



Australian Capital Territory

# Children and Young People (Transition from Out-of-Home Care) Amendment Act 2012

A2012-3

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J2011-633

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Australian Capital Territory

# **Children and Young People (Transition from Out-of-Home Care) Amendment Act 2012**

**A2012-3**

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An Act to amend the *Children and Young People Act 2008*

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

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J2011-633

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

**1 Name of Act**

This Act is the *Children and Young People (Transition from Out<sup>s</sup> of<sup>s</sup> Home Care) Amendment Act 2012*.

**2 Commencement**

This Act commences on the day after its notification day.

*Note* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

**3 Legislation amended**

This Act amends the *Children and Young People Act 2008*.

**4 Age—care and protection chapters stop applying if person discovered to be adult  
New section 339 (5)**

*after the note, insert*

- (5) This section does not apply to part 15.5 (Transition to adulthood).

**5 Care and protection chapters stop applying when young person becomes adult  
New section 340 (5)**

*insert*

- (5) This section does not apply to part 15.5 (Transition to adulthood).

**6**      **What is a *care plan*?**  
**Section 455, definition of *care plan*, paragraph (b) (vii)**

*omit*

**7**      **Director-general may provide assistance**  
**Section 503 (2), new note**

*insert*

*Note*      If a young person was previously in out-of-home care, the director-general may provide further assistance (see pt 15.5).

**8**      **Division 15.4.3 heading**

*substitute*

**Division 15.4.3      Information and items to be kept by  
foster carers and residential care  
services**

**9**      **Definitions—div 15.4.3**  
**Section 526, definition of *personal information***

*omit*

**10**      **Section 527 heading**

*substitute*

**527**      **Information and items must be kept during placement**

**11 Section 527 (2)**

*substitute*

- (2) Each care entity for the child or young person for the placement must keep the following things during the placement:
- (a) protected information about the child or young person that the care entity possesses because of the placement;

**Example**

records made by the care entity about the child or young person because of the placement

*Note 1* **Protected information**—see s 844.

*Note 2* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (b) personal items of the child or young person that the care entity possesses because of the placement.

*Note* **Personal items**, for a child, young person or young adult—see the dictionary.

**12 Section 528 heading**

*substitute*

**528 Information and items must be kept after placement ends**

**13 Section 528 (1) to (3)**

*omit*

personal information or records

*substitute*

protected information or personal items

**14 Section 528 (4) and (5)**

*substitute*

- (4) If protected information is given to the director-general under subsection (3), the protected information is a record of an agency under the *Territory Records Act 2002*, section 9 (Meaning of *record* of an agency etc).
- (5) This section is subject to division 15.5.4 (Entitlement to personal items and access to personal information).

*Note* Div 15.5.4 applies to young people who have left out-of-home care.

**15 Section 529**

*substitute*

**529 Child or young person may have access to information and items**

- (1) This section applies if—
  - (a) a care entity for a child or young person for a placement keeps protected information or personal items under section 527; and
  - (b) the care entity has not given the protected information or personal items to the director-general under section 528.
- (2) The director-general may, if satisfied on reasonable grounds that it is in the child's or young person's best interests, direct the care entity to give the child or young person—
  - (a) the protected information or personal items; or
  - (b) access to the protected information or personal items.
- (3) A direction may be conditional.
- (4) If the director-general gives a care entity a direction, the care entity must comply with the direction.

- (5) If the direction is subject to a condition about the access to be given, the care entity must comply with the condition.
- (6) This section is subject to division 15.5.4 (Entitlement to personal items and access to personal information).

*Note* Div 15.5.4 applies to young people who have left out-of-home care.

## **16 New part 15.5**

*insert*

### **Part 15.5 Transition to adulthood**

#### **Division 15.5.1 Preliminary**

##### **529A Object—pt 15.5**

The object of this part is to promote, strengthen and foster the wellbeing of—

- (a) young people preparing to begin the transition from out-of-home care; and
- (b) young people and young adults who were previously in out-of-home care.

##### **529B Who is a *young adult*?—pt 15.5**

In this part:

***young adult*** means an adult who is younger than 25 years old.

*Note* ***Adult*** means an individual who is at least 18 years old (see Legislation Act, dict, pt 1).

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## Division 15.5.2 Transition plans

### 529C What is a *transition plan*?

(1) In this Act:

*transition plan*, for a young person or young adult, means a written plan for meeting the young person's or young adult's needs—

- (a) in preparing to begin the transition from out-of-home care; and
- (b) after leaving out-of-home care; and
- (c) into young adulthood.

(2) A transition plan may include proposals about the following for the young person or young adult:

- (a) accommodation;
- (b) education and training;
- (c) employment;
- (d) financial security;
- (e) social support;
- (f) life skills support;
- (g) health care.

**Examples—par (g)**

- 1 physical health
- 2 mental health
- 3 emotional health
- 4 sexual health

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

**529D Transition plans—when prepared**

- (1) The director-general must prepare a transition plan for a young person who is—
  - (a) in out-of-home care; and
  - (b) at least 15 years old.
- (2) The director-general must take reasonable steps to ensure that the transition plan is implemented.

**529E Transition plans—consultation**

- (1) This section applies if the director-general is preparing a transition plan for a young person.
- (2) The director-general must develop the plan in consultation with the young person.
- (3) The director-general may also consult 1 or more of the following people about the proposals the director-general intends to include in the transition plan:
  - (a) for a young person in out-of-home care—the out-of-home carer;
  - (b) anyone else who would be involved in implementing a proposal in the plan;

**Example—people who would be involved**

a community-based service that is providing services to the young person

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (c) anyone else the director-general considers would be able to provide information or guidance about the plan.

- (4) The director-general must give the following people an opportunity to make submissions to the director-general about the proposals:
  - (a) the young person;
  - (b) each person consulted about the proposals under subsection (3).
- (5) If a person makes a submission to the director-general about a proposal, the director-general must consider the submission.

**529F Transition plans—review—young person for whom director-general has parental responsibility**

- (1) This section applies if—
  - (a) a transition plan is in force for a young person; and
  - (b) the director-general has an aspect of parental responsibility for the young person.
- (2) The director-general must review the plan—
  - (a) at least once each year; and
  - (b) in consultation with the young person.
- (3) The director-general may also consult 1 or more of the following people about the review:
  - (a) for a young person in out-of-home care—the out-of-home carer;
  - (b) anyone else who would be involved in implementing a proposal in the plan;
  - (c) anyone else the director-general considers would be able to provide information or guidance about the plan.

**529G Transition plans—review—young person for whom director-general does not have parental responsibility**

- (1) This section applies if—
  - (a) a transition plan is in force for a young person; but
  - (b) the director-general does not have any aspect of parental responsibility for the young person.
- (2) The director-general must take reasonable steps to ask the young person, at least once each year, whether the young person agrees to the director-general reviewing the plan.
- (3) If the young person agrees to the director-general reviewing the plan, the director-general must review the plan in consultation with—
  - (a) the young person; and
  - (b) if the young person agrees—
    - (i) anyone who would be involved in implementing a proposal in the plan; and
    - (ii) anyone else the director-general considers would be able to provide information or guidance about the plan.

**529H Transition plans—review—young adult**

- (1) This section applies if a transition plan is in force for a young adult.
- (2) The director-general must take reasonable steps to ask the young adult, at least once each year, whether the young adult agrees to the director-general reviewing the plan.
- (3) If the young adult agrees to the director-general reviewing the plan, the director-general must review the plan in consultation with—
  - (a) the young adult; and

- (b) if the young adult agrees—
  - (i) anyone who would be involved in implementing a proposal in the plan; and
  - (ii) anyone else the director-general considers would be able to provide information or guidance about the plan.

### **Division 15.5.3 Assistance after leaving out-of-home care**

#### **529I Assistance generally**

- (1) The director-general may provide the services that the director-general considers appropriate to a young person, or young adult, who was previously in out-of-home care.
- (2) Without limiting subsection (1), the director-general may provide the young person, or young adult, with services to assist the young person, or young adult, with obtaining—
  - (a) information about relevant resources and services; and
  - (b) accommodation; and
  - (c) education and training; and
  - (d) employment; and
  - (e) financial security; and
  - (f) legal advice; and
  - (g) social support; and
  - (h) life skills support; and
  - (i) personal, family and relationship counselling; and
  - (j) access to information and records held during the young person's out-of-home care; and

(k) health care.

**Examples—par (k)**

- 1 physical health
- 2 mental health
- 3 emotional health
- 4 sexual health

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(3) This section does not require the director-general to pay for any service.

*Note* Financial assistance may be available under s 529J.

**529J Financial assistance**

- (1) The director-general may provide financial assistance to a young person, or young adult, who was previously in out-of-home care.
- (2) The director-general may provide financial assistance only if satisfied on reasonable grounds that the assistance is—
  - (a) for an appropriate purpose; and
  - (b) reasonably necessary considering the young person's, or young adult's, circumstances.

**Examples—appropriate purposes**

- 1 for furnishing accommodation
- 2 for education or training
- 3 for seeking employment

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(3) The director-general may provide financial assistance on the conditions that the director-general considers appropriate.

- (4) However, if the director-general provides financial assistance in the form of a loan to a young person or young adult, no interest is to be payable on the loan.
- (5) The Minister may make guidelines about appropriate purposes for financial assistance.
- (6) A guideline is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

## **Division 15.5.4 Entitlement to personal items and access to protected information**

### **529K Entitlement to personal items**

A young person, or young adult, who has left out-of-home care is entitled to have and keep, free of charge, all of the young person's or young adult's personal items that are held by—

- (a) the director-general; or
- (b) an out-of-home carer for the young person or young adult.

*Note* Some out-of-home carers are required to keep personal items during placements (see div 15.4.3).

### **529L Access to protected information—young person**

- (1) This section applies if a young person who has left out-of-home care asks for access to protected information about the young person that is held by—
  - (a) the director-general; or
  - (b) an out-of-home carer for the young person.

*Note 1* **Protected information**—see s 844.

*Note 2* Some out-of-home carers are required to keep protected information (see div 15.4.3).

- (2) The director-general may, if satisfied on reasonable grounds that it is in the young person's best interests—
  - (a) give the young person access, free of charge, to the protected information held by the director-general; and
  - (b) direct the out-of-home carer to give the young person access, free of charge, to the protected information held by the out-of-home carer.
- (3) A direction under subsection (2) (b) may be conditional.
- (4) If the director-general gives an out-of-home carer a direction, the out-of-home carer must comply with the direction.
- (5) If the direction is subject to a condition about the access, the out-of-home carer must comply with the condition.

**529M Access to protected information—young adult**

A young adult who has left out-of-home care is entitled to have access, free of charge, to protected information about the young adult that is held by—

- (a) the director-general; or
- (b) an out-of-home carer for the young adult.

*Note 1* **Protected information**—see s 844.

*Note 2* Some out-of-home carers are required to keep protected information (see div 15.4.3).

**529N Access to protected information—support and assistance**

- (1) If a young person or young adult seeks access to protected information under this division, the director-general must provide an appropriate person to support and assist the young person, or young adult, accessing the information.

- (2) The Minister may make guidelines about appropriate people and the support and assistance they may provide to a young person, or young adult, accessing protected information under this division.
- (3) A guideline is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

**17** **Definitions—Act and ch 16**  
**Section 530 (2), definition of *transition plan***

*substitute*

*therapeutic protection transition plan*—see section 538 (What is a *therapeutic protection transition plan*?).

**18** **Section 538 heading**

*substitute*

**538** **What is a *therapeutic protection transition plan*?**

**19** **Section 538, definition of *transition plan***

*omit*

*transition plan*

*substitute*

*therapeutic protection transition plan*

**20** **Therapeutic protection order—application to state grounds etc**  
**Section 540 (d) (ii)**

*substitute*

- (ii) a therapeutic protection transition plan for the child or young person; and

**21 Dictionary, definition of *care entities***

*substitute*

***care entities***, for a child or young person for a placement, for division 15.4.3 (Information and items to be kept by foster carers and residential care services)—see section 526.

**22 Dictionary, definition of *personal information***

*omit*

**23 Dictionary, new definition of *personal items***

*insert*

***personal items***, for a child, young person or young adult—

- (a) means—
  - (i) any of the following items belonging to, or about, the child, young person or young adult:
    - (A) a birth certificate;
    - (B) a passport;
    - (C) a school report or other report relating to the child’s, young person’s or young adult’s education;
    - (D) a medical report;
    - (E) a copy of a photograph; and
  - (ii) anything else prescribed by regulation; but
- (b) does not include sensitive information about another person.

*Note* ***Sensitive information***—see s 845.

**24 Dictionary, definition of *placement***

*substitute*

***placement***, for a child or young person, for division 15.4.3 (Information and items to be kept by foster carers and residential care services)—see section 526.

**25 Dictionary, new definition of *therapeutic protection transition plan***

*insert*

***therapeutic protection transition plan***, for a child or young person, for chapter 16 (Care and protection—therapeutic protection of children and young people)—see section 538.

**26 Dictionary, definition of *transition plan***

*substitute*

***transition plan***, for a young person or young adult—see section 529C.

**27 Dictionary, new definition of *young adult***

*insert*

***young adult***, for part 15.5 (Transition to adulthood)—see section 529B.

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 8 December 2011.

**2 Notification**

Notified under the Legislation Act on 29 February 2012.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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I certify that the above is a true copy of the Children and Young People (Transition from Out<sup>8</sup> of<sup>8</sup> Home Care) Amendment Bill 2012, which originated in the Legislative Assembly as the Children and Young People (Transition from Out<sup>8</sup> of<sup>8</sup> Home Care) Amendment Bill 2011 and was passed by the Assembly on 21 February 2012.

Clerk of the Legislative Assembly

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