

2011

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Community Services)

Children and Young People (Transition from Out-of-Home Care) Amendment Bill 2011

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(Minister for Community Services)

Children and Young People (Transition from Out-of-Home Care) Amendment Bill 2011

A Bill for

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 **1 Name of Act**
- 2 This Act is the *Children and Young People (Transition from*
3 *Out-of-Home Care) Amendment Act 2011.*
- 4 **2 Commencement**
- 5 This Act commences on the day after its notification day.
- 6 *Note* The naming and commencement provisions automatically commence on
7 the notification day (see Legislation Act, s 75 (1)).
- 8 **3 Legislation amended**
- 9 This Act amends the *Children and Young People Act 2008.*
- 10 **4 Age—care and protection chapters stop applying if**
11 **person discovered to be adult**
12 **New section 339 (5)**
- 13 *after the note, insert*
- 14 (5) This section does not apply to part 15.5 (Transition to adulthood).
- 15 **5 Care and protection chapters stop applying when young**
16 **person becomes adult**
17 **New section 340 (5)**
- 18 *insert*
- 19 (5) This section does not apply to part 15.5 (Transition to adulthood).
- 20 **6 What is a care plan?**
21 **Section 455, definition of care plan, paragraph (b) (vii)**
- 22 *omit*

1 **7 Director-general may provide assistance**
2 **Section 503 (2), new note**

3 *insert*

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

6 **8 New part 15.5**

7 *insert*

8 **Part 15.5 Transition to adulthood**

9 **Division 15.5.1 Preliminary**

10 **529A Object—pt 15.5**

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

13 (a) young people preparing to begin the transition from
14 out-of-home care; and

15 (b) young people and young adults who were previously in
16 out-of-home care.

17 **529B Who is a *young adult*?—pt 15.5**

18 In this part:

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

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

1 **Division 15.5.2 Transition plans**

2 **529C What is a *transition plan*?**

3 (1) In this Act:

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

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

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

- 11 (a) accommodation;
12 (b) education and training;
13 (c) employment;
14 (d) financial security;
15 (e) social support;
16 (f) life skills support;
17 (g) health care.

18 **Examples—par (g)**

- 19 1 physical health
20 2 mental health
21 3 emotional health
22 4 sexual health

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

1 **529D Transition plans—when prepared**

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

8 **529E Transition plans—consultation**

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

20 **Example—people who would be involved**

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

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

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

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

8 **529F Transition plans—review—young person for whom**
9 **director-general has parental responsibility**

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

1 **529G Transition plans—review—young person for whom**
2 **director-general does not have parental responsibility**

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

19 **529H Transition plans—review—young adult**

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

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

6 **Division 15.5.3 Assistance after leaving out-of-home**

7 **care**

8 **529I Assistance generally**

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

1 (k) health care.

2 **Examples—par (k)**

- 3 1 physical health
 4 2 mental health
 5 3 emotional health
 6 4 sexual health

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

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

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

13 **529J Financial assistance**

14 (1) The director-general may provide financial assistance to a young
 15 person, or young adult, who was previously in out-of-home care.

16 (2) The director-general may provide financial assistance only if
 17 satisfied on reasonable grounds that the assistance is—

18 (a) for an appropriate purpose; and

19 (b) reasonably necessary considering the young person's, or young
 20 adult's, circumstances.

21 **Examples—appropriate purposes**

- 22 1 for furnishing accommodation
 23 2 for education or training
 24 3 for seeking employment

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

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

1 (4) The Minister may make guidelines about appropriate purposes for
2 financial assistance.

3 (5) A guideline is a notifiable instrument.

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

5 **9 Definitions—Act and ch 16**
6 **Section 530 (2), definition of *transition plan***

7 *substitute*

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

10 **10 Section 538 heading**

11 *substitute*

12 **538 What is a *therapeutic protection transition plan*?**

13 **11 Section 538, definition of *transition plan***

14 *omit*

15 *transition plan*

16 *substitute*

17 *therapeutic protection transition plan*

18 **12 Therapeutic protection order—application to state**
19 **grounds etc**
20 **Section 540 (d) (ii)**

21 *substitute*

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

- 1 **13 Dictionary, new definition of *therapeutic protection***
2 ***transition plan***
- 3 *insert*
- 4 *therapeutic protection transition plan*, for a child or young person,
5 for chapter 16 (Care and protection—therapeutic protection of
6 children and young people)—see section 538.
- 7 **14 Dictionary, definition of *transition plan***
- 8 *substitute*
- 9 *transition plan*, for a young person or young adult—see
10 section 529C.
- 11 **15 Dictionary, new definition of *young adult***
- 12 *insert*
- 13 *young adult*, for part 15.5 (Transition to adulthood)—see
14 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 2011.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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