

House of Assembly—No 163

As laid on the table and read a first time, 29 September 2016

South Australia

**Children's Protection (Information Sharing)
Amendment Bill 2016**

A BILL FOR

An Act to amend the *Children's Protection Act 1993*.

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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's Protection (Information Sharing) Amendment Act 2016*.

2—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Children's Protection Act 1993*

10 3—Insertion of section 7A

After section 7 insert:

7A—Minister etc to ensure consistent and coordinated decision-making

- 15 (1) It is an object of this Act that decisions made by government and non-government organisations in the administration, operation and enforcement of this Act are, as far as may be reasonably practicable, consistent and coordinated with those of other decision-makers under this Act.

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- (2) It is an object of this Act that decisions made by government and non-government organisations in the administration, operation and enforcement of this Act are, as far as may be reasonably practicable, consistent and coordinated with those of decision-makers under the *Family and Community Services Act 1972*.
- (3) The Minister must take reasonable steps to further the objects set out in this section.
- 10 (4) Each government and non-government organisation must, in the administration, operation and enforcement of this Act, endeavour to further the object set out in this section.

4—Insertion of Part 8A

After section 54W insert:

Part 8A—Information sharing

54X—Application of Part

- 15 (1) This Part applies to—
- (a) each government organisation; and
 - (b) a prescribed non-government organisation,
- but does not apply to an organisation declared by the regulations to be excluded from the ambit of this subsection.
- 20 (2) Nothing in this Part affects the operation of the *Public Sector (Data Sharing) Act 2016*.
- (3) In this section—
- prescribed non-government organisation*** means a non-government organisation prescribed for the purposes of this Part by the Minister by notice in the Gazette.
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54Y—Organisations to which Part applies may share certain information and documents

- 30 (1) Despite any other Act or law, an organisation to which this Part applies (the ***provider***) may, in accordance with any requirement set out in the regulations, provide prescribed information and documents to another organisation to which this Part applies (the ***recipient***) if the provider reasonably believes that the provision of the information or documents would assist the recipient—
- 35 (a) to perform official functions relating to children and young people; or
 - (b) to manage any risk to a child or young person or class of children or young people that might arise in the recipient's capacity as an employer or provider of services.

(2) Despite any other Act or law, information or documents that do not directly or indirectly disclose the identity of any person may be provided by one organisation to which this Part applies to another without restriction.

(3) Subsection (2) applies—

- (a) whether or not the information or documents consist of or include prescribed information and documents; and
- (b) whether the information or document ever disclosed the identity of a person, or has been redacted so as to de-identify it.

(4) Information may be provided under this section regardless of whether the provider has been requested to provide the information.

(5) In this section—

prescribed information and documents means—

- (a) information or documents relating to the health, safety, welfare or wellbeing of a particular child or young person or class of children or young persons; or
- (b) any other information or document of a kind prescribed by the regulations for the purposes of this definition.

54Z—Chief Executive may require organisation which Part applies to share information

(1) The Chief Executive may, if the Chief Executive is of the opinion that it is necessary or would otherwise assist in the performance of functions under this Act, by notice in writing, require an organisation to which this Part applies to provide to another such organisation or organisations the information and documents, or information and documents of a class, specified in the notice.

(2) An organisation of whom a requirement is made under subsection (1) must comply with the requirement within the period specified in the notice.

(3) To avoid doubt, the information and documents referred to in subsection (1) may include prescribed information and documents (within the meaning of section 54Z(1)).

(4) An organisation that refuses or fails to comply with a requirement under subsection (1) is guilty of an offence.

Maximum penalty: \$10 000.

54ZA—Limitation of liability

(1) An organisation or person who provides information or documents pursuant to this Part—

- (a) cannot, by virtue of doing so, be held to have breached any code of professional etiquette or ethics, or to have departed from any accepted form of professional conduct; and

(b) insofar as the organisation or person has acted in good faith, incurs no civil or criminal liability in respect of the provision of the information or documents.

(2) Nothing in this Part affects any rule or principle of law relating to—

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- (a) legal professional privilege; or
- (b) "without prejudice" privilege; or
- (c) public interest immunity.

Schedule 1—Related amendment to the *Family and Community Services Act 1972*

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1—Insertion of section 10A

After section 10 insert:

10A—Minister etc to ensure consistent and coordinated decision-making

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- (1) It is an object of this Act that decisions made by government and non-government organisations in the administration, operation and enforcement of this Act are, as far as may be reasonably practicable, consistent and coordinated with those of decision-makers under the *Family and Community Services Act 1972*.
- (2) The Minister must take reasonable steps to further the objects set out in this section.
- (3) Each government and non-government organisation must, in the administration, operation and enforcement of this Act, endeavour to further the object set out in this section.

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