

A BILL

entitled

CHILDREN AMENDMENT ACT 2022

WHEREAS it is expedient to amend the Children Act 1998 to replace the Child Care Placement Board with a Children In-Care Advisory Council with broadened responsibilities, and to make consequential amendments;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act, which amends the Children Act 1998 ("the principal Act"), may be cited as the Children Amendment Act 2022.

Amends section 2

2 Section 2(1) of the principal Act is amended by—

- (a) deleting the definition of "Board";
- (b) inserting the following definitions in their proper alphabetical order—

“Children In-Care Advisory Council” and “Advisory Council” means the Council established under section 12A;

“Advisory Council Committee” means the Standing Committee of the Advisory Council established under section 12B;”.

Repeals section 12

3 Section 12 of the principal Act is repealed.

Inserts sections 12A and 12B

4 The principal Act is amended by inserting the following after section 12—

“Children In-Care Advisory Council

12A (1) There is established a Children In-Care Advisory Council, constituted in accordance with the Fourth Schedule.

- (2) The Advisory Council shall be responsible for—
- (a) advising the Minister on matters relating to the social development and well-being of children in-care;
 - (b) enquiring into, and reporting upon, any matter referred to it by the Minister;
 - (c) informing the Minister of, and making recommendations on, matters relating to the social development and well-being of children in-care;
 - (d) monitoring the progress of, and acting as an advocate for, children in-care;
 - (e) promoting and protecting the rights of children in-care;
 - (f) considering the effect any legislation, Government policy, programme or standard may have on children in-care and making recommendations to the Minister;
 - (g) raising public awareness of, and encouraging community interest in, issues affecting children in-care.

(3) The Advisory Council shall, as soon as practicable and in any case within six months after the end of each year, prepare a report on the state of children in-care and on the carrying out of its responsibilities under this Act during that year, and such report shall be laid by the Minister before both Houses of the Legislature.

(4) Fees shall be paid to members of the Advisory Council in accordance with the Government Authorities (Fees) Act 1971.

(5) In this section and in section 12B—

“children in-care” means children in respect of whom a care order has been made under section 25 or an interim care order has been made under section 32;

“matters relating to social development and well-being” includes matters relating to education, culture, religion, extra-curricular activities, and safety.

Advisory Council Committee

12B (1) There is established a Standing Committee of the Children In-Care Advisory Council under the name “Advisory Council Committee” constituted in accordance with subsection (2).

(2) The members of the Committee shall be appointed by the Chairman of the Advisory Council, and shall consist of—

- (a) the Chairman, who shall be a member of the Advisory Council; and

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(b) two other members of the Advisory Council, appointed from time to time as the Chairman considers appropriate.

(3) It shall be the responsibility of the Committee to provide for children in-care who are capable of forming their own views to be heard on matters relating to their social development and well-being, by way of a forum held from time to time as the Committee considers appropriate.

(4) A forum shall consist of not less than two Committee members and not less than two children in-care.

(5) The Committee shall, in the performance of its responsibilities under this section be guided by such policies and procedures that have been adopted by the Advisory Council in respect of the Committee.

(6) The Committee shall submit reports to the Advisory Council on such matters and at such times as may be specified by the Chairman of the Advisory Council.

(7) Fees shall be paid to members of the Committee in accordance with the Government Authorities (Fees) Act 1971.”.

Inserts Fourth Schedule

5 The principal Act is amended by inserting the following after the Third Schedule—

“FOURTH SCHEDULE

(section 12A(1))

CHILDREN IN-CARE ADVISORY COUNCIL

1. The Minister shall appoint, in writing, members to the Advisory Council as follows—

- (a) a Chairman and a Deputy Chairman;
- (b) a person who is a registered pediatrician or a registered family physician;
- (c) a person who is a registered psychologist or a registered psychiatrist;
- (d) a person who is a former child in-care;
- (e) a person qualified by training and experience in the field of education;
- (f) a person whom the Minister considers to be qualified by training or experience, or both, to assist the Advisory Council in matters of a legal or ethical nature; and
- (g) at least one and not more than two other persons as the Minister considers appropriate.

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2. The Director of Child and Family Services and up to three other public officers of the Department of Child and Family Services, designated by the Director, shall be ex-officio members of the Advisory Council but shall not be entitled to vote.
3. When making appointments to the Advisory Council, the Minister shall ensure that the members include at least two men and at least two women.
4. Every member of the Advisory Council shall hold office for such period not exceeding three years as may be specified in the instrument of appointment and, on the initial formation of the Advisory Council, the appointments shall be staggered to establish a rotation.
5. The Advisory Council may act notwithstanding any vacancy in its membership, and no act or decision of the Advisory Council shall be deemed to be invalid only by reason of a defect in the appointment of a member thereof.
6. The quorum of the Advisory Council shall be not less than one-half of the total number of members of the Council.
7. The Minister may declare the office of a member of the Advisory Council vacant if he is satisfied that the member—
 - (a) is unable through mental or physical incapacity or absence from Bermuda to perform the functions of his office;
 - (b) has failed, without adequate cause, to attend three successive meetings of the Council;
 - (c) has been convicted of a criminal offence.
8. A member of the Advisory Council whose term has expired may be re-appointed.
9. A member of the Advisory Council may resign his membership by notice in writing to the Minister.
10. Subject to this Schedule, the Advisory Council may regulate its own procedure.”.

Consequential amendments

- 6 Part B of the First Schedule to the Government Authorities (Fees) Act 1971 is amended by—
 - (a) deleting the words “Child Care Placement Board established by section 12 of the Children Act 1998”;
 - (b) inserting the following in their proper alphabetical order—

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“Advisory Council Committee – established under section 12B of the Children Act 1998

Children In-Care Advisory Council – established under section 12A of the Children Act 1998”.

Transitional provision

7 (1) The appointment of every person who is a member of the Child Care Placement Board shall terminate on the commencement day.

(2) Any matter before the Child Care Placement Board that is outstanding on the commencement day shall be continued and determined by the Children In-Care Advisory Council.

(3) In the section “commencement day” means the day on which this Act comes into operation.

Commencement

8 This Act comes into operation on such day as the Minister responsible for child and family services appoints by notice published in the Gazette.

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EXPLANATORY MEMORANDUM

This Bill seeks to amend the Children Act 1998 (the “principal Act”) to replace the Child Care Placement Board with a Children In-Care Advisory Council with broadened responsibilities, and to make consequential amendments.

Clause 1 is self-explanatory.

Clause 2 deletes the definition of “Board” and inserts a definition for “Children In-Care Advisory Council”, “Advisory Council”, and “Advisory Council Committee”.

Clause 3 repeals section 12 of the principal Act.

Clause 4 inserts a new section 12A and section 12B. Section 12A establishes the Children In-Care Advisory Council with additional responsibilities that includes advising and making recommendations to the Minister on matters relating to the social development and well-being of children in-care, promoting and protecting the rights of children in-care, and considering the effect legislation, Government policies and programmes may have upon children in-care and making recommendations to the Minister. Section 12A also provides for fees to be paid to Council members, and defines “children in-care” and “matters relating to the social development and well-being of children in-care”. Section 12B establishes a Standing Committee of the Advisory Council to be known as the “Advisory Council Committee”. The Standing Committee will be responsible for providing children in-care with a forum by which they may be heard on matters relating to their social development and well-being. Fees are to be paid to members of the Committee, and the Committee must observe policies and procedures adopted by the Council in the performance of its responsibilities.

Clause 5 inserts a Fourth Schedule to the principal Act which, among other things, sets out the constitution of the Children In-Care Advisory Council, and specifies the qualifications of persons who may be appointed to the Council by the Minister.

Clause 6 makes consequential amendments to the Government Authorities (Fees) Act 1971 by deleting the reference to the “Child Care Placement Board” and inserting the “Children In-Care Advisory Council” and the “Advisory Council Committee”.

Clause 7 provides for termination of the appointment of members to the Child Care Placement Board on the day this Act comes into operation, and for any outstanding matters of the Board to be continued and determined by the Children In-Care Advisory Council.

Clause 8 provides for this Act to come into operation by notice published in the Gazette.