CARE AND PROTECTION OF CHILDREN AMENDMENT BILL 2019
(Serial 82)

Continued from earlier this day.

Ms WAKEFIELD: It is not just Territory Families that can prevent harm to children; it has to be a whole-of-government approach. We need those services through Health, Education, Territory Families and Housing all working together. As a government we have started to show some of the ways we can work collaboratively on those issues. The very practical example I like to give is the one where the Member for Barkly and I work together to ensure that Room to Breathe focused on ensuring some kinship carers got the renovations they needed on their house to provide kinship carer to children.

That piece of work meant that 11 children could go to kinship care rather than foster care in major regional centres, and go back to country and be in their community of origin with the right people looking after them.

Those are the types of things we can achieve when we work together. They seem simple on the outside but for too long we have made these things very hard. This is a government that is focused on outcomes, not outputs. This legislation is squarely focused on outcomes for children.

I want to briefly touch on the royal commission. I believe these reforms have moved well beyond that to our vision of a government that puts children at the centre of its decision-making. We are committed to our decisions surrounding the royal commission. I will talk about the 12 recommendations this legislation addresses.

This legislation will address the following: recommendation 32.8, which is about developing a dual pathways model, and that is very clearly in this legislation to enable that model; and recommendation 39.1, that the Northern Territory Government commits to a public health approach to child protection, establish consultation procedures with the sector and communities, which we have clearly done. We have implemented a range of supports in that, including making sure we have an outcomes and evaluation framework.

This legislation also meets recommendation 33.4 to ensure that timely and quality care plans are developed and implemented for each child in out-of-home care. That is the core of many of the changes to this legislation, ensuring that we have improved out-of-home care plans, but also making them more appropriate and putting the child at the centre. To ensure that children have a say in their own care plans. This is the first time this has happened and has been legislated.

Recommendation 33.2 says that care plans must be kept up to date and provide parents with clear understandable language, an interpreter if necessary and what is required for reunification with their children. This is almost word-for-word in the legislation that we have put in place.

Recommendation 34.1 amends sections 121 and 129 of the *Care and Protection of Children Act 2007* so that the term 'best means' is replaced with a requirement that the most appropriate order is made. Importantly, we have stepped further than that recommendation by allowing a range of flexibility within it and focussing on improving court orders.

Recommendation 34.2 amends section 29 of the *Care and Protection of Children Act 2007* to provide that the court must not make a protection order unless it has considered and rejected, as to being contrary to the best interest of the child, an order allowing the child to remain in the care of their parent. We have addressed this significantly through the legislation.

We have also addressed Recommendation 34.3, in that in the decision the court must consider if all reasonable steps have been taken by the government agency to provide services that are necessary in addressing any risk of harm to the child. That is at the core of the changes we have made. It is very important that we are clear that this is a whole-of-government responsibility and there is an onus on the court to look at what has happened before and has led to that young person coming in front of the court.

It clearly and directly addresses:

- recommendations 34.14 and 34.15, ensuring that the orders are clear

- recommendation 32.12, that ensures family get information

- recommendation 33.21, that ensures all children between the ages of 15 and 18 are leaving care plans in compliance, and though the recommendation is only up to the age of 18 we are extending this responsibility to have supports in place for young people past the age of 18.

We have also included in the legislation that Territory Families ensure access to Aboriginal interpreters as required, as per recommendation 34.1

These significant changes are addressing the royal commission outcomes directly and clearly. We are implementing and resourcing them to make sure our front line services have the skills to deliver, and the processes and training in place for a contemporary child protection system. One that is focussed on the child, the unique circumstances of the Northern Territory and addresses the issues that we know make service delivery in the Northern Territory extremely complex. We want to have a Northern Territory that is focussed on ensuring that all of our children have the opportunity to become an important part of our community, to thrive and grow and be the person they dream to be.

Motion agreed to.

Consideration in detail.

Mr DEPUTY SPEAKER: We will now move into consideration of the Care and Protection of Children Amendment Bill 2019, Serial 82, Amendment Schedule 82GOV circulated by the Minister for Territory Families and Amendment Schedule 28GUY circulated by the Member for Nhulunbuy.

The two sets of amendments are not conflicted with one another. The amendments proposed by the Member for Nhulunbuy would, if agreed to, consequently amend the principal legislation, the *Care and Protection of Children Act 2007.*

Clauses 1 to 14, by leave, taken together and agreed to.

Clause 15:

Ms WAKEFIELD: Mr Deputy Speaker, I move that Clause 15 be amended to omit clause 4 and insert a new clause that reads:

> *If a child who is in the CEO's care turns 18 years of age and becomes a young person who leaves the CEO's care while attending a course of education or training, the CEO must provide the necessary assistance (including financial assistance) to maintain the young person's living arrangements until the young person has completed the course.*

The purpose of this amendment is to remove the references of child when referring to a young person over the age of 18 years. This is a drafting error and this ensures that the legislation reads more effectively.

Mr WOOD: Mr Deputy Speaker, I just wanted to check. What was the area you said was in the existing?

Ms WAKEFIELD: We are proposing that we omit clause 4 and insert a new clause that reads similarly but young person replaces when we are talking about a child who is over the age of 18. That is making sure that we are in line with our own definitions within the act.

Mr WOOD: Minister, that means up to the age of 25. Is that correct?

Ms WAKEFIELD: Yes, it is.

Mr WOOD: Just a practical matter here. In section 85A(3), it talks about the CEO may assist a child or young person to obtain any of the following and it goes through information about resources, accommodation, education and training. That says ‘may.’ The next bit, which is the clause we are dealing with says ‘must provide the necessary assistance.’ For the child’s living arrangements, is that purely—as it might sound—just the living arrangements or does that deal with health, personal, family and relationship counselling? Is it just helping where they will live?

Ms WAKEFIELD: It is a must for education and training, for the accommodation. The rest is discretionary. I know that we have worked with a range of young people around their personal plans. It is not explicitly put into the legislation because each circumstance is so different. This legislation says that we have an ongoing responsibility with young people to provide some supports but depending on what their individual needs are.

Mr WOOD: Just to clarify then, did you say that when you are giving a definition of children's living arrangements, that included education and training?

Ms WAKEFIELD: Can you expand on that question a bit more?

Mr WOOD: The question previous to that was 'what did you mean by the child's living arrangements'. Did that include education or personal, family and relationship counselling, or does it just specifically mean where you live?

Ms WAKEFIELD: It is a range of options. For instance, we have been doing this on a discretionary basis over the last couple of years. An example I give to you is a young person from Alice Springs who is going to Adelaide University. We are helping support them with their boarding facilities. However, we have other young people who are doing training close to their foster placement and we are continuing to provide some support to their foster carers to have that young person remain in that home.

Mr WOOD: I understand that. We are probably crossing over. Section 4 is where you 'must' and section 5 is where you 'may'. Obviously, you have that option still.

Ms WAKEFIELD: We are saying we 'must' provide the accommodation because we think that is reasonable. However, if a young person has been getting counselling provided by us over a long period of time, we might decide to continue that counselling if they have a therapeutic relationship with that counsellor. However, they might access student services in Adelaide like any university student would if they are moving to Adelaide.

Again, that is where we need to be a bit more discretionary, looking at individual care plans. Young people have very strong opinions about what they want to continue. We have some young people who are doing transitional plans who are very keen to not have a lot of contact with the department, but other people are highlighting what supports they want past the age of 18.

We want to have that flexibility but acknowledge that when you turn 18, what used to happen is that you were told at 18 that we, basically, had no further responsibility for you. Clearly, that is not acceptable. As an organisation we need to—and we have been since I have been minister—move towards a different practice in this area.

Amendment agreed to.

Clause 15, as amended, agreed to.

Clause 16, by leave, agreed to.

Clause 17:

Ms WAKEFIELD: Mr Deputy Speaker, I move amendment 2 to clause 17. I move that clause 17 be amended to remove the term 'and carer'.

The purpose of this amendment is to remove the requirement that confidential and sensitive information such as information that may be contained in court applications is always given to the carer. While it is important that carers are provided with the information about the children they care for, privacy concerns, particularly for those extended family members who may be named in those papers, is also important.

The scrutiny committee recommended the bill be amended so that confidential and sensitive information such as the information that may be contained in court applications is not given to any inappropriate persons. This amendment stands as the scrutiny committee's recommendation.

We have increased the obligation on Territory Families to provide information to families of young people. Part of that has been to extend that a little too far and—that was feedback from the scrutiny committee—we take carers away. This does not mean that carers will not get information—it is very important that carers do—but it will not be automatic under the act.

We believe that information—an example I think about is if a carer is looking after a young person they may not need the court documents that may talk about the sexual assault of a family member or other issues that are private health information for the family members rather than the child.

We have worked very hard, as an agency, to ensure that carers get better information than they have in the past. We signed a charter of rights for kinship and foster carers to ensure they got adequate information to provide care for the child. However, we felt that the court documents would probably be a step beyond that.

Mr WOOD: I am looking at section 124 is replacing section 124 in the old order. There was no carer in the original act, is that correct? This is something the government put in and then when it went to the scrutiny committee—under new section 104A it was put in there and under section 124 it relates to a notice of application for protection order. Then the Law Society and NT Legal Aid Commission said that the fact that these proposed sections provide for the documents to be served on the carer and may have the effect of making the carer a party to proceedings.

I heard what you had to say but why did you originally put the carer in there in the first place?

Ms WAKEFIELD: That was part of what I was talking about to ensure that carers get all the information they need on a young person, ensuring that they understand what is occurring before the court, if there are orders being sought. We acknowledge, and I have had multiple feedback from kinship carers and foster carers, that they are often not kept up to date with what is happening in terms of orders, what types of orders the department has gone for in the past. We have acknowledged that and we put this in as part of that commitment to ensuring that carers, in particular kinship carers are kept up to date.

However, this is why we have a scrutiny process. The feedback from the Law Society was a reasonable one and one where we acknowledged that perhaps the legislation needed some tightening and amendment and we have agreed with the scrutiny committee recommendations.

Mr WOOD: Can I have some help—this is a temporary protection order that we are relating to section 104A.

I have not asked the question yet.

Ms WAKEFIELD: It was a drafting error in that it was in both types of orders within the legislation. That is one of the reasons why we are also changing it.

Mr WOOD: To get a better understanding—if the CEO wants to apply for a temporary protection over a child they are required to go to court, is that correct?

Ms WAKEFIELD: Yes.

Mr WOOD: As the act is now the way you put it—information about the child—is it also information about the family's child—could be detailed to the carer as well. Is that the way it would be?

The carer would know information about the parents that you are saying perhaps is not relevant to what we are dealing with. Is there enough flexibility in the changes for the court to say the carer should know some of these details?

Ms WAKEFIELD: Yes. I do believe there is flexibility with that. However, most of the information would come from Territory Families and I would hope it will be happening before the court time so that there is planning meetings leading up to applying for a court order.

Through this legislation it is much clearer that we have to go through a process before even applying for an order in which everyone is informed about what the Territory Families' intention is. Also I would hope that we are giving more information right through that process. The court can order that but I hope there would not be a need because our practice has improved in terms of providing information for everyone involved—families—and also to include that broader definition of families within this as well.

Mr WOOD: Just a note on this. It is in the scrutiny committee's report. It says the committee notes that the term 'carer' in relation to placement arrangements is defined in section 78(1) of the *Care and Protection of Children Act* and that it includes a parent of the child, a family member of the child and an individual approved by the CEO.

Does that definition clash with the clause 104 (a) in the sense, we are talking about a parent and a carer, yet the definition seems to say a parent as well?

Ms WAKEFIELD: No, it does not. It just makes sure that it is clear, that all those parties are (inaudible). It ensures that a parent or carer, plus also foster carers who are approved by the CEO are included in that

definition. As much as possible, we have tried to make sure we have those clear definitions, the value of people appointed by the CEO is clear within the legislation.

Mr WOOD: To be clear minister, I understand there is a parent and carer and they would have two different definitions, yet the committee says that the term 'carer' actually includes a parent. Does that muddle it?

Ms WAKEFIELD: My understanding is no, because a parent can be a carer and I suppose it depends on the definition within that family and what type of care someone needs. You can have a carer who is receiving a carer's pension who is a carer as well. We thought it was important to have all three. You can also have a grandparent who is a carer. We needed to ensure that we had that clear definition.

Mr WOOD: I know it is technical. I raised it because we are omitting the word 'carer' in three sections and then the definition says 'a parent of the child'. It looked like we took out the 'parent of the child' if you take the definition as it reads.

Ms WAKEFIELD: We have got extensive definitions of those words in earlier clauses. I think that reads through clearly in the beginning of the act, when you look at what the definition we have of the parent of the child and relatives of the child.

Amendment agreed to.

Ms WAKEFIELD: I move amendment 3 to Clause 17. This is the same amendment, removal of the word 'and carer' to this section.

Amendment agreed to.

Clause 17 as amended agreed to.

Clauses 18 to 21, by leave, taken together and agreed to.

Clause 22:

Ms WAKEFIELD: I move amendment 4 to Clause 22. This is the same amendment 'and carer' for the same purposes as discussed in the previous debate.

Amendment agreed to.

Clause 22 as amended agreed to.

Clauses 23 to 29, by leave, taken together and agreed to.