

2001

**THE LEGISLATIVE ASSEMBLY FOR
THE AUSTRALIAN CAPITAL TERRITORY**

CHILDREN AND YOUNG PEOPLE AMENDMENT BILL 2001

EXPLANATORY MEMORANDUM

Circulated by the authority of

**Mr Moore MLA
Minister for Health, Housing and Community Services**

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The purpose of this Bill is to broaden the category of persons in whose favour a child protection order might be made so as to facilitate the interstate transfer of child welfare orders and proceedings and to recognise that not all jurisdictions have implemented the nationally developed model for the transfer of child care and protection orders and proceedings.

In order to ensure that all states are capable of having their orders recognised by other jurisdictions and in order to achieve the transfer of orders from these states, the definition of 'child protection order' [by way of the category of persons in whose favour a child protection order might be made] has been broadened through the insertion of a new term, "welfare body", to recognise that some states grant a Minister responsibility for the guardianship, custody or supervision of a child (however that responsibility is described).

The states and territories have agreed to model legislation providing for the interstate transfer of child protection orders and proceedings that have commenced in Children's Court jurisdictions between participating States (including New Zealand). The national model legislation has been legislated in some jurisdictions but not others. The ACT has incorporated the national model legislation into Chapter 8 of the Children and Young People Act 1999. These amendments address transition arrangements required until all jurisdictions have legislated in accordance with the national model.

In the absence of other jurisdictions having implemented the national model legislation there is no legislative basis upon which the ACT might seek to facilitate the interstate movement of children on Child Welfare Orders. Chapter 8 of the Children and Young People Act 1999 requires there to exist within the other jurisdiction a similar law that is capable of recognition by our law. The absence of legislative power to transfer orders to States that do not possess similar laws has impaired the ACT's capacity to arrange transfers of orders and proceedings for the best and most timely protection of children or young people who move or propose to move between jurisdictions. It is this gap in service provision that is being redressed by the clauses within the Bill.