

CHILDREN LEGISLATION AMENDMENT (INFORMATION SHARING) BILL 2017

(Amendments made by the Legislative Council)

1. Clause 1, page 2, after line 22, after paragraph (b) **insert—**
 "(c) to amend the **Family Violence Protection Act 2008** to provide for information sharing in relation to Hub services and to make certain other amendments to regulation-making powers; and".
2. Clause 1, page 2, after line 23, omit "(c)" and insert "(d)".
3. Page 92, after line 31, insert the following Part headings and New Clauses—

'Part 4—Amendments of Family Violence Protection Act 2008 relating to Support and Safety Hubs

AA New Part 5B inserted

After Part 5A of the **Family Violence Protection Act 2008** insert—

"Part 5B—Information sharing relating to Support and Safety Hubs

Division 1—Preliminary

144SB Definition

In this Part—

authorised Hub entity means the following—

- (a) a person or body declared under section 144SC to be an authorised Hub entity;
- (b) the Department of Health and Human Services;
- (c) Family Safety Victoria;

and includes an officer, employee or contracted service provider of such an entity;

child means—

- (a) a person who is under the age of 18 years; and
- (b) an unborn child that is the subject of a report made under section 29 or a referral made under section 32, of the **Children Youth and Families Act 2005**;

confidential information means the following—

- (a) health information;
- (b) personal information, including sensitive information;
- (c) unique identifiers;
- (d) identifiers;

consent means express or implied consent;

Family Safety Victoria means the Administrative Office established under the **Public Administration Act 2004** known as Family Safety Victoria;

health information has the meaning set out in section 3(1) of the **Health Records Act 2001**;

Hub service means the following—

- (a) a service that is provided by the State of Victoria in relation to, or for the purposes of, a body known as a Support and Safety Hub or an equivalent body; or
- (b) a service that is provided by a person or body under a contract or agreement (however described) entered into between the person or body and the State of Victoria and that is described in the contract or agreement as one of the following—
 - (i) a Support and Safety Hub service or an equivalent service;
 - (ii) a service provided in relation to, or for the purposes of, a Support and Safety Hub or an equivalent body;

identifier has the meaning set out in section 3(1) of the **Health Records Act 2001**;

person of concern has the meaning given in Part 5A;

personal information has the meaning set out in section 3 of the **Privacy and Data Protection Act 2014**;

primary person has the meaning given in Part 5A;

secrecy provision means a provision of an Act that restricts or prohibits the disclosure of information (whether that restriction or prohibition is absolute or subject to qualifications or exceptions);

sensitive information has the meaning set out in Schedule 1 to the **Privacy and Data Protection Act 2014**;

unique identifier has the meaning set out in Schedule 1 to the **Privacy and Data Protection Act 2014**.

144SC Meaning of authorised Hub entity

- (1) The Minister may declare, in writing, a person or body or a class of person or body to be an **authorised Hub entity** for the purposes of this Act.
- (2) The Minister must not declare that a person or body, or a class of person or body is an **authorised Hub entity** for the purposes of this Act unless the Minister is satisfied that the person or body—
 - (a) provides Hub services; or
 - (b) analyses, develops, monitors or oversees Hub services, or matters or things relating to Hub services.
- (3) A declaration under subsection (1) is not a legislative instrument within the meaning of the **Subordinate Legislation Act 1994**.

Division 2—Object of Part

144SD Object of Part

The object of this Part is to provide for the lawful collection, use and disclosure of confidential information by specified persons and bodies for the purposes of facilitating the provision of Hub services, in a way that gives precedence to safety and wellbeing over privacy.

Division 3—Information sharing

144SE Authorised Hub entity may collect, use and disclose confidential information for a purpose connected with provision of Hub services

- (1) An authorised Hub entity may do one or more of the following for a purpose relating to the provision, analysis, development, monitoring or oversight of one or more Hub services—
 - (a) collect confidential information;
 - (b) use confidential information;
 - (c) disclose confidential information to another authorised Hub entity.
- (2) Subsection (1) has effect despite anything to the contrary in—
 - (a) section 36(5) or 193 of the **Children Youth and Families Act 2005**;
 - (b) a prescribed secrecy provision.
- (3) An authorised Hub entity may collect, use and disclose confidential information under subsection (1) without the consent of the person to whom the information relates.

144SF Part does not affect handling of information permitted by other Acts

This Part does not affect the collection, use or disclosure of confidential information by an authorised Hub entity that would otherwise be permitted by or under the **Privacy and Data Protection Act 2014**, the **Health Records Act 2001** or this Act or any other Act.

144SG Access to confidential information under privacy laws restricted where risks to safety

- (1) An authorised Hub entity may refuse to give an individual access to that individual's confidential information under a relevant privacy law if the authorised Hub entity believes on reasonable grounds that—
 - (a) giving the individual access to the information would increase a risk to the safety of a child or a group of children; or
 - (b) the information is the confidential information of a person of concern or a person who is alleged to pose a risk of committing family violence, and giving the individual access to the information would increase the risk to a primary person's safety from family violence.
- (2) In this section—

relevant privacy law means—

 - (a) the **Health Records Act 2001**; or
 - (b) the **Privacy and Data Protection Act 2014**; or
 - (c) the Privacy Act 1988 of the Commonwealth; or
 - (d) the Privacy Act 1988 of the Commonwealth applied as a law of Victoria by another Act."

Part 5—Consequential amendments relating to Support and Safety Hubs

Division 1—Amendment of Health Records Act 2001

BB Information sharing under the Family Violence Protection Act 2008

- (1) After section 14B(2) of the **Health Records Act 2001** insert—

"(2A) Nothing in HPP 1.3, 1.4 or 1.5 applies to the collection of health information by an authorised Hub entity for the purposes of Part 5B of the **Family Violence Protection Act 2008**."
- (2) In section 14B(4) of the **Health Records Act 2001** insert—

"**authorised Hub entity** has the meaning given in the **Family Violence Protection Act 2008**;"

Division 2—Amendment of Privacy and Data Protection Act 2014

CC Information sharing under the Family Violence Protection Act 2008

(1) After section 15A(1) of the **Privacy and Data Protection Act 2014** insert—

"(1A) Nothing in IPP 1.3, 1.4 or 1.5, or any applicable code of practice modifying the application of IPP 1.3, 1.4 or 1.5 or prescribing how IPP 1.3, 1.4 or 1.5 is to be applied or complied with, applies to the collection of personal information by an authorised Hub entity for the purposes of Part 5B of the **Family Violence Protection Act 2008**".

(2) In section 15A(7) of the **Privacy and Data Protection Act 2014** insert—

"authorised Hub entity has the meaning given in the **Family Violence Protection Act 2008**;"

Division 3—Amendment of Freedom of Information Act 1982

DD Definitions

Insert the following definitions in section 5(1) of the **Freedom of Information Act 1982**—

"authorised Hub entity has the meaning given in the **Family Violence Protection Act 2008**;"

EE Document affecting personal privacy

(1) In section 33(2AB) of the **Freedom of Information Act 1982**, after "information sharing entity" (wherever occurring) insert "or an authorised Hub entity".

(2) In section 33(2AC) of the **Freedom of Information Act 1982**, after "information sharing entity" (where first and third occurring) insert ", an authorised Hub entity".

Part 6—Amendments of the Family Violence Protection Act 2008 relating to regulations

FF Meaning of *excluded information*

In section 144C of the **Family Violence Protection Act 2008** after "***excluded information*** if" insert "it is of a kind prescribed or".

GG Information sharing regulation making power

(1) In section 210A(2) of the **Family Violence Protection Act 2008**, for paragraphs (e) and (f) substitute—

"(e) prohibiting or regulating the type of information that may be used, disclosed or handled by an information sharing entity or a specified category of information sharing entity; and

- (f) prohibiting or regulating the type of information that may be requested or collected by an information sharing entity or a specified category of information sharing entity; and
 - (fa) prescribing the purposes for which an information sharing entity or a specified category of information sharing entity may use or disclose confidential information; and
 - (fb) enabling an information sharing entity that is a public sector body Head within the meaning of the **Public Administration Act 2004**—
 - (i) to delegate its powers, duties and functions under Part 5A or the regulations; and
 - (ii) to sub-delegate any powers, duties and functions under Part 5A or the regulations that have been delegated to the information sharing entity; and
 - (fc) prescribing the persons and bodies to which powers, duties and functions may be delegated or sub-delegated by an information sharing entity that is a public sector body Head within the meaning of the **Public Administration Act 2004**; and".
- (2) In section 210A(2)(g) of the **Family Violence Protection Act 2008** after "employed" insert "or engaged".
- (3) In section 210A(2)(g) of the **Family Violence Protection Act 2008** after "information sharing entity" (where first occurring) insert "or specified category of information sharing entity".
- (4) In section 210A(2)(k) of the **Family Violence Protection Act 2008** after "information sharing entity" (where first occurring) insert "or specified category of information sharing entity".
- (5) In section 210A(2) of the **Family Violence Protection Act 2008** for paragraph (h) **substitute**—
- "(h) prohibiting or regulating the disclosure of confidential information between information sharing entities or categories of information sharing entities; and
 - (ha) confer a discretionary authority on a specified person or body or a specified class of persons or bodies; and
 - (hb) prescribing information to be excluded information; and".
- (6) In section 210A(5) of the **Family Violence Protection Act 2008** after "(b)" insert ", (c)".
- (7) In section 211 of the **Family Violence Protection Act 2008**, for subsection (3) **substitute**—
- "(3) The regulations—
- (a) may be of general or limited application; and

- (b) may differ according to differences in time, place or circumstances; and
- (c) may confer a discretionary authority or impose a duty on a specified person or body or a specified class of persons or bodies; and
- (d) may leave any matter or thing to be from time to time determined, applied, dispensed with or regulated by a specified person."

Certified -

Clerk of the Legislative Council