



Australian Capital Territory

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

A2012-3

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Australian Capital Territory

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

A2012-3

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

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

J2011-633

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 Name of Act

This Act is the *Children and Young People (Transition from Out^s of^s 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).

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.

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.

I certify that the above is a true copy of the Children and Young People (Transition from Out⁸ of⁸ Home Care) Amendment Bill 2012, which originated in the Legislative Assembly as the Children and Young People (Transition from Out⁸ of⁸ Home Care) Amendment Bill 2011 and was passed by the Assembly on 21 February 2012.

Clerk of the Legislative Assembly

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