report under subsection (3) must include a summary of the matters contained in any report under subsection (1).