

Comments on Family Court Proceedings Reform Bill: Proposed changes to the Care of Children Act

Prepared by WAVES Trust, 20 December 2012

This Bill proposes changes to the Care of Children Act (COCA) that are significant and in some cases outside the scope that was signalled in the 2011 [Family Court Review Discussion Document](#).

This paper provides a brief overview of the WAVES Trust's concerns about some of the changes to the COCA proposed by the [Family Court Proceedings Reform Bill](#). Our concerns are based on our experience of the work done by the family violence sector with victims, perpetrators, and their children. For more detail see the word document titled 'Care of Children Act Changes' accompanying this paper. That document includes all the changes and the original clauses with our comments and suggestions that we will use for our submission; you are welcome to make use of these for your own submissions.

Changes that do not appear to be in children's interests

We argued in our earlier submission to the Family Court Review that we were concerned some of the proposals for reforming the Family Court could mean that the needs of the Ministry to keep costs down would be prioritised over the safety and wellbeing of children. These concerns are now heightened by the changes to the COCA proposed in this Bill. For example:

- the proposed Section 4(2)(b) which enables the court consider the delaying or obstructive conduct of parties to an application without requiring any consideration of the welfare and best interests of the children involved (which is required under the current Act).
- regarding counsellors and privilege (new section 46G) imposes penalties for breach of privilege but has no allowance for reporting disclosures of child abuse.
- Proposed section 49 allows for payment of bonds, this should not take the place of ensuring the safety of children
- Proposes the repeal of COCA sections 60 and 61 which require that the court must not make an order giving unsupervised contact with children to a party against whom there has been allegation of violence unless it is certain the children are safe.

Changes outside the scope of the original Review

The Bill proposes removing provisions in Section 5 (children's welfare and best interests) that require the court to support the role that wider family and whanau play in children's upbringing.

The 2011 Review discussed making 'Parenting Through Separation' programme compulsory, however the Bill describes these as a non-specific 'parenting information programme' raising the question of whether other programmes will be considered suitable and what kind.

Changes that do not appear to meet the intention of the Review/Bill

The intention of the Bill is "to ensure a modern, accessible family justice system that is responsive to children and vulnerable people, and is efficient and effective." But a number of the changes proposed appear to work against that goal. In particular the wholesale removal of parents' access to counselling as a way of resolving COCA disputes except at the direction of a Judge and then only one session will be available per proceeding. Because there is no provision in these changes for referral of disputing parents to any kind of Alternative Disputes Resolution service in place of counselling it is hard to see how this change will reduce applications to the court.

Of particular interest to the Family Violence Sector

The proposed changes to sections 5, 7, 47, 49, 57, 58, 59-61A raise issues of particular interest to the family violence sector including those working in child protection. We will discuss these in our consultation meetings on January 22nd and 31st. Contact Jo Richdale to RSVP: jo@waves.org.nz.