

House of Representatives

# Supplementary Order Paper

**Tuesday, 4 July 2017**

**Children, Young Persons, and Their Families (Oranga Tamariki)  
Legislation Bill**

*Proposed amendments for the consideration of the Committee of the  
whole House*

**Key:**

- **this is inserted text**
- **~~this is deleted text~~**

**Note:** This Supplementary Order Paper shows amendments to the Bill that are being proposed by the Minister for the purposes of consideration in Committee of the whole House. This document does—

- **NOT have official status in terms of unamended text**
- **NOT have the status of an as-reported version of the Bill.**



## Explanatory note

This Supplementary Order Paper amends the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Bill (the **Bill**).

This note explains the substantive amendments. Other amendments are minor and technical, for example, to clarify meaning or to correct an error.

The amendments described below are made to clauses in the Bill relating to the Children, Young, Persons, and Their Families Act 1989 (which is renamed by the Bill as the **Oranga Tamariki Act 1989** or the **Children's and Young People's Well-being Act 1989**) (the **principal Act**).

*Clause 6* is amended to clarify in *new section 4(1)(b)(i) and (c)(i)* that a purpose of the principal Act is to help prevent children and young persons suffering the things listed in those provisions.

*Clause 11(3)* is amended to provide in *new section 7(2)(bad)* that the chief executive can establish 1 or more complaints mechanisms. *Clause 11(5)* amends *new section 7(6)* to provide that the extended definitions of caregiver and young person in *new section 386AAA* apply to the provision of advocacy services by the chief executive under section 7(2)(bb) as well as to the 1 or more complaints mechanisms referred to in *new section 7(2)(bad)*.

*Clause 12A(3)* is amended to clarify in *new section 11(3A)* who must perform 3 of the duties imposed by section 11 to ensure that children and young persons participate in proceedings and processes affecting them and have their views taken into account. *New paragraph (a)* is inserted, which relates to an existing duty in section 11(2)(d) to take into account the views of the child or young person. *New paragraph (a)* states that all persons listed in section 11(3)(a) to (d) (who are the persons responsible for proceedings or processes under the principal Act) must perform this duty. *New paragraphs (b) and (c)* (which relate to 2 new duties imposed under *new section 11(2)(e) and (f)*) state that both of those new duties must be performed by decision makers. However, the duty in *new paragraph (c)* to explain a decision to a child or young person may be done by someone other than the decision maker. If the decision maker does not explain a decision to the child or young person they must satisfy themselves, within a reasonable period following the making of the decision, that this has been done by another person.

*Clause 13(2)* is amended to clarify that the principles in *new paragraph (i)* apply to decisions about placement if a child or a young person is removed in the circumstances described in *new paragraph (g)*.

*Clause 21* amends section 18B to ensure that it applies in relation to decisions that a child or young person is in need of care or protection on certain grounds made before the commencement of *clause 14* as well as decisions made on the equivalent grounds on or after the commencement of *clause 14*. *Clause 21* also alters a reference to a “realistic prospect” to a “realistic possibility” for consistency with other provisions in the principal Act.

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

---

SOP No 329

*Clauses 20, 42, 44, and 45* are amended to clarify that a family group conference need not be held before an interim order is made by the court.

*Clause 49* amends section 83 to provide that if the court makes a final custody order under section 101 or a final guardianship order or a guardianship order under section 110, it may at the same time or subsequently determine that there is no realistic possibility that the child or young person will be returned to the parent or guardian having the care of the child or young person before the care or protection order was made. Such a determination may be made at the same time as the care and protection order or subsequently. This change is made to resolve uncertainty under the present law as to whether the court has jurisdiction to make that determination.

*New clause 64A* amends section 127 so that a court may not vary an interim order to make it final, unless the court decides that the child or young person is in need of care or protection.

*New clause 66A* amends section 135 to require that a plan given in the court under section 135(1) also include the matters referred to in section 186(2A). Section 186(2A) requires reports made under that section to contain a recommendation about whether a child or young person who is the subject of the report can be returned to the care of the parent, guardian, or other person who had the care of the child or young person before a decision was made that the child or young person was in need of care or protection.

*Clause 79* amends section 158 to provide, in a similar way to the amendments made to section 87, that if an order is made under section 48 of the Care of Children Act 2004, the court may determine that there is no realistic possibility that the child or young person will be returned to the parent, guardian, or other person having the care of the child or young person before the order was made.

*Clause 104* is amended to clarify in *new section 276A* that if a proceeding involving a 17-year-old has been transferred to the District Court or the High Court for trial and the circumstances or reasons for the transfer of the proceedings change, those proceedings must be transferred back to the Youth Court unless the interests of justice require that they remain, and be dealt with, in those higher courts.

*Clauses 115 and 116* are amended to clarify wording in *new sections 386AAD and 386A*, which relate to the new entitlements of young adults to live with a caregiver (from the age of 18 years up to the age of 21 years) and to receive support by way of advice and assistance (from the time they leave care or custody up to the age of 25 years). *New section 386AAD* is amended to provide that the chief executive must advise young persons covered by the section of the entitlements to live with a caregiver and to request to do so at anytime up to the age of 21 years. *New section 386A* is amended to require advice to be given to young persons about their entitlements to support by way of advice and assistance and to request this at any time up to the age of 25 years. The advice about both entitlements must be given by the person, body, or organisation that has the care or custody of the young person and must be given before the young person leaves that care or custody. That person, body, or organisation (excluding the chief executive) must, after assessing the young person's needs for ad-

vice and assistance, provide a copy of that assessment to the chief executive. The chief executive must consider the young person's entitlements under *new section 386B* taking into account that assessment.

*Clause 118* is amended to align the relevant terminology, and to clarify that the limit on proceedings in *new section 445E(1)* has effect only if a right of complaint about the relevant act or omission, and a right of review of the outcome of the complaint, are available in the particular circumstances.

*Clause 119(3)* amends the regulation-making power in *new section 447(fb)* relating to complaints mechanisms to recognise there may be 1 or more complaints mechanisms established by *new section 7(2)(bad)* and to provide that any complaints mechanism must be independent of the department.

*Clause 122* inserts a new transitional provision into Schedule 1AA that provides that any reference to the Children, Young Persons, and Their Families Act 1989 in any document is, unless the context otherwise requires, after the commencement of *clause 122*, to be read as a reference to the **Oranga Tamariki Act 1989**.

*Clause 128* is amended by deleting references to *new sections 386AAG and 386B* from the amendment to section CW 33 of the Income Tax Act 2007. The effect is that payments made under *new sections 386AAG and 386B* are not exempt income for the purpose of that Act.

Schedule 2 is amended to rationalise references in *new Schedule 1A* to specified offences which must be tried in the District Court or High Court if a defendant is 17 years old.

**The Honourable Anne Tolley, in Committee, to propose the amendments shown in the following document.**



*Hon Anne Tolley*

# **Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Bill**

Government Bill

## **Contents**

	Page
1 Title	10
2 Commencement	10
<b>Part 1</b>	
<b>Amendments to Children, Young Persons, and Their Families Act 1989</b>	
3 Principal Act	10
3A Long Title repealed	10
3B Name of principal Act changed	11
3C Section 1 amended (Short Title and commencement)	11
4 Section 2 amended (Interpretation)	11
5 Part 1 heading amended	13
6 Section 4 and cross-heading replaced	13
<i>Purposes</i>	
4 Purposes	13
7 New section 4A inserted (Well-being and best interests of child or young person)	15
4A Well-being and best interests of child or young person	15
8 Section 5 replaced (Principles to be applied in exercise of powers conferred by this Act)	15
5 Principles to be applied in exercise of powers under this Act	15
10 Section 6 repealed (Welfare and interests of child or young person paramount)	18
11 Section 7 amended (Duties of chief executive)	18

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

12	New section 7AA inserted (Duties of chief executive in relation to Treaty of Waitangi (Tiriti o Waitangi))	19
	7AA Duties of chief executive in relation to Treaty of Waitangi (Tiriti o Waitangi)	19
12A	Section 11 amended (Child’s or young person’s participation and views)	20
13	Section 13 amended (Principles)	21
14	Section 14 replaced (Definition of child or young person in need of care or protection)	24
	14 Definition of child or young person in need of care or protection	24
	14AA Circumstances in which child or young person is suffering, or is likely to suffer, serious harm	25
15	Section 15 replaced (Reporting of ill-treatment or neglect of child or young person)	26
	15 Reporting of concerns to <u>chief executive or constable</u> <del>or social worker</del>	26
16	Section 16 amended (Protection of person reporting ill-treatment or neglect of child or young person)	26
17	Section 17 amended (Investigation of report of ill-treatment or neglect of child or young person)	26
18	New section 18AAA inserted (Chief executive may make family group conference available in certain circumstances)	26
	18AAA Chief executive may make family group conference available in certain circumstances	26
19	Section 18 amended (Referral of care or protection cases to care and protection co-ordinator or youth justice co-ordinator by social workers or constables)	27
20	Section 18A amended (Assessment of parent of subsequent child)	27
21	Section 18B amended (Person described in this section)	27
22	Section 18C amended (Confirmation of decision not to apply for declaration under section 67)	28
23	Section 18D amended (Court declining to confirm decision)	28
24	Section 19 amended (Referral of care or protection cases to care and protection co-ordinator by other persons or by court)	28
25	Section 21 amended (Care and protection co-ordinator to consult family, whanau, or family group on convening of family group conference)	28
26	Section 22 amended (Persons entitled to attend family group conference)	29
27	Section 26 amended (Procedure of family group conference)	29
28	Section 28 amended (Functions of family group conference)	29
29	Section 29 amended (Family group conference may make decisions and recommendations and formulate plans)	29

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

30	Section 30 amended (Care and protection co-ordinator to seek agreement to decisions, recommendations, and plans of family group conference)	29
31	Section 34 amended (Chief executive to give effect to decisions, recommendations, and plans of family group conference)	29
32	Section 35 amended (Police to comply with decisions, recommendations, and plans of family group conference)	30
33	Section 40 amended (Warrant to remove child or young person)	30
34	Section 46 amended (Powers of court where application made under section 44 or child or young person brought before court under section 45)	30
35	Section 48 amended (Unaccompanied children and young persons)	30
36	Section 59 amended (Application for production of documents relevant to investigation of whether child or young person in need of care or protection)	30
37	Section 61 amended (Court may order document to be produced)	30
38	Section 66 replaced (Government departments may be required to supply information)	30

*Information sharing*

65A	Purpose of information sharing and principle for information sharing decisions	30
66	Agencies to supply information	31
66A	Disclosure of information obtained under section 66	31
66B	Restrictions on disclosure of information under section 66A	32
66C	Use and disclosure of personal information relating to child or young person or classes of children or young persons	32
66D	Public notification of information about combined datasets	33
66DA	Application of sections 66E to 66H	33
66DB	Definitions	33
66E	Requests for information by authorised child welfare and protection agencies or authorised independent persons from other authorised child welfare and protection agencies or authorised independent persons	34
66F	Duty of child welfare and protection agency or independent person receiving request under section 66E	34
66G	When request under section 66E may be declined	34
66H	Reasons for declining request	35
66I	Consultation to be undertaken when information is requested or proposed to be disclosed under section 66C or sections 66E to 66H 66F	35

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

<i>Code of practice for information sharing</i>			
	66J	Purpose of Code for information sharing	35
	66K	Consultation on draft Code by Minister	36
	66L	Approval of draft Code by Minister	37
	66M	Application of Legislation Act 2012 to Code	37
	66N	Amendments to Code	37
	66O	Relationship with other enactments	37
39		Section 67 repealed (Grounds for declaration that child or young person is in need of care or protection)	38
40		Section 68 amended (Application for declaration that child or young person is in need of care or protection)	38
41		Section 69 amended (Joint applications)	38
42		Section 70 amended (No application to be made unless family group conference has been held)	38
43		Section 71 amended (Court may make declaration in absence of proof of responsibility for neglect or ill-treatment of child or young person)	38
44		Section 72 amended (Court not to make declaration unless family group conference held)	39
45		Section 73 amended (Court not to make declaration unless satisfied that child's or young person's need for care or protection cannot be met by other means)	39
46		Section 74 amended (Court may require parties to undergo counselling)	39
47		Section 78 amended (Custody of child or young person pending determination of proceedings)	39
48		Cross-heading above section 83 replaced	40
<i>Care or protection orders</i>			
49		Section 83 amended (Orders of court on making of declaration)	40
50		Section 84 amended (Power to make other orders where declaration made on ground of child's offending)	41
51		Section 86 amended (Services orders)	41
52		Section 86A amended (Interim services orders)	41
53		Section 87 amended (Restraining orders)	42
54		Section 88 amended (Interim restraining orders)	42
55		Section 91 amended (Support orders)	42
56		Section 92 amended (Interim support orders)	42
57		Section 95 amended (Conditions of support order or interim support order)	43
58		Section 96 amended (Power of court to impose additional conditions)	43
59		Section 101 amended (Custody orders)	43
60		Section 102 amended (Interim custody orders)	43
61		Section 110 amended (Guardianship orders)	43

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

---

62	New section 110AA inserted (Interim guardianship orders)	43
	110AA Interim guardianship orders	43
62A	Section 110A amended (Application for change of guardianship order)	44
63	Section 121 amended (Court may make orders for access and exercise of other rights by parents and other persons)	44
64	Section 125 amended (Application for variation or discharge of orders made under this Part)	44
64A	Section 127 amended (Court may vary or discharge order)	45
64B	Section 128 amended (Court to obtain and consider plan for child or young person before making certain orders)	45
64C	Section 129 amended (Court to direct who is to prepare plan)	45
64D	Section 130 amended (Content of plans)	45
65	Section 131 amended (Adjournment for purposes of obtaining plan)	45
66	Section 132 amended (Access to plans)	45
<u>66A</u>	<u>Section 135 amended (Review of plan)</u>	<u>45</u>
68	Sections 141 and 142 repealed	46
69	Section 143 amended (All parents or guardians not required to be party to agreement)	46
70	Section 144 amended (Agreement not to be made without consent of child or young person)	46
71	Section 145 amended (Agreement not to be made without approval of family group conference)	46
72	Section 146 amended (Form and terms of agreements)	46
73	Section 147 amended (Further restrictions on making of agreements)	46
74	Section 148 amended (Effect of agreements)	46
75	Section 149 amended (Agreement may provide for consent to medical treatment)	46
76	Section 152 amended (Service of application for declaration)	47
77	Section 153 amended (Notice of application for declaration to be given to child or young person)	47
78	Section 154 amended (Service of application for variation or discharge of order)	47
79	Section 158 amended (Applications may be heard together)	47
80	Section 170 amended (Calling of mediation conference)	47
81	Section 185 amended (Sections to have effect in place of sections 38 to 44 of Criminal Procedure (Mentally Impaired Persons) Act 2003)	48
82	Section 186 amended (Report by social worker)	48
83	Section 187 amended (Cultural and community reports)	48
84	Section 198 amended (Special provisions applying to applications for declaration on ground of child's offending)	48

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

85	Section 199 amended (Power of court to call witnesses)	48
86	Section 200 amended (Court to ensure that application for declaration that child or young person in need of care or protection dealt with promptly)	48
87	Section 205 amended (Preventing removal of child or young person from New Zealand)	49
88	Section 206 amended (Offence to take child or young person out of New Zealand where proceedings pending)	49
88A	Section 206B amended (Power to dismiss proceedings)	49
89	Section 207E amended (Chief executive to have regard to certain matters)	49
90	Section 207M amended (Court to have regard to certain matters)	49
91	Section 207S amended (Court to have regard to certain matters)	49
92	Section 208 amended (Principles)	49
92A	New section 208A inserted (Child or young person subject to youth justice jurisdiction only until allegations of offending dealt with)	50
	208A Child or young person subject to youth justice jurisdiction only until allegations of offending dealt with	50
93	Section 238 amended (Custody of child or young person pending hearing)	50
94	Section 239 amended (Restrictions on power of court to order child or young person to be detained in custody)	50
95	Section 241 amended (Review of orders made under section 238)	51
96	Section 242 amended (Order under section 238 sufficient authority for detention of child or young person)	51
96A	Section 246 amended (Procedure where young person arrested and brought before court)	51
97	New section 248A inserted (Chief executive to appoint youth advocate to represent child or young person if offence punishable by imprisonment of 10 years or more)	51
	248A Chief executive to appoint youth advocate to represent child or young person if offence punishable by imprisonment of 10 years or more	51
98	Section 250 amended (Consultation on convening of family group conference)	52
99	Section 256 amended (Procedure at family group conference)	52
100	Section 258 amended (Functions of family group conference)	52
101	Section 260 amended (Family group conference may make decisions and recommendations and formulate plans)	52
102	Section 272 amended (Jurisdiction of Youth Courts and children's liability to be prosecuted for criminal offences)	53
103	Section 273 amended (Manner of dealing with offences (other than murder or manslaughter))	53

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

103A	Section 275 amended (Manner of dealing with offence of murder or manslaughter, or where jury trial to be held)	53
104	New section 276A inserted (Transfer of proceeding back to Youth Court)	54
	276A Transfer of proceeding back to Youth Court	54
105	Section 280 amended (Court may refer case to care and protection co-ordinator to determine whether matter should be dealt with under Part 2)	54
106	Section 280A amended (Court may refer case to person who commenced proceeding to be dealt with as child offending care or protection proceeding under Part 2)	54
107	Section 284 amended (Factors to be taken into account on sentencing)	55
107A	Section 296 amended (Expiry of orders)	55
108	Section 316 amended (Court may cancel supervision with residence order if young person absconds)	55
109	Section 323 amended (Appointment of youth advocate to represent child or young person)	55
110	Section 361 amended (Application of sections 362, 364, 365, 387, 390 to 392, 394, and 395)	55
111	Section 363 amended (Payment to person or organisation providing care)	55
112	Section 364 amended (Authority to establish residences)	56
113	Section 365 amended (Chief executive may place children and young persons in residences)	56
114	Cross-heading above section 386A replaced	56
	<i>Moving to independence</i>	
115	New sections 386AAA to 386AAG inserted	56
	386AAA Interpretation	56
	386AAB Purposes	56
	386AAC Principles to be applied when assisting young person to move to independence	57
	<del>386AAD Young persons entitled to live with caregiver up to age of 21 years</del>	<del>57</del>
	<u>386AAD Young persons entitled to live with caregiver up to age of 21 years</u>	<u>58</u>
	386AAE Providing support to young persons to negotiate support arrangements and monitoring of support arrangements	59
	386AAF Role of caregivers under support arrangements	59
	386AAG Financial assistance for support arrangements	60
116	Section 386A replaced (Advice and assistance for people moving from care to independence)	60
	<del>386A Advice and assistance for young persons up to age of 25 years</del>	<del>60</del>

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

	<u>386A</u>	<u>Advice and assistance for young persons up to age of 25 years</u>	<u>61</u>
	386B	Provision of advice and assistance by chief executive	62
117		New section 386C inserted (Chief executive to maintain contact with young persons up to age of 21 years)	63
	386C	Chief executive to maintain contact with young persons up to age of 21 years	63
117A		Section 403 amended (Approval of Community Services)	64
117B		Section 405 amended (Revocation of approval)	64
118		New sections 445E and 445F and cross-heading inserted	64
<i>Limit on proceedings and Crown liability</i>			
	445E	Limit on proceedings	64
	445F	Limitation on liability	65
119		Section 447 amended (Regulations)	65
120		New section 447A inserted (Minister to appoint persons to monitor compliance with prescribed standard of care)	69
	447A	Minister to appoint independent persons to monitor compliance with prescribed standard of care	69
121		New section 448B and cross-heading inserted	69
<i>Periodic review of legislation, government policy, and other arrangements</i>			
	448B	Periodic review of legislation, government policy, and other arrangements	69
121A		Amendments to principal Act to replace gendered references with gender-neutral references	69
122		Schedule 1AA amended	69
	4	New definition of young person not to apply to criminal proceedings underway at commencement date	70
	5	Protections for young persons aged 17 years in criminal investigations	70
	6	Application of complaints mechanism	70
	7	Previous definition of child or young person in need of care or protection applies to proceedings underway	70
	8	Application of sections 17(2A), 18AAA, 21(2), and 30(1)(aaa)	70
	<u>8A</u>	<u>Determinations under section 18B(2)(c)</u>	<u>71</u>
	9	Information sharing	71
	10	Applications for declaration made under section <del>67</del> <u>68</u> before commencement date to be determined under previous provisions	71
	11	When custody order ceases to have effect	71

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

12	Agreements for extended care of severely disabled children and young persons and agreements with persons providing residential disability care	71
13	Youth justice principles	72
14	Review of detention of young persons in residence or Police custody	72
15	Consideration of restorative justice actions by Family Group Conferences	72
16	Factors to be taken into account on sentencing	72
17	Moving to independence	73
<u>18</u>	<u>References to Children, Young Persons, and Their Families Act 1989</u>	<u>73</u>
122A	Schedule 1 amended	73
123	New Schedule 1A inserted	73

**Part 2  
Amendments to other Acts**

Subpart 1—Amendments to Criminal Procedure Act 2011

<del>124</del>	<del>Principal Act</del>	<del>73</del>
<u>124</u>	<u>Amendments to Criminal Procedure Act 2011</u>	<u>73</u>
125	Section 174 amended (Remand of defendant under 17 years for assessment report)	73
126	Section 175 amended (Remand of defendants aged 17 to 20 years)	74
126A	New section 380A inserted (Transfer of proceedings commenced in Youth Court back to Youth Court in certain circumstances)	74
	380A Transfer of proceedings commenced in Youth Court back to Youth Court in certain circumstances	74

Subpart 2—Amendment to Income Tax Act 2007

<del>127</del>	<del>Principal Act</del>	<del>74</del>
<u>127</u>	<u>Amendments to Income Tax Act 2007</u>	<u>74</u>
128	Section CW 33 amended (Allowances and benefits)	74

Subpart 3—Amendment to Social Security Act 1964

<del>129</del>	<del>Principal Act</del>	<del>75</del>
<u>129</u>	<u>Amendments to Social Security Act 1964</u>	<u>75</u>
130	Section 3 amended (Interpretation)	75

Subpart 4—Amendments to Vulnerable Children Act 2014

131	Principal Act	75
132	Section 8 amended (Preparation of vulnerable children’s plan)	75
133	Section 9 amended (Content of vulnerable children’s plan)	75
134	Section 11 amended (Effect of vulnerable children’s plan)	76
135	Section 15 amended (Interpretation)	76
136	Section 23 amended (Interpretation)	76
<u>136A</u>	<u>Schedule 1 amended</u>	<u>76</u>

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

137	Schedule 2 amended	76
	Subpart 5—Amendments to Acts and legislative instruments	
138	Consequential amendments to Acts and legislative instruments	76
139	Repeal of and amendments to enactments	77
	<b>Schedule 1</b>	78
	<b>Amendments to principal Act to replace gendered references with gender-neutral references</b>	
	<b>Schedule 2</b>	82
	<b>New Schedule 1A inserted</b>	
	<b>Schedule 3</b>	91
	<b>Consequential amendments to other enactments</b>	
	<b>Schedule 4</b>	94
	<b>Amendments to enactments</b>	

**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act **2016**.

**2 Commencement**

- (1) **Sections ~~3A3~~ to 3C, 4(1A) and (1B), ~~20(6), 21(2), 26, 49(4), 66A, 71(3), 79(2), 111, 119, 121, 121A, 122, 122A, 127, 128, and 131 to 138, 139~~ and Schedules ~~1 and 31, 3, and 4~~** come into force on the day after the date on which this Act receives the Royal assent.
- (2) The rest of this Act comes into force on a date appointed by Order in Council, and 1 or more Orders in Council may be made bringing different provisions into force on different dates.
- (3) Any provisions of this Act that have not earlier been brought into force come into force on **1 July 2019**.

**Part 1**

**Amendments to Children, Young Persons, and Their Families Act  
1989**

**3 Principal Act**

This Part amends the Children, Young Persons, and Their Families Act 1989 (the **principal Act**).

**3A Long Title repealed**

Repeal the Long Title.

**3B Name of principal Act changed**

As from the commencement of this section, the Children, Young Persons, and Their Families Act 1989 is to be called—

- (a) the Oranga Tamariki Act 1989; or
- (b) the Children’s and Young People’s Well-being Act 1989.

**3C Section 1 amended (Short Title and commencement)**

- (1) In the heading to section 1, delete “**Short**”.
- (2) Replace section 1(1) with:

(1) This Act may be cited as—

- (a) the Oranga Tamariki Act 1989; or
- (b) the Children’s and Young People’s Well-being Act 1989.

**4 Section 2 amended (Interpretation)**

- (1) In section 2(1), insert in their appropriate alphabetical order:

**care or protection order** means 1 or more of the following:

- (aa) an interim custody order described in section 78(1) or **(1A)**:
- (a) an order described in section 83(1)(a):
- (b) an order described in section 83(1)(b):
- (c) an order described in section 83(1)(c):
- (d) a services order under section 86:
- (da) an interim services order under section 86A:
- (e) a restraining order under section 87:
- (ea) an interim restraining order under section 88:
- (f) a support order under section 91:
- (fa) an interim support order under section 92:
- (g) a custody order under section 101:
- (h) an order under section 110 appointing a guardian of a child or young person:
- (i) an interim guardianship order under **section 110AA**

**child welfare and protection agency** means—

- (a) the department:
- (b) the Department of Corrections:
- (c) the Ministry of Health:
- (d) the Ministry of Social Development:
- (e) the Ministry of Education:

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

- (f) the Ministry of Justice:
- (g) the New Zealand Police:
- (h) Housing New Zealand Corporation:
- (i) every registered community housing provider (as defined in section 2(1) of the Housing Restructuring and Tenancy Matters Act 1992):
- (j) every DHB:
- (k) every school board (as defined in section 15(1) of the Vulnerable Children Act 2014):
- (l) every early childhood service (as defined in section 309 of the Education Act 1989):
- (m) any person, body, or organisation that provides regulated services (as specified in Schedule 1 of the Vulnerable Children Act 2014):
- (n) any organisation or class of organisation designated as a child welfare and protection agency by regulations made under **section 447(ga)(i)**

**delegate** includes a subdelegate

**DHB** means an organisation established as a DHB (that is to say, as a district health board) by or under section 19 of the New Zealand Public Health and Disability Act 2000

**held**, in relation to information, includes—

- (a) deemed, for the purposes of the Official Information Act 1982, to be held (*see* section 2(4) and (5) of that Act):
- (b) held by officers or employees or members of organisations or entities that are not subject to the Official Information Act 1982

**independent person** means—

- (a) a practitioner registered under the Health Practitioners Competence Assurance Act 2003 who provides health or disability support services:
- (b) a children’s worker (as defined in section 23(1) of the Vulnerable Children Act 2014):
- (c) a person or class of persons designated as an independent person by regulations made under **section 447(ga)(ii)**

**iwi authority** means the authority that represents an iwi and that is recognised by the iwi as having authority to do so

**mana tamaiti (tamariki)** means the intrinsic value and inherent dignity derived from a child’s or young person’s whakapapa (genealogy) and their belonging to a whānau, hapū, iwi, or family group, in accordance with tikanga Māori or its equivalent in the culture of the child or young person

**tikanga Māori** means Māori customary law and practices

**UNCROC** means the United Nations Convention on the Rights of the Child

**well-being**, in relation to a child or young person, includes the welfare of that person

**whakapapa**, in relation to a person, means the multi-generational kinship relationships that help to describe who the person is in terms of their mātua (parents), and tūpuna (ancestors), from whom they descend

**whanaungatanga**, in relation to a person, means—

- (a) the purposeful carrying out of responsibilities based on obligations to whakapapa:
- (b) the kinship that provides the foundations for reciprocal obligations and responsibilities to be met:
- (c) the wider kinship ties that need to be protected and maintained to ensure the maintenance and protection of their sense of belonging, identity, and connection

**youth justice residence** has the same meaning as in section 365(4).

- (1A) In section 2(1), replace the definition of **child** with:

**child** means a person under the age of 14 years

- (1B) In section 2(1), definition of **young person**, delete repeal paragraph (e).

- (2) In section 2(1), replace the definition of **young person** with:

**young person** means a person of or over the age of 14 years but under 18 years and also has an extended meaning that includes some young adults for certain purposes under **section 386AAA**

- (3) In section 2(1), replace the definition of **youth advocate** with:

**youth advocate** means a barrister or solicitor appointed under **section 248A** or 323 to represent a child or young person

- (4) In section 2(2)(c) and (d), replace “18 years” with “19 years”.

## 5 Part 1 heading amended

In the Part 1 heading, replace “**General objects,**” with “**Purposes,**”.

## 6 Section 4 and cross-heading replaced

Replace section 4 and the cross-heading above section 4 with:

### *Purposes*

#### 4 Purposes

- (1) The purposes of this Act are to promote the well-being of children, young persons, and their families, whānau, hapū, iwi, and family groups by—
- (a) establishing, promoting, or co-ordinating services that—
    - (i) are designed to affirm mana tamaiti (tamariki), are centred on children’s and young persons’ rights, promote their best interests,

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

- advance their well-being, address their needs, and provide for their participation in decision making that affects them:
- (ii) advance positive long-term health, educational, social, economic, or other outcomes for children and young persons:
  - (iii) are culturally appropriate and competently provided:
- (b) supporting and protecting children and young persons to—
- (i) prevent them from suffering ~~or the risk of suffering~~ harm (including harm to their development and well-being), abuse, neglect, ill treatment, or deprivation or by responding to those things; or
  - (ii) prevent offending or reoffending or respond to offending or reoffending:
- (c) assisting families, whānau, hapū, iwi, and family groups to—
- (i) prevent their children and young persons from suffering ~~or the risk of suffering~~ harm, abuse, neglect, ill treatment, or deprivation or by responding to those things; or
  - (ii) prevent their children or young persons from offending or reoffending or respond to offending or reoffending:
- (d) assisting families and whānau, hapū, iwi, and family groups, at the earliest opportunity, to fulfil their responsibility to meet the needs of their children and young persons (including their developmental needs, and the need for a safe, stable, and loving home):
- (e) ensuring that, where children and young persons require care under the Act, they have—
- (i) a safe, stable, and loving home from the earliest opportunity; and
  - (ii) support to address their needs:
- (f) providing a practical commitment to the principles of the Treaty of Waitangi (te Tiriti o Waitangi) in the way described in this Act:
- (g) recognising mana tamaiti (tamariki), whakapapa, and the practice of whanaungatanga for children and young persons who come to the attention of the department:
- (h) maintaining and strengthening the relationship between children and young persons who come to the attention of the department and their—
- (i) family, whānau, hapū, iwi, and family group; and
  - (ii) siblings:
- (i) responding to alleged offending and offending by children and young persons in a way that—
- (i) promotes their rights and best interests and acknowledges their needs; and
  - (ii) prevents or reduces offending or future offending; and

- (iii) recognises the rights and interests of victims; and
  - (iv) holds the children and young persons accountable and encourages them to accept responsibility for their behaviour:
  - (j) assisting young persons who are or have been in care or custody under the Act to successfully transition to adulthood in the ways provided in the Act.
- (2) In **subsection (1)(c) and (d), assisting**, in relation to any person or groups of persons, includes developing the capability of those persons or groups to themselves do the things for which assistance is being provided.
- Compare: 1974 No 72 s 3

**7 New section 4A inserted (Well-being and best interests of child or young person)**

After section 4, insert:

**4A Well-being and best interests of child or young person**

- (1) In all matters relating to the administration or application of this Act (other than Parts 4 and 5 and sections 351 to 360), the well-being and best interests of the child or young person are the first and paramount consideration, having regard to the principles set out in sections **5** and 13.
- (2) In all matters relating to the administration or application of Parts 4 and 5 and sections 351 to 360, the 4 primary considerations, having regard to the principles set out in sections **5** and 208, are—
  - (a) the well-being and best interests of the child or young person; and
  - (b) the public interest (which includes public safety); and
  - (c) the interests of any victim; and
  - (d) the accountability of the child or young person for their behaviour.

Compare: 1989 No 24 s 6

**8 Section 5 replaced (Principles to be applied in exercise of powers conferred by this Act)**

Replace section 5 with:

**5 Principles to be applied in exercise of powers under this Act**

- (1) Any court that, or person who, exercises any power under this Act must be guided by the following principles:
  - (a) a child or young person must be encouraged and assisted, wherever practicable, to participate in and express their views about any proceeding, process, or decision affecting them, and their views should be taken into account:

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Part 1 cl 8

- (b) the well-being of a child or young person must be at the centre of decision making that affects that child or young person, and, in particular,—
  - (i) the child’s or young person’s rights (including those rights set out in UNCROC and the United Nations Convention on the Rights of Persons with Disabilities) must be respected and upheld, and the child or young person must be—
    - (A) treated with dignity and respect at all times:
    - (B) protected from harm:
  - (ii) the impact of harm on the child or young person and the steps to be taken to enable their recovery should be addressed:
  - (iii) the child’s or young person’s need for a safe, stable, and loving home should be addressed:
  - (iv) mana tamaiti (tamariki) and the child’s or young person’s well-being should be protected by recognising their whakapapa and the whanaungatanga responsibilities of their family, whānau, hapū, iwi, and family group:
  - (v) decisions should be made and implemented promptly and in a time frame appropriate to the age and development of the child or young person:
  - (vi) a holistic approach should be taken that sees the child or young person as a whole person which includes, but is not limited to, the child’s or young person’s—
    - (A) developmental potential; and
    - (B) educational and health needs; and
    - (C) whakapapa; and
    - (D) cultural identity; and
    - (E) gender identity; and
    - (F) sexual orientation; and
    - (G) disability (if any); and
    - (H) age:
  - (vii) endeavours should be made to obtain, to the extent consistent with the age and development of the child or young person, the support of that child or young person for the exercise or proposed exercise, in relation to that child or young person, of any power conferred by or under this Act:
  - (viii) decisions about a child or young person with a disability—
    - (A) should be made having particular regard to the child’s or young person’s experience of disability and any difficulties

- or discrimination that may be encountered by the child or young person because of that disability; and
- (B) should support the child's or young person's full and effective participation in society:
- (c) the child's or young person's place within their family, whānau, hapū, iwi, and family group should be recognised, and, in particular, it should be recognised that—
- (i) the primary responsibility for caring for and nurturing the well-being and development of the child or young person lies with their family, whānau, hapū, iwi, and family group:
  - (ii) the effect of the any decision on the child's or young person's relationship with their family, whānau, hapū, iwi, and family group and their links to whakapapa should be considered:
  - (iii) the child's or young person's sense of belonging, whakapapa, and the whanaungatanga responsibilities of their family, whānau, hapū, iwi, and family group should be recognised and respected:
  - (iv) wherever possible, the relationship between the child or young person and their family, whānau, hapū, iwi, and family group should be maintained and strengthened:
  - (v) wherever possible, a child's or young person's family, whānau, hapū, iwi, and family group should participate in decisions, and regard should be had to their views:
  - (vi) endeavours should be made to obtain the support of the parents, guardians, or other persons having the care of the child or young person for the exercise or proposed exercise, in relation to that child or young person, of any power conferred by or under this Act:
- (d) the child's or young person's place within their community should be recognised, and, in particular,—
- (i) how a decision affects the stability of a child or young person (including the stability of their education and the stability of their connections to community and other contacts), and the impact of disruption on this stability should be considered:
  - (ii) networks of, and supports for, the child or young person and their family, whānau, hapū, iwi, and family group that are in place before the power is to be exercised should be acknowledged and, where practicable, utilised.
- (2) **Subsection (1)** is subject to **section 4A**.
- Compare: 1974 No 72 ss 4A–4C; 1983 No 129 s 3

**10 Section 6 repealed (Welfare and interests of child or young person paramount)**

Repeal section 6.

**11 Section 7 amended (Duties of chief executive)**

(1AA) In section 7(1)(a), replace “objects” with “purposes”.

(1AB) In section 7(1)(b), replace “objects” with “purposes”.

(1) In section 7(1)(b), replace “sections 5 and 6” with “**sections 4A and 5**”.

(2) Replace section 7(2)(b)(i) with:

- (i) the establishment of services (including social work services, family support services, and community-based services) designed to improve the well-being of and long-term outcomes for children and young persons; and

(3) After section 7(2)(b), insert:

(bab) ensure, where practicable, that any services funded by the department to reduce the impact of early risk factors for future involvement in the care, protection, or youth justice systems under this Act are co-ordinated with other government-funded activities for improving outcomes for children, young persons, and families, or reducing the impact of those early risk factors so that those services and activities—

- (i) are unified under a shared strategy and set of outcomes with respect to children and young persons with those early risk factors; and
- (ii) adopt a common approach to evaluating the set of outcomes sought and, where possible, determining the return on investment by the Government in those services and activities; and
- (iii) are available to meet the needs of children and young persons of different ages and at different developmental stages, and include processes to support children and young persons to move between services and activities as they get older and develop.

(bac) comply with regulations (relating to standards of care) made under **section 447(fa)**:

(bad) establish, amend, or replace, after consulting the State Services Commissioner, 1 or more complaints mechanisms to enable children and young persons, their parents, whānau, families, and caregivers—

- (i) to complain about actions or omissions under this Act or regulations made under this Act in relation to those children and young persons by the chief executive, the chief executive’s delegates, and employees of the department; and
- (ii) to receive responses to those complaints that are—

- (A) timely and fair; and
  - (B) centred on the child or young person:
- (bae) ensure that the policies and services provided by the department are informed by the outcomes of cases considered by the complaints process and the reviews of those outcomes undertaken in accordance with regulations made under **section 447(fb)**:
- (baf) develop and publish policies and practice standards in relation to the chief executive’s role in—
- (i) managing, and participating in, family group conferences; and
  - (ii) giving effect to the conferences’ outcomes:
- (bag) publish information, in any form or medium that the chief executive considers will be accessible to children and young persons in the care or custody of the chief executive and their parents, whānau, families, and caregivers, summarising—
- (i) the rights of children and young persons in the care or custody of the chief executive; and
  - (ii) the standard of care they should expect from the department under this Act or regulations made under this Act:
- (4) In section 7(4)(b), replace “section 173 or 174” with “section 173, 174, or **175(1A)(a)**”.
- (5) After section 7(4), insert:
- (5) To avoid doubt, a summary of rights published under **subsection (2)(bag)**, cannot create new rights or detract from existing rights.
- (6) In ~~**section 7(2)(bad)**~~section 7(2)(bad) and (bb),—  
**caregiver** includes a caregiver within the meaning given in **section 386AAA**  
**young person** includes a young person within the meaning given in **section 386AAA**.

**12 New section 7AA inserted (Duties of chief executive in relation to Treaty of Waitangi (Tiriti o Waitangi))**

After section 7, insert:

**7AA Duties of chief executive in relation to Treaty of Waitangi (Tiriti o Waitangi)**

- (1) The duties of the chief executive set out in **subsection (2)** are imposed in order to recognise and provide a practical commitment to the principles of the Treaty of Waitangi (te Tiriti o Waitangi).
- (2) The chief executive must ensure that—
  - (a) the policies and practices of the department that impact on the well-being of children have the objective of reducing disparities by setting

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Part 1 cl 12A

- measurable outcomes for Māori children and young persons who come to the attention of the department:
- (b) the policies, practices, and services of the department have regard to mana tamaiti (tamariki) and the whakapapa of Māori children and young persons and the whanaungatanga responsibilities of their whānau, hapū, and iwi:
  - (c) the department seeks to develop strategic partnerships with iwi and Māori organisations, including iwi authorities, in order to—
    - (i) provide opportunities to, and invite innovative proposals from, those organisations to improve outcomes for Māori children, young persons, and their whānau who come to the attention of the department:
    - (ii) set expectations and targets to improve outcomes for Māori children and young persons who come to the attention of the department:
    - (iii) enable the robust, regular, and genuine exchange of information between the department and those organisations:
    - (iv) provide opportunities for the chief executive to delegate functions under this Act or regulations made under this Act to appropriately qualified people within those organisations:
    - (v) provide, and regularly review, guidance to persons discharging functions under this Act to support cultural competency as a best-practice feature of the department’s workforce:
    - (vi) agree on any action both or all parties consider is appropriate.
- (2A) One or more iwi or Māori organisations may invite the chief executive to enter into a strategic partnership.
- (2B) The chief executive must consider and respond to any invitation.
- (3) The chief executive must report to the public at least once a year on the measures taken by the chief executive to carry out the duties in **subsections (2) and (2B)**, including the impact of those measures in improving outcomes for Māori children and young persons who come to the attention of the department under this Act and the steps to be taken in the immediate future.
- (4) A copy of each report under **subsection (3)** must be published on an Internet site maintained by the department.

**12A Section 11 amended (Child’s or young person’s participation and views)**

- (1) After section 11(2)(a), insert:
- (aa) except where section 10 (relating to proceedings) applies, the child or young person must be given reasonable assistance to understand the reasons for the proceedings or process, the options available to the decision-maker, and how these options could affect them:

- (2) Replace section 11(2)(d) with:
- (d) any views that the child or young person expresses (either directly or through a representative) must be taken into account; and
  - (e) any written decision must set out the child’s or young person’s views and, if those views were not followed, include the reasons for not doing so; and
  - (f) the decision, the reasons for it, and how it will affect them must be explained to the child or young person.
- (3) After section 11(3), insert:
- ~~(3A) The persons listed in subsection (3) must perform the duty imposed by **subsection (2)(f)**.~~
- (3A) In any proceeding or process,—
- (a) the persons listed in subsection (3)(a) to (d) must perform the duty imposed by **subsection (2)(d)**; and
  - (b) decision makers must perform the duty imposed by **subsection (2)(e)**; and
  - (c) decision makers must perform the duty imposed by **subsection (2)(f)** or, within a reasonable period following the making of a decision, satisfy themselves that the duty has been performed by another person.
- (4) In section 11(6), replace “section 5(d)” with “**section 5(1)(a)**”.
- (5) After section 11(7), insert:
- (8) A person who complies with **section 66I** must be treated as having complied with this section.

### **13 Section 13 amended (Principles)**

- (1AA) In section 13(1), replace “welfare and interests” with “well-being and best interests”.
- (1) In section 13(1), replace “section 6” with “**section 4A(1)**”.
- (2) Replace section 13(2) with:
- (2) In determining the well-being and best interests of the child or young person, the court or person must be guided by, in addition to the principles in **section 5**, the following principles:
- (a) it is desirable to provide early support and services to—
    - (i) improve the safety and well-being of a child or young person at risk of harm:
    - (ii) reduce the risk of future harm to that child or young person, including the risk of offending or reoffending:
    - (iii) reduce the risk that a parent may be unable or unwilling to care for the child or young person:

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

- (b) as a consequence of applying the principle in **paragraph (a)** any support or services provided under this Act in relation to the child or young person—
- (i) should strengthen and support the child’s or young person’s family, whānau, hapū, iwi, and family group to enable them to—
    - (A) care for the child or young person or any other or future child or young person of that family or whānau; and
    - (B) nurture the well-being and development of that child or young person; and
    - (C) reduce the likelihood of future harm to that child or young person or offending or reoffending by them:
  - (ii) should recognise and promote mana tamaiti (tamariki) and the whakapapa of the child or young person and relevant whanaungatanga rights and responsibilities of their family, whānau, hapū, iwi, and family group:
  - (iii) should, wherever possible, be undertaken on a consensual basis and in collaboration with those involved, including the child or young person:
- (c) if a child or young person is considered to be in need of care or protection on the ground specified in **section 14(1)(e)**, the principle in **section 208(2)(g)**:
- (d) a power under this Part that can be exercised without the consent of the persons concerned is to be exercised only to the extent necessary to protect a child or young person from harm or likely harm:
- (e) assistance and support should be provided, unless it is impracticable or unreasonable to do so, to assist families, whānau, hapū, iwi, and family groups where—
- (i) there is a risk that a child or young person may be removed from their care; and
  - (ii) in the other circumstances where the child or young person is, or is likely to be, in need of care and protection (for example, where a family group conference plan provides for assistance to be given to a child or parent to address a behavioural issue that may lead, or has led, to the child’s removal from the family):
- (f) if a child or young person is identified by the department as being at risk of removal from the care of the members of their family, whānau, hapū, iwi, or family group who are the child’s or young person’s usual caregivers, planning for the child’s or young person’s long-term stability and continuity of living arrangements should—
- (i) commence early; and

- (ii) include steps to make an alternative care arrangement for the child or young person, should it be required:
- (g) a child or young person should be removed from the care of the member or members of the child's or young person's family, whānau, hapū, iwi, or family group who are the child's or young person's usual caregivers only if there is a serious risk of harm to the child or young person:
- (h) if a child or young person is removed in circumstances described in **paragraph (g)**, the child or young person should, wherever that is possible and consistent with the child's or young person's best interests, be returned to those members of the child's or young person's family, whānau, hapū, iwi, or family group who are the child's or young person's usual caregivers:
- (i) if a child or young person is removed ~~from their home~~ in circumstances described in **paragraph (g)**, decisions about placement should—
  - (i) be consistent with the principles set out in **sections 4A(1) and 5**:
  - (ii) address the needs of the child or young person; and
  - (iii) be guided by the following:
    - (A) preference should be given to placing the child or young person with a member of the child's or young person's wider family, whānau, hapū, iwi, or family group who is able to meet their needs, including for a safe, stable, and loving home:
    - (B) it is desirable for a child or young person to live with a family, or if that is not possible, in a family-like setting:
    - (C) the importance of mana tamaiti (tamariki), whakapapa, and whanaungatanga should be recognised and promoted:
    - (D) where practicable, a child or young person should be placed with the child's or young person's siblings:
    - (E) a child or young person should be placed where the child or young person can develop a sense of belonging and attachment:
- (j) a child or young person who is in the care or custody of the chief executive ~~or under the control of an approved person or a body or an organisation under section 362~~ approved under section 396 should receive special protection and assistance designed to—
  - (i) address their particular needs, including—
    - (A) ~~their~~ needs for physical and health care; and
    - (B) emotional care that contributes to their positive self-regard; and

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Part 1 cl 14

- (C) ~~their~~ identity needs; and
- (D) material needs relating to education, recreation, and general living:
- (ii) preserve the child's or young person's connections with the child's or young person's—
  - (A) siblings, family, whānau, hapū, iwi, and family group; and
  - (B) wider contacts:
- (iii) respect and honour, on an ongoing basis, the importance of the child's or young person's whakapapa and the whanaungatanga responsibilities of the child's or young person's family, whānau, hapū, iwi, and family group:
- (iv) support the child or young person to achieve their aspirations and developmental potential:
- (k) if a child or young person is placed with a caregiver under section 362, the chief executive, or, if applicable, a body or an organisation approved under section 396, should support the caregiver in order to enable the provision of the protection and assistance described in **paragraph (j)**.

**14 Section 14 replaced (Definition of child or young person in need of care or protection)**

Replace section 14 with:

**14 Definition of child or young person in need of care or protection**

- (1) A child or young person is **in need of care or protection** if—
- (a) the child or young person is suffering, or is likely to suffer, serious harm—
    - (i) in the circumstances described in **section 14AA(1)**; or
    - (ii) having regard to the circumstances described in **section 14AA(2)**; or
  - (b) the parents or guardians or the persons who have the care of the child or young person are unable to care for the child or young person; or
  - (c) the child is a subsequent child of a parent to whom section 18A applies and the parent has not demonstrated to the satisfaction of the chief executive (under section 18A) or the court (under section 18A(4)(a) or 18C) that the parent meets the requirements of section 18A(3); or
  - (d) the child or young person has behaved, or is behaving, in a manner that—
    - (i) is or is likely to be, harmful to the physical or mental or emotional well-being of the child or young person or to others; and

- (ii) the child's or young person's parents, or the persons having the care of the child or young person are unable or unwilling to control; or
  - (e) in the case of a child of or over the age of 10 years and under the age of 14 years, the child has committed an offence or offences of sufficient number, nature, or magnitude to cause serious concern for the well-being of the child.
- (2) **Subsection (1)(a)** must be applied in conjunction with **section 14AA** (which describes the circumstances in which a child or young person is suffering, or is likely to suffer, serious harm).
- Compare: 1974 No 72 s 27(2); 1977 No 126 s 7(1)

**14AA Circumstances in which child or young person is suffering, or is likely to suffer, serious harm**

- (1) For the purposes of **section 14(1)(a)(i)**, a child or young person is suffering, or is likely to suffer, **serious harm** if—
- (a) the child or young person is being, or is likely to be, abused (whether physically, emotionally, or sexually), deprived, ill-treated, or neglected; or
  - (b) the parents or guardians or other persons who have the care of the child or young person are unwilling to care for, or have abandoned, them.
- (2) For the purposes of **section 14(1)(a)(ii)**, other circumstances that may constitute **serious harm**, or establish the likelihood of **serious harm**, include—
- (a) a child's or young person's development or physical or mental or emotional well-being is being, or is likely to be, impaired or neglected, and that impairment or neglect is, or is likely to be, avoidable;
  - (b) the child or young person has been exposed to domestic violence (within the meaning of section 3 of the Domestic Violence Act 1995);
  - (c) serious differences exist between the child or young person and the parents or guardians or other persons who have the care of them;
  - (d) serious differences exist between a parent, guardian, or other person who has the care of the child or young person and any other parent, guardian, or other person who has the care of them.
- (3) For the purposes of applying **section 14(1)(a)** and **subsections (1) and (2)**, **serious harm** may occur (without limitation) as a result of—
- (a) an incident; or
  - (b) 2 or more incidents that taken on their own would not be serious enough to constitute serious harm, but the cumulative effect of which is serious enough to cause serious harm; or
  - (c) the co-existence of different circumstances.

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Part 1 cl 15

**15 Section 15 replaced (Reporting of ill-treatment or neglect of child or young person)**

Replace section 15 with:

**15 Reporting of concerns to chief executive or constable ~~or social worker~~**

Any person who believes that a child or young person has been, or is likely to be, harmed, ill-treated, abused, (whether physically, emotionally, or sexually), neglected, or deprived, or who has concerns about the well-being of a child or young person, may report the matter to ~~a constable or social worker~~ the chief executive or a constable.

**16 Section 16 amended (Protection of person reporting ill-treatment or neglect of child or young person)**

(1AA) Replace the section 16 heading with “**Providing information about safety or well-being of child or young person**”.

(1) In section 16, replace “pursuant to section 15” with “under this Part,”.

**17 Section 17 amended (Investigation of report of ill-treatment or neglect of child or young person)**

After section 17(2), insert:

(2A) If, after an investigation under subsection (1), a care and protection co-ordinator is not notified under subsection (2), the chief executive may, nevertheless,—

- (a) undertake a further assessment or provide services to the child or young person, their family, or other persons having the care of the child or young person; or
- (b) refer the child or young person, their family, or other persons having the care of the child or young person to other services provided by agencies or in the community; or
- (c) take no further action, if the investigation under subsection (1) discloses no identifiable risk of harm that could be dealt with under this Act or if appropriate action has already been taken.

**18 New section 18AAA inserted (Chief executive may make family group conference available in certain circumstances)**

After section 17, insert:

**18AAA Chief executive may make family group conference available in certain circumstances**

If the chief executive is not satisfied that a child or young person is in need of care or protection but believes that holding a family group conference would best assist in formulating a plan to help the child or young person, the chief

executive may refer the case to a care and protection co-ordinator, who must convene a family group conference under section 20.

**19 Section 18 amended (Referral of care or protection cases to care and protection co-ordinator or youth justice co-ordinator by social workers or constables)**

- (1) In section 18(1), replace “section 14(1)(ba) or (e)” with “**section 14(1)(c) or (e)**”.
- (2) In section 18(3), replace “declaration under section 67” with “care or protection order”.

**20 Section 18A amended (Assessment of parent of subsequent child)**

- (1) In section 18A(4)(a), replace “declaration under section 67 that the subsequent child is in need of care or protection on the grounds in section 14(1)(ba)” with “care or protection order because the subsequent child is in need of care or protection on the ground in **section 14(1)(c)**”.
- (2) In section 18A(4)(b), replace “under section 67” with “for a care or protection order”.
- (3) In section 18A(6), after “section 70 applies”, insert “, but a family group conference must be held before a care or protection order (other than an interim order) is made”.
- (4) In section 18A(7)(a)(ii), replace “declaration under section 67 that the child was in need of care or protection on the ground in section 14(1)(ba)” with “care or protection order because the child was in need of care or protection on the ground in **section 14(1)(c)**”.
- (6) Replace section 18A(7)(b) with:
  - (b) the parent was, before this section came into force, subject to an investigation carried out by a social worker under section 17 in relation to a child who would, at that time, have fallen within the definition of a subsequent child, and—
    - (i) the social worker did not at that time form the belief that the child was in need of care or protection on a ground in section 14(1)(a) or (b) (as in force at that time); or
    - (ii) a family group conference was held, the parent addressed the concerns raised to the satisfaction of the chief executive, and the parent subsequently maintained care of the child.

**21 Section 18B amended (Person described in this section)**

- (1) ~~In section 18B(2)(a), replace “declared under section 67” with “decided”.~~
- (1) Replace section 18B(2)(a) with:
  - (a) the court has declared under section 67 (as it read before the commencement of **section 39** of the Children, Young Persons, and Their Families

(Oranga Tamariki) Legislation Act 2017) or decided on an application made under section 68, or a family group conference has agreed, that the child is in need of care or protection on a specified ground.

- (2) In section 18B(2)(c), replace “prospect” with “possibility”.
- (3) After section 18B(3), insert:
- (4) In subsection (2)(a), **specified ground** means—
- (a) the ground set out in section 14(1)(a) and (b), as they read before the commencement of **section 14** of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017; or
- (b) in the case of a decision made on or after the commencement of **section 14** of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017,—
- (i) the ground set out in **section 14(1)(a)**, in the circumstances set out in **section 14AA(1)(a) and (2)(a)**;
- (ii) the ground set out in **section 14(1)(b)**, in the circumstances set out in **section 14AA(2)(a)**.

**22 Section 18C amended (Confirmation of decision not to apply for declaration under section 67)**

- (1) In the heading to section 18C, replace “**declaration under section 67**” with “**care or protection order**”.
- (2) In section 18C(2), replace “declaration under section 67” with “care or protection order”.
- (3) In section 18C(4)(a), replace “declaration under section 67” with “care or protection order”.

**23 Section 18D amended (Court declining to confirm decision)**

In section 18D(a), replace “declaration under section 67 made by the chief executive on the ground in section 14(1)(ba)” with “care or protection order made by the chief executive on the ground in **section 14(1)(c)**”.

**24 Section 19 amended (Referral of care or protection cases to care and protection co-ordinator by other persons or by court)**

- (1) In section 19(1)(a), replace “welfare” with “well-being”.
- (2) In section 19(1), replace “section 14(1)(ba)” with “**section 14(1)(c)**”.

**25 Section 21 amended (Care and protection co-ordinator to consult family, whanau, or family group on convening of family group conference)**

In section 21, insert as subsection (2):

- (2) **Subsection (1)(a)** does not apply if the family group conference is convened under **section 18AAA**.

**26 Section 22 amended (Persons entitled to attend family group conference)**

After section 22(1)(d), insert:

- (da) if the conference is convened under any other provision of this Part (or under section 207D(3), 207K(2), or 207Q(2)), the chief executive or the chief executive's delegate:

**27 Section 26 amended (Procedure of family group conference)**

In section 26(2), replace “Subject to section 5(f)” with “Subject to **section 5(1)(b)(v)**”.

**28 Section 28 amended (Functions of family group conference)**

- (1) In section 28(a), after “care or protection”, insert “or well-being”.
- (2) In section 28(b), after “care or protection”, insert “or is in need of assistance”.
- (3) In section 28(b), replace “necessary or desirable, having regard to the principles set out in sections 5, 6, and 13” with “necessary or desirable for the child's or young person's care, protection, needs, or well-being, having regard to the principles set out in sections **4A(1), 5**, and 13”.

**29 Section 29 amended (Family group conference may make decisions and recommendations and formulate plans)**

- (1) In section 29(1), after “care or protection”, insert “or well-being”.
- (2) In section 29(2), replace “sections 5, 6, and 13” with “sections **4A(1), 5**, and 13”.

**30 Section 30 amended (Care and protection co-ordinator to seek agreement to decisions, recommendations, and plans of family group conference)**

Before section 30(1)(a), insert:

- (aaa) if the conference was convened under **section 18AAA**,—
- (i) communicate that decision, recommendation, or plan to the chief executive and to every person who will be directly involved in its implementation; and
  - (ii) seek the agreement of the chief executive, and every other person, organisation, or body to whom that decision, recommendation, or plan is communicated under **subparagraph (i)**, to that decision, recommendation, or plan.

**31 Section 34 amended (Chief executive to give effect to decisions, recommendations, and plans of family group conference)**

In section 34(1), replace “sections 5, 6, and 13” with “sections **4A(1), 5**, and 13”.

**32 Section 35 amended (Police to comply with decisions, recommendations, and plans of family group conference)**

In section 35, replace “sections 5, 6, and 13” with “sections **4A(1), 5**, and 13”.

**33 Section 40 amended (Warrant to remove child or young person)**

In section 40(1), replace “declaration under section 67” with “care or protection order”.

**34 Section 46 amended (Powers of court where application made under section 44 or child or young person brought before court under section 45)**

In section 46(b), replace “declaration under section 67” with “care or protection order”.

**35 Section 48 amended (Unaccompanied children and young persons)**

In section 48(2)(b), replace “declaration under section 67” with “care or protection order”.

**36 Section 59 amended (Application for production of documents relevant to investigation of whether child or young person in need of care or protection)**

(1) In the heading to section 59, after “**protection**”, insert “**or assistance under section 17(2A)**”.

(2) In section 59(1)(a), after “section 14(1)(e)”, insert “or is in need of assistance under **section 17(2A)**”.

**37 Section 61 amended (Court may order document to be produced)**

In section 61(1), after “section 14(1)(e)”, insert “or is in need of assistance under **section 17(2A)**”.

**38 Section 66 replaced (Government departments may be required to supply information)**

Replace section 66 with:

*Information sharing*

**65A Purpose of information sharing and principle for information sharing decisions**

(1) The purpose of **sections 66 to 660** is to facilitate the gathering and sharing of information to achieve the purposes in **section 4(1)(a) to (i) (j)**.

(2) Persons carrying out functions under **sections 66 to 660** must have regard to the principle that (because the well-being and best interests of a child or young person are the first and paramount consideration) the well-being and best interests of any child or young person, in general, take precedence over any duty of confidentiality owed by any person in relation to—

- (a) the child or young person; or
- (b) any person who is a family member of that child or young person or in a domestic relationship with that child or young person (within the meaning of section 4 of the Domestic Violence Act 1995).

**66 Agencies to supply information**

- (1) Every agency (within the meaning of section 2(1) of the Privacy Act 1993, which includes a person) must, on request, supply to the chief executive, a care and protection co-ordinator, or a constable any information held by the agency that may relate to or affect the safety or well-being of a child or young person, if the information is—
  - (a) required to determine whether a child or young person is in need of care or protection or assistance under section 17(2) and **(2A)**; or
  - (b) required for the purposes of any proceedings under this Part (including a family group conference).
- (2) Despite **subsection (1)**, an agency may refuse to disclose any information that may be withheld on the grounds of legal professional privilege.
- (3) Information obtained under **subsection (1)**—
  - (a) must not be used for the purposes of investigating any offence; and
  - (b) is not admissible in any proceedings other than proceedings under this Part.

**66A Disclosure of information obtained under section 66**

- (1) The chief executive or a constable may disclose any information relating to a child or young person obtained under **section 66** to a child welfare and protection agency or an independent person if the chief executive or constable reasonably believes that providing the information will fulfil any of the following purposes:
  - (a) preventing or reducing the risk of a child or young person being subject to harm, ill-treatment, abuse, neglect, or deprivation:
  - (b) making or contributing to an assessment of risk or need in relation to a child or young person, or a class of children or young persons:
  - (c) making, contributing to, or monitoring any support plan for a child or young person where the plan relates to the activities and functions of the department:
  - (d) preparing, implementing, or reviewing any prevention plan or strategy issued by the department:
  - (e) arranging, providing, or reviewing services facilitated by the department for a child or young person, or their family or whānau:

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Part 1 cl 38

- (f) carrying out any function in relation to family group conferences, children or young persons in care, or other functions relating to care or protection under this Part.
- (2) **Section 66(3)** applies in respect of any information disclosed under this section as if it were disclosed under **section 66(1)**.
- (3) In this section, **in care** has the same meaning as in section 7(4)(b).

**66B Restrictions on disclosure of information under section 66A**

The chief executive or a constable may not disclose information to a child welfare and protection agency or an independent person under **section 66A** if—

- (a) the information was disclosed to the chief executive or constable in circumstances that would otherwise have put the person who disclosed the information in breach of the person's duty of confidence under the rules of the profession in which they practise; and
- (b) the chief executive or constable is aware, after making reasonable inquiries, that the disclosure would otherwise involve a breach of a duty of confidence of the kind referred to in **paragraph (a)** (whether as a result of being advised by the person disclosing the information or otherwise); and
- (c) the person to whom the information relates or their representative has not consented to the disclosure.

**66C Use and disclosure of personal information relating to child or young person or classes of children or young persons**

A child welfare and protection agency or an independent person that holds information relating to a child or young person or any class of children or young persons (including information contained in a dataset) may, irrespective of the purpose for which that information was collected,—

- (a) use that information for the purposes of—
  - (i) preventing or reducing the risk of a child or young person being subject to harm, ill-treatment, abuse, neglect, or deprivation; or
  - (ii) making or contributing to an assessment of risk or need in relation to a child or young person, or any class of children or young persons; or
  - (iii) making, contributing to, or monitoring any support plan for a child or young person, where the plan relates to the activities and functions of the department; or
  - (iv) preparing, implementing, or reviewing any prevention plan or strategy issued by the department; or

- (v) arranging, providing, or reviewing services facilitated by the department for a child or young person and their family or whānau; or
  - (vi) carrying out any function in relation to family group conferences, children or young persons in care, or other functions relating to care or protection under this Part; or
- (b) disclose (whether on request or on the agency's or independent person's own initiative) that information to another child welfare and protection agency or an independent person if the agency or independent person disclosing the information reasonably believes that disclosing the information will assist the agency or independent person receiving the information to carry out any of the purposes described in **paragraph (a)**.

**66D Public notification of information about combined datasets**

- (1) To avoid doubt, a child welfare and protection agency may use information relating to a child or young person to produce, link, or analyse datasets of information and produce combined datasets.
- (2) If a child welfare and protection agency links or analyses datasets or produces combined datasets from more than 1 source, it must notify, at least once a year, on an Internet site maintained by the agency, an independent person, or a class of independent persons,—
  - (a) the types of information used in the combined datasets:
  - (b) the sources of those types of information:
  - (c) the purpose or purposes served by creating or analysing the combined datasets:
  - (d) the privacy safeguards relating to the use of the combined datasets.

**66DA Application of sections 66E to 66H**

**Sections 66DB to 66H** do not apply until a Code for information sharing approved by the Minister under **section 66L(1)(a)** comes into force.

**66DB Definitions**

In **sections 66E to 66H**,—

**authorised child welfare and protection agency**, in relation to any of those provisions, means a child welfare and protection agency or a class of child welfare and protection agencies, authorised by the Code of information sharing to exercise powers or perform functions under the particular provision

**authorised independent person** means, in relation to any of those provisions, an independent person or a class of independent persons, authorised by the Code of information sharing to exercise powers or perform functions under the particular provision

**information relevant to the safety or well-being of a child or young person** includes information about—

- (a) a member of the family of that child or young person; or
- (b) any other person in a domestic relationship (as defined in section 2 of the Domestic Violence Act 1995) with that child or young person; or
- (c) any person who is likely to reside with the child or young person.

**66E Requests for information by authorised child welfare and protection agencies or authorised independent persons from other authorised child welfare and protection agencies or authorised independent persons**

An authorised child welfare and protection agency or an authorised independent person (the **requestor**) may request another authorised child welfare and protection agency or an authorised independent person (the **provider**) to disclose to the requestor any information that the provider holds ~~relating to that~~ information relevant to the safety or well-being of—

- (a) a particular child or young person and their family; or
- (b) a class of children or young persons and their families.

**66F Duty of child welfare and protection agency or independent person receiving request under section 66E**

An authorised child welfare and protection agency or an authorised independent person—

- (a) must comply with a request under **section 66E** if, after receiving sufficient information from the requestor to make a decision, the provider reasonably believes that the information will assist the requestor to fulfil any of the purposes set out in **section 66A(1)**; but
- (b) may decline the request if **section 66G** applies.

**66G When request under section 66E may be declined**

An authorised child welfare and protection agency or an authorised independent person may decline a request under **section 66E** if that agency or person—

- (a) is not satisfied that disclosure of the information will help to fulfil any of the purposes in **section 66A(1)**; or
- (b) reasonably believes that—
  - (i) disclosure is likely to increase the risk of the child or young person being subject to harm, ill-treatment, abuse, neglect, or deprivation, and that risk outweighs the benefits of disclosure; or
  - (ii) disclosure will prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right

to a fair trial, and that prejudice is likely to outweigh the benefits of disclosure; or

- (iii) disclosure will prejudice the conduct of proceedings before any court or tribunal (being proceedings that have been commenced or are reasonably in contemplation); or
- (iv) disclosure will breach legal professional privilege; or
- (v) disclosure will be contrary to the express wishes of the child or young person (expressed either directly or through their representative) and disclosure is not in the best interests of the child or young person.

#### **66H Reasons for declining request**

An authorised child welfare and protection agency or an authorised independent person who declines a request under **section 66E** must give the requestor notice of the decision to decline the request and the reasons for the decision.

#### **66I Consultation to be undertaken when information is requested or proposed to be disclosed under section 66C or ~~sections 66E to 66H~~ 66F**

If an authorised child welfare and protection agency or an authorised independent person proposes to disclose information under **section 66C** or ~~any of sections 66E to 66H~~ **66F**, the agency or person must, if it is practicable and appropriate to do so,—

- (a) inform the child or young person concerned, or their representative, about the proposed disclosure, including the purposes and likely recipients of any disclosure; and
- (b) provide the child or young person or their representative any reasonable assistance necessary to—
  - (i) understand the nature of the proposed disclosure; and
  - (ii) express their views about the proposed disclosure; and
  - (iii) understand the consequences of the decision that is taken in relation to the disclosure; and
- (c) take into account any view expressed about the proposed disclosure before deciding whether to disclose the information.

#### *Code of practice for information sharing*

#### **66J Purpose of Code for information sharing**

- (1) The purpose of a Code of Practice for Information Sharing (a **Code**) is to provide both guidance and direction to child welfare and protection agencies and independent persons about the application of the information sharing provisions in **sections 66 to 66I** and how disputes about the interpretation and application of those provisions should be resolved.

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Part 1 cl 38

- (2) Without limiting **subsection (1)**, a Code may—
- (a) authorise a child welfare and protection agency or a class of child welfare and protection agencies or an independent person or a class of independent persons to exercise 1 or more of the powers or carry out 1 or more of the functions set out in **sections 66E to 66H**;
  - (b) contain binding rules about the circumstances in which—
    - (i) the powers conferred by 1 or more of those sections can be exercised; and
    - (ii) the duties imposed by 1 or more of those sections must or may be carried out; and
  - (c) specify the conditions to which the exercise of those powers and carrying out of those functions is subject; and
  - (d) specify how disputes about the interpretation and application of those provisions are to be resolved.

**66K Consultation on draft Code by Minister**

- (1AA) As soon as practicable after the commencement of this section but before the Minister issues a draft Code, the Minister must consult the following persons about the content and form of the Code:
- (a) the Privacy Commissioner;
  - (b) the Children’s Commissioner;
  - (c) any organisations or individuals who the Minister is satisfied represent the interests of—
    - (i) child welfare and protection agencies; and
    - (ii) independent persons; and
    - (iii) different classes of child welfare and protection agencies and independent persons.
- (1) The Minister must, as soon as practicable after undertaking the consultation required by **subsection (1AA)**, make decisions on the form and content of the draft Code and arrange for it to be—
- (a) notified in the *Gazette*; and
  - (b) published on an Internet site maintained by the Government.
- (2) The notification of the draft Code must state—
- (a) that written submissions on the draft Code are invited from members of the public and interested organisations; and
  - (b) where copies of the draft Code may be obtained; and
  - (c) the closing date for submissions; and
  - (d) the address to which submissions are to be sent.

**66L Approval of draft Code by Minister**

- (1) After considering a summary of issues and concerns raised by submitters and making any amendments to the draft Code, the Minister must approve the Code.
- (2) The Code comes into force—
  - (a) on the date specified for that purpose in the Code, being a date after the date on which the Code is approved; or
  - (b) if no such date is specified, the day after the date on which the Code is approved.

**66M Application of Legislation Act 2012 to Code**

The Code is a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

**66N Amendments to Code**

- (1) The Code may be amended by the Minister approving 1 or more amendments to the Code.
- (2) **Sections 66K to 66M** apply, with all necessary modifications, in relation to an amendment to the Code as if the amendment were a draft Code.
- (3) However, **section 66K** does not apply to an amendment and it is unnecessary for the Minister to consider a summary of issues and concerns if—
  - (a) the amendment is a minor or technical amendment; and
  - (b) the Minister considers that compliance with **section 66K** is unnecessary.

**66O Relationship with other enactments**

- (1) **Sections 66 to 66N** do not—
  - (a) affect the Official Information Act 1982; or
  - (b) limit or prevent the collection, use, or disclosure of information that is—
    - (i) authorised or required under any other enactment; or
    - (ii) permitted under any other enactment.
- (2) The collection, storage, and use of information under **sections 66 to 66H** of this Act must comply with principles 1, 4, 5, 6, 7, 8, 9, and 12 of section 6 of the Privacy Act 1993.
- (3) **Sections 66 to 66N** do not limit principle 11 in section 6 of the Privacy Act 1993 (which permits certain disclosures in addition to those authorised under those sections).

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Part 1 cl 39

- (4) However, if there is any other inconsistency between **sections 66 to 66N** of this Act and any provisions of the Privacy Act 1993, **sections 66 to 66N** prevail.
- (5) Despite section 344(2) of the Education Act 1989, the chief executive of the Ministry of Education may use national student numbers to gather information for any of the purposes set out in **section 66A(1)**, and the information so gathered may be used for any of those purposes.

**39 Section 67 repealed (Grounds for declaration that child or young person is in need of care or protection)**

Repeal section 67.

**40 Section 68 amended (Application for declaration that child or young person is in need of care or protection)**

- (1) In the heading to section 68, replace “**declaration that child or young person is in need of care or protection**” with “**care or protection order**”.
- (2) In section 68, replace “declaration that a child or young person is in need of care or protection” with “care or protection order (as defined in section 2)”.

**41 Section 69 amended (Joint applications)**

In section 69, replace “declaration that a child or young person is in need of care or protection” with “care or protection order”.

**42 Section 70 amended (No application to be made unless family group conference has been held)**

- (1) In the heading to section 70, after “**application**”, insert “**for care or protection order**”.
- (2) In section 70(1), replace “declaration that a child or young person is in need of care or protection” with “care or protection order (other than an interim order)”.
- (2A) In section 70(2)(b), after “interim restraining order”, insert “or an interim guardianship order”.
- (3) In section 70(2)(c), replace “section 14(1)(g)” with “**section 14(1)(a)(i)** (in the circumstances referred to in **section 14AA(1)(b)**)”.
- (4) In section 70(3), replace “declaration under section 67” with “care or protection order (other than an interim order)”.

**43 Section 71 amended (Court may make declaration in absence of proof of responsibility for neglect or ill-treatment of child or young person)**

- (1) In the heading to section 71, replace “**declaration**” with “**care or protection order**”.

- 
- (2) In section 71(a), replace “declaration that a child or young person is in need of care or protection” with “care or protection order”.
- (3) In section 71(b), replace “for making the declaration” with “specified in **section 14(1)(a)(i) or (ii)** (in the circumstances referred to in **section 14AA(1)(a) or (2)(a)**)”.
- 44 Section 72 amended (Court not to make declaration unless family group conference held)**
- (1) In the heading to section 72, replace “**declaration**” with “**care or protection order**”.
- (2) In section 72(1), replace “declaration under section 67 that a child or young person is in need of care or protection” with “care or protection order (other than an interim order)”.
- (3) In section 72(3), replace “declaration under section 67” with “care or protection order (other than an interim order)”.
- 45 Section 73 amended (Court not to make declaration unless satisfied that child’s or young person’s need for care or protection cannot be met by other means)**
- (1) In the heading to section 73, replace “**declaration**” with “**care or protection order**”.
- (2) In section 73(1), replace “declaration under section 67 that a child or young person is in need of care or protection” with “care or protection order (other than an interim order)”.
- (3) In section 73(2), replace “declaration under section 67 that a child or young person is in need of care or protection on” with “care or protection order (other than an interim order) on the basis of”.
- (4) In section 73(2), replace “paragraph (a) or paragraph (b) of section 14(1)” with “**section 14(1)(a)(i) or (ii)** (in the circumstances referred to in **section 14AA(1)(a) or (2)(a)**)”.
- 46 Section 74 amended (Court may require parties to undergo counselling)**
- In section 74(1), replace “declaration under section 67” with “care or protection order”.
- 47 Section 78 amended (Custody of child or young person pending determination of proceedings)**
- (1) In the heading to section 78, after “**proceedings**”, insert “**or in urgent cases**”.
- (1A) In section 78(1), replace “an order” with “an interim order”.
- (2) After section 78(1), insert:
- (1A) Even if there are no other proceedings under this Part in relation to a child or a young person, the court may, on application by a person entitled to make an

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Part 1 cl 48

application under section 68 (the **applicant**) or a lawyer representing the child or young person, or on its own motion, if it is satisfied that **subsection (1B)** applies, make an interim custody order in relation to the child or young person.

- (1B) This subsection applies if—
- (a) it is in the best interests of the child or young person that an interim custody order be made as a matter of urgency; or
  - (b) it is in the public interest that an interim custody order be made in respect of a child or young person and the grounds on which the order is sought relate to offending or alleged offending by the child or young person.
- (3) In section 78(2)(c), replace “declaration under section 67” with “care or protection order”.
- (4) Replace section 78(2)(d) with:
- (d) if an application has been made for a care or protection order and the court has adjourned the proceedings pending their disposition:
- (5) After section 78(3), insert:
- (4) An order under **subsection (1A)** remains in force—
- (a) for the period specified in the order (not exceeding 28 days) unless it is earlier cancelled by the court on application by the applicant or a lawyer representing the child or young person or on its own motion under **subsection (1A)**; or
  - (b) until a later date (specified by the court in the order) that the court considers allows sufficient time for a family group conference to be held and, if necessary, an application for another care or protection order to be made.

**48 Cross-heading above section 83 replaced**

Replace the cross-heading above section 83 with:

*Care or protection orders*

**49 Section 83 amended (Orders of court on making of declaration)**

- (1) Replace the heading to section 83 with “**Care or protection orders**”.
- (2) In section 83(1), replace “Where the court makes a declaration under section 67 relating to a child or young person, it may do 1 or more of the following things:” with “If the court, on application made under section 68, is satisfied that a child or young person is in need of care or protection, the court may do 1 or more of the following things (irrespective of whether the thing or things were sought in the application):”.
- (3) After section 83(1), insert:

(1A) However, on an application under section 18A(4)(a) or 18D in relation to a person to whom section 18A applies, if the court is satisfied that the subsequent child is in need of care or protection on the ground in **section 14(1)(c)**, the court must make a care or protection order referred to in subsection (1), unless it is satisfied that the person has demonstrated that they meet the requirements of section 18A(3).

(4) After section 83(2), insert:

(2A) If the court makes an order under section 101 (other than an order to which section 102 applies) or an order under section 110 on a specified ground (as defined in **section 18B(4)**), the court may determine that there is no realistic possibility that the child or young person will be returned to the parent or guardian or person having the care of the child or young person before the care or protection order was made.

(2B) A determination under **subsection (2A)** may be made either—

(a) at the same time as the making of an order referred to in **subsection (2A)**; or

(b) on an application made at any subsequent time, in accordance with the relevant rules of court (if any), by a person who may make an application under section 68.

**50 Section 84 amended (Power to make other orders where declaration made on ground of child’s offending)**

(1) In the heading to section 84, replace “**where declaration made on ground of child’s offending**” with “**on ground of child’s offending**”.

(2) In section 84(1), replace “Where the court makes a declaration under section 67 in relation to a child, and the declaration is made” with “If, on an application under section 68, a court is satisfied that a child is in need of care or protection”.

**51 Section 86 amended (Services orders)**

(1) In section 86(1), replace “Where the court makes a declaration under section 67 in relation to a child or young person” with “If, on an application under section 68, the court is satisfied that a child or young person is in need of care or protection”.

(2) In section 86(3)(b), replace “sections 5, 6, and 13” with “sections **4A(1)**, **5**, and 13”.

**52 Section 86A amended (Interim services orders)**

In section 86A, replace “declaration under section 67 in relation to” with “care or protection order in respect of”.

**53 Section 87 amended (Restraining orders)**

In section 87(1), replace “Where the court makes a declaration under section 67 in relation to a child or young person” with “If, on an application under section 68, the court is satisfied that a child or young person is in need of care or protection”.

**54 Section 88 amended (Interim restraining orders)**

- (1) In section 88, replace “declaration under section 67 in relation to” with “care or protection order in respect of”.
- (2) In section 88, insert as subsections (2) to (4):
  - (2) Even if there are no other proceedings under this Part in relation to a child or young person, the court may, on application by a person entitled to make an application under section 68 (the **applicant**) or a lawyer representing the child or young person, or on its own motion, if it is satisfied that **subsection (3)** applies, make any order that it is empowered to make under section 87.
  - (3) This subsection applies if it is in the best interests of the child or young person that an interim restraining order be granted as a matter of urgency.
  - (4) An order under **subsection (2)** remains in force—
    - (a) for the period specified in the order (not exceeding 28 days), unless it is earlier cancelled by the court, on application by the applicant or a lawyer representing the child or young person or on its own motion under **subsection (2)**; or
    - (b) until a later date (specified by the court in the order) that the court considers allows sufficient time for a family group conference to be held and, if necessary, an application for another care or protection order to be made.

**55 Section 91 amended (Support orders)**

- (1) In section 91(1), replace “Where the court makes a declaration under section 67 in relation to a child or young person” with “If, on an application under section 68, the court is satisfied that a child or young person is in need of care or protection”.
- (2) In section 91(3)(b), replace “sections 5, 6, and 13” with “sections **4A(1), 5, and 13**”.

**56 Section 92 amended (Interim support orders)**

In section 92, replace “declaration under section 67” with “care or protection order”.

**57 Section 95 amended (Conditions of support order or interim support order)**

In section 95(1)(d), replace “in respect of whom a declaration is made” with “who the court is satisfied is in need of care or protection”.

**58 Section 96 amended (Power of court to impose additional conditions)**

- (1) In section 96(1)(a), replace “in respect of whom a declaration is made” with “who the court is satisfied, on an application made under section 68, is in need of care or protection”.
- (2) In section 96(1)(a)(iii), replace “in respect of whom a declaration is made” with “who the court is satisfied, on an application made under section 68, is in need of care or protection”.

**59 Section 101 amended (Custody orders)**

In section 101(1), replace “Where the court makes a declaration under section 67 in relation to a child or young person” with “If a court, on application under section 68, is satisfied that a child or young person is in need of care or protection”.

**60 Section 102 amended (Interim custody orders)**

In section 102(1), replace “makes a declaration under section 67” with “is satisfied that a child or young person is in need of care or protection”.

**61 Section 110 amended (Guardianship orders)**

In section 110(1), replace “makes a declaration under section 67 in relation to any child or young person” with “is satisfied that a child or young person is in need of care or protection”.

**62 New section 110AA inserted (Interim guardianship orders)**

After section 110, insert:

**110AA Interim guardianship orders**

- (1) In any proceedings in a court under this Part in relation to a child or young person, the court may, on the application of any party to the proceedings, or on its own motion, make an order that it is empowered to make under section 110 on an interim basis pending the determination of the proceedings.
- (2) An interim guardianship order may be made only if the immediate needs of the child or young person cannot be met without making the order.
- (3) An interim guardianship order must not continue in force for more than 6 months after the date on which it is made.
- (4) If an interim guardianship order is made, the court may, on application by any person who was the applicant in the proceedings in which the order was made, or any person on whom the application in those proceedings was served in ac-

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Part 1 cl 62A

- cordance with section 152, or the person in whose custody the child or young person was placed,—
- (a) make 1, but only 1, further interim guardianship order under this section; or
  - (b) make a final order under section 110; or
  - (c) make any other order referred to in section 83(1) or 84(1) that the court considers appropriate; or
  - (d) dismiss the application.
- (5) Even if there are no other proceedings under this Part in relation to a child or young person, the court may, on application by a person entitled to make an application under section 68 (the **applicant**) or a lawyer representing the child or young person, or on its own motion, if it is satisfied that **subsection (6)** applies, make an interim guardianship order.
- (6) This subsection applies if it is in the best interests of the child or young person that an interim guardianship order be made as a matter of urgency.
- (7) An order under **subsection (5)** remains in force—
- (a) for the period specified in the order (not exceeding 28 days) unless it is earlier cancelled by the court, on application by the applicant or a lawyer representing the child or young person or on its own motion under **subsection (5)**; or
  - (b) until a later date (specified by the court in the order) that the court considers allows sufficient time for a family group conference to be held and, if necessary, an application for another care or protection order to be made.

**62A Section 110A amended (Application for change of guardianship order)**

In section 110A(4)(a)(iii), replace “welfare” with “well-being”.

**63 Section 121 amended (Court may make orders for access and exercise of other rights by parents and other persons)**

(1AA) In section 121(2)(a), delete “pending the determination of the proceedings”.

- (1) In section 121(2)(c), replace “person,—” with “person; or”.
- (2) After section 121(2)(c), insert:

(ca) makes an interim guardianship order under **section 110AA**,—

**64 Section 125 amended (Application for variation or discharge of orders made under this Part)**

- (1) In section 125(1)(a), delete “pending the determination of the proceedings”.
- (2) In section 125(1)(g), after “section 110”, insert “or an interim guardianship order made under **section 110AA**”.

**64A Section 127 amended (Court may vary or discharge order)**

After section 127(2), insert:

- (2A) Despite subsections (1) and (2), the court may not, under either of those subsections, vary an interim order ~~(other than an interim custody order referred to in sections 101 and 102 or an interim guardianship order under **section 110AA(1)**)~~ to make it a final order unless the court decides that the child or young person is in need of care or protection.

**64B Section 128 amended (Court to obtain and consider plan for child or young person before making certain orders)**

(1) After section 128(2), insert:

- (2A) An applicant for an order may prepare a plan, that the court is required to obtain to make the order, and file it in accordance with **subsection (3A)** without a direction from the court.

(2) After section 128(3), insert:

- (3A) A plan prepared under subsection (1) or **(2A)** must be filed with the court not later than 10 working days before the date set for the hearing to determine whether an order specified in subsection (2) should be made.

**64C Section 129 amended (Court to direct who is to prepare plan)**

- (1) In section 129(1), replace “the plan shall be prepared by such person as the court directs” with “the plan must be prepared by the applicant for the order, or any other person that the court directs”.

(2) Replace section 129(1A)(a) with:

- (a) a person prepares a plan; and

**64D Section 130 amended (Content of plans)**

In section 130(1)(f), replace “welfare” with “well-being”.

**65 Section 131 amended (Adjournment for purposes of obtaining plan)**

Replace section 131(2) with:

- (2) If any proceedings are adjourned for the purposes of obtaining any plan under section 128, the person responsible for preparing the plan must make all reasonable endeavours to ensure that the plan is filed with the court at least 10 working days before the date set for the hearing.

**66 Section 132 amended (Access to plans)**

In section 132(2), replace “1 working day” with “5 working days”.

**66A Section 135 amended (Review of plan)**

After section 135(3)(e), insert—

- (f) contain the matters referred to in section 186(2A).

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Part 1 cl 68

---

**68 Sections 141 and 142 repealed**

Repeal sections 141 and 142.

**69 Section 143 amended (All parents or guardians not required to be party to agreement)**

In section 143, delete “or section 141 or section 142”.

**70 Section 144 amended (Agreement not to be made without consent of child or young person)**

- (1) In section 144(1), delete “or section 142”.
- (2) Repeal section 144(2).
- (3) In section 144(3), delete “or section 141 or section 142”.

**71 Section 145 amended (Agreement not to be made without approval of family group conference)**

- (1) In section 145(1), delete “or section 141 or section 142”.
- (2) Repeal section 145(1)(b) and (d)(ii).
- (3) In section 145(1)(d), after “a care and protection co-ordinator”, insert “(or if section 261 applies, a youth justice co-ordinator)”.
- (3A) In section 145(1)(d)(iii), replace “objects” with “purposes”.
- (3B) In section 145(1)(d)(iii), replace “sections 4, 5, 6, and 13” with “~~sections 4, 4A(1), 5, and 13~~”sections 4, 4A(1), 5, and 13”.
- (4) In section 145(2)(a), delete “or section 141 or section 142”.
- (5) Repeal section 145(2)(b).

**72 Section 146 amended (Form and terms of agreements)**

- (1) In section 146(1), delete “or section 141 or section 142”.
- (2) In section 146(2), delete “or section 141 or section 142”.

**73 Section 147 amended (Further restrictions on making of agreements)**

In section 147(2), delete “or section 141 or section 142”.

**74 Section 148 amended (Effect of agreements)**

In section 148, delete “or section 141 or section 142”.

**75 Section 149 amended (Agreement may provide for consent to medical treatment)**

In section 149, delete “or section 141 or section 142”.

**76 Section 152 amended (Service of application for declaration)**

(1AA) In the heading to section 152, replace “**declaration**” with “**care or protection order**”.

(1) In section 152(1), replace “declaration under section 67 that a child or young person is in need of care or protection” with “care or protection order”.

**77 Section 153 amended (Notice of application for declaration to be given to child or young person)**

(1AA) In the heading to section 153, replace “**declaration**” with “**care or protection order**”.

(1) In section 153, replace “declaration under section 67” with “care or protection order”.

**78 Section 154 amended (Service of application for variation or discharge of order)**

Replace section 154(1)(b) with:

(b) the applicant for a care or protection order in respect of which the order was made:

**79 Section 158 amended (Applications may be heard together)**

(1) In section 158, replace “declaration under section 67” with “care or protection order”.

(2) In section 158, insert as subsections (2) and (3):

(2) If the court, on hearing an application under section 125 for discharge of a care or protection order, together with an application for an order under section 48 of the Care of Children Act 2004, makes an order under section 48 of that Act the court may determine that there is no realistic possibility that the child or young person will be returned to the parent or guardian or other person having the care of the child or young person before the order was made.

(3) A determination under **subsection (2)** may be made—

(a) at the same time as the making of an order under section 48 of the Care of Children Act 2004; or

(b) on an application made at any subsequent time, in accordance with the relevant rules of court (if any), by a person who may make an application under section 68.

**80 Section 170 amended (Calling of mediation conference)**

In section 170(1), replace “declaration under section 67” with “care or protection order”.

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Part 1 cl 81

**81 Section 185 amended (Sections to have effect in place of sections 38 to 44 of Criminal Procedure (Mentally Impaired Persons) Act 2003)**

In section 185, replace “declaration under section 67” with “care or protection order”.

**82 Section 186 amended (Report by social worker)**

- (1) In section 186(1), replace “Where the court makes a declaration under section 67” with “If the court makes a care or protection order”.
- (2) In section 186(2), replace “the declaration under section 67” with “the care or protection order”.
- (3) In section 186(2A), replace “declaration under section 67” with “care or protection order”.
- (4) Replace section 186(2A)(a)(i) with:

- (i) set out the steps that the parent, guardian, or the other person must take, or the behavioural changes that the parent, guardian, or the other person must make, before the child or young person can be returned to the care of the parent, guardian, or the other person; and

**83 Section 187 amended (Cultural and community reports)**

In section 187(1), replace “declaration under section 67” with “care or protection order”.

**84 Section 198 amended (Special provisions applying to applications for declaration on ground of child’s offending)**

- (1) In the heading to section 198, replace “**declaration**” with “**care or protection order**”.
- (2) In section 198(1), replace “declaration under section 67” with “care or protection order”.

**85 Section 199 amended (Power of court to call witnesses)**

In section 199(1), replace “declaration under section 67” with “care or protection order”.

**86 Section 200 amended (Court to ensure that application for declaration that child or young person in need of care or protection dealt with promptly)**

- (1) Replace the heading to section 200 with “**Court to ensure that application for care or protection order dealt with promptly**”.
- (2) In section 200, replace “declaration under section 67” with “care or protection order”.

- 87 Section 205 amended (Preventing removal of child or young person from New Zealand)**  
In section 205(1)(a), replace “declaration under section 67” with “care or protection order”.
- 88 Section 206 amended (Offence to take child or young person out of New Zealand where proceedings pending)**  
In section 206(1), replace “declaration under section 67” with “care or protection order”.
- 88A Section 206B amended (Power to dismiss proceedings)**  
In section 206B(a), replace “welfare” with “well-being”.
- 89 Section 207E amended (Chief executive to have regard to certain matters)**  
In section 207E(a), replace “sections 5, 6, and 13” with “sections **4A(1)**, **5**, and 13”.
- 90 Section 207M amended (Court to have regard to certain matters)**  
In section 207M(a), replace “sections 5, 6, and 13” with “sections **4A(1)**, **5**, and 13”.
- 91 Section 207S amended (Court to have regard to certain matters)**  
In section 207S(d), replace “sections 5, 6, and 13” with “sections **4A(1)**, **5**, and 13”.
- 92 Section 208 amended (Principles)**  
(1AA) In section 208, insert as subsection (1):
- (1) A court or person exercising powers under this Part, Part 5, or sections 351 to 360 must weigh the 4 primary considerations described in **section 4A(2)**.
- (1) In section 208, replace “Subject to section 5, any court which, or person who, exercises any powers conferred by or under this Part or Part 5 or sections 351 to 360 shall be guided by the following principles:” with “When weighing those 4 primary considerations, the court or person must be guided by, in addition to the principles in **section 5**, the following principles:”.
- (1A) In section 208(a) to (h), delete “the principle”.
- (2) In section 208(b), delete “solely”.
- (3) In section 208(b), replace “welfare” with “well-being”.
- (4) In section 208(b), replace “whanau,” with “whānau, hapū,”.
- (5) In section 208(d), after “commits an offence”, insert “or is alleged to have committed an offence”.
- (6) After section 208(h), insert:

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Part 1 cl 92A

- (3) If a court or person is exercising a power for the purpose of resolving alleged offending or offending by a child or young person, the court or person must be guided by, in addition to the principles listed in **subsection (2)** and **section 5**, the following principles:
- (a) the principle that reasonable and practical measures or assistance should be taken or provided to support the child or young person to prevent or reduce offending or reoffending; and
  - (b) the principle that the child or young person should be referred to care, protection, or well-being services under this Act, if those services would be of benefit to them.
- (4) **Subsection (3)** does not apply to a Police employee unless the employee is employed as a specialist in resolving offending by children and young persons.

**92A New section 208A inserted (Child or young person subject to youth justice jurisdiction only until allegations of offending dealt with)**

After section 208, insert:

**208A Child or young person subject to youth justice jurisdiction only until allegations of offending dealt with**

Nothing in section **4A(2)**, **5**, or 208 requires or allows a court or person to make or keep a child or young person subject to any process under this Part, Part 5, or sections 351 to 360, unless the court or person is considering how allegations of offending are to be dealt with or is disposing of criminal proceedings.

**93 Section 238 amended (Custody of child or young person pending hearing)**

- (1) In section 238(1), after “young person”, insert “(who for the purpose of **paragraph (f)** is limited to a young person who is aged 17 years)”.
- (2) Replace section 238(1)(e) with:
- (e) subject to section 239(2), order that the young person (but cannot under this paragraph order that the child) be detained in Police custody; or
  - (f) subject to **section 239(2A)**, order that the young person (aged 17 years) be detained in a youth unit of a prison.

**94 Section 239 amended (Restrictions on power of court to order child or young person to be detained in custody)**

After section 239(2), insert:

- (2A) The court may make an order under **section 238(1)(f)** for the detention of a young person (aged 17 years) in a prison only if—
- (a) a joint application has been made by the chief executive and the chief executive of the Department of Corrections for the order; and

- (b) the court is satisfied that the order is necessary to ensure the safety of any young person (as defined in section 2(1)) who is in the custody of the chief executive; and
- (c) the court is satisfied that a youth unit within a prison is available for the young person to stay in.

**95 Section 241 amended (Review of orders made under section 238)**

In section 241, insert as subsection (2):

- (2) Despite **subsection (1)**, unless clearly impracticable, an order made under section 238(1)(e) must be reviewed by the Youth Court at least once every 24 hours.

**96 Section 242 amended (Order under section 238 sufficient authority for detention of child or young person)**

(1) After section 242(1), insert:

- (1A) The detention of a child or young person in a residence under subsection (1)(a) must be reviewed by the chief executive at least once every 14 days, unless special circumstances apply.

(2) After section 242(2), insert:

- (2A) The making of an order under **section 238(1)(f)** for the detention of a young person (aged 17 years) in a youth unit of a prison is sufficient authority for the detention of that young person in a youth unit of a prison.
- (2B) The detention of a young person in a youth unit of a prison under **subsection (2A)** must be reviewed by the chief executive at least once every 14 days, unless special circumstances apply.

**96A Section 246 amended (Procedure where young person arrested and brought before court)**

In section 246, replace “not punishable by imprisonment” with “that is an infringement offence or, in the case of a person aged 17 years, an offence specified in **Schedule 1A**”.

**97 New section 248A inserted (Chief executive to appoint youth advocate to represent child or young person if offence punishable by imprisonment of 10 years or more)**

After section 248, insert:

**248A Chief executive to appoint youth advocate to represent child or young person if offence punishable by imprisonment of 10 years or more**

- (1) This section applies if an offence referred to in section 245(1) is an offence punishable by imprisonment of 10 years or more and a youth justice co-ordinator is required to convene a family group conference because they have received a notification under section 247(b) relating to that offence.

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Part 1 cl 98

- (2) Before the family group conference is convened, the chief executive must appoint a youth advocate to represent the child or young person at the family group conference.
- (3) The appointment of (including any eligibility criteria that will apply) and payment of a youth advocate must be made in accordance with any regulations made under **section 447(db)**.
- (4) Section 324(1) and (3)(b) ~~apply~~applies to a youth advocate appointed under this section with any necessary modifications.

**98 Section 250 amended (Consultation on convening of family group conference)**

In section 250(2)(b)(i), replace “declaration under section 67” with “care or protection order”.

**99 Section 256 amended (Procedure at family group conference)**

In section 256(2), replace “sections 5(f) and 249(6)” with “sections **5(1)(b)(v)** and 249(6)”.

**100 Section 258 amended (Functions of family group conference)**

- (1) In section 258(a)(ii), replace “sections 5, 6, and 13” with “sections **4A(2)(1)**, **5**, and 13”.
- (2) In section 258(ba)(ii), replace “declaration under section 67” with “care or protection order”.
- (3) In section 258, insert as subsections (2) and (3):
  - (2) If a family group conference is convened under section 247(a), (b), (d), or (e), it must, when considering whether the matter can be dealt with in some other way under **subsection (1)(b) or (d)**, consider what restorative justice actions could be undertaken.
  - (3) The family group conference must, when carrying out its functions, consider what reasonable and practical measures or assistance could be taken or provided to support the child or young person—
    - (a) with the implementation of a plan; or
    - (b) in complying with an order made or that may be made by the Youth Court.

**101 Section 260 amended (Family group conference may make decisions and recommendations and formulate plans)**

- (1) After section 260(3)(b), insert:
  - (ba) recommend that a restorative justice action or actions be undertaken:
- (2) In section 260(3)(c), replace “declaration under section 67” with “care or protection order”.

**102 Section 272 amended (Jurisdiction of Youth Courts and children’s liability to be prosecuted for criminal offences)**

- (1) In section 272(1A)(a), replace “under section 67 for a declaration that the child is in need of care or protection” with “care or protection order”.
- (1A) In section 272(1A)(a), replace “wellbeing” with “well-being”.
- (2) In section 272(1A)(b)(ii), replace “declaration that the child is in need of care or protection” with “care or protection order”.
- (3) After section 272(3)(b), insert:
  - (baa) if the young person is aged 17 years, an offence specified in **Schedule 1A**; or
- (4) Replace section 272(3)(c) with:
  - (c) a traffic offence that is an infringement offence; or
- (5) After section 272(4), insert:
- (4A) If a young person aged 17 years is charged with an offence specified in **Schedule 1A**,—
  - (a) sections 275 and **276A** apply; and
  - (b) sections 274 and 276 do not apply.
- (6) In section 272(5), replace “not punishable by imprisonment” with “that is an infringement offence referred to in **subsection (3)(c)**”.

**103 Section 273 amended (Manner of dealing with offences (other than murder or manslaughter))**

In section 273(1), after “manslaughter”, insert “, or is aged 17 years and is charged with an offence specified in **Schedule 1A**”.

**103A Section 275 amended (Manner of dealing with offence of murder or manslaughter, or where jury trial to be held)**

- (1) In the heading to section 275, after “manslaughter,”, insert “or **Schedule 1A offence**,”.
- (2) After section 275(1)(b), insert:
  - (ba) is aged 17 years and is charged with an offence specified in **Schedule 1A**; or
- (3) In section 275(2), replace “including” with “including,”.
- (4) In section 275(2)(a), before “in the case”, insert “subject to **paragraphs (aa) and (ab)**,”.
- (5) In section 275(2)(a), after “transferring”, insert “the proceeding”.
- (6) After section 275(2)(a), insert:
  - (aa) in the case of a young person aged 17 years charged with a category 3 offence specified in **Schedule 1A**, on adjournment of the proceeding

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Part 1 cl 104

after the young person's first appearance, transferring the proceeding to the District Court to be dealt with in accordance with the Criminal Procedure Act 2011; and

- (ab) in the case of a young person aged 17 years charged with a category 4 offence specified in **Schedule 1A**, transferring the proceeding to the High Court in accordance with section 36(2) of the Criminal Procedure Act 2011; and

**104 New section 276A inserted (Transfer of proceeding back to Youth Court)**

After section 276, insert:

**276A Transfer of proceeding back to Youth Court**

- (1) This section applies if a proceeding has been transferred from the Youth Court to the District Court or the High Court under section 275 and—
- (a) the circumstances or reasons for the transfer of the proceeding no longer apply; and
  - (b) the charge or charges are within the jurisdiction of the Youth Court; ~~and~~
  - (e) ~~the transfer of the proceeding back to the Youth Court is in the interests of justice.~~
- (2) The District Court or the High Court must transfer the proceeding back to the Youth Court to be dealt with in that court, unless the interests of justice require the proceeding to remain, and be dealt with, in either of those courts.

**105 Section 280 amended (Court may refer case to care and protection co-ordinator to determine whether matter should be dealt with under Part 2)**

In section 280(1)(b), replace “declaration under section 67” with “care or protection order”.

**106 Section 280A amended (Court may refer case to person who commenced proceeding to be dealt with as child offending care or protection proceeding under Part 2)**

- (1) In section 280A(1)(b), replace “declaration under section 67” with “care or protection order”.
- (2) In section 280A(2)(a), replace “declaration under section 67” with “care or protection order”.
- (3) In section 280A(3)(b), replace “declaration under section 67” with “care or protection order”.
- (4) In section 280A(4)(a), replace “declaration under section 67” with “care or protection order”.
- (5) In section 280A(5)(a), replace “declaration under section 67” with “care or protection order”.

**107 Section 284 amended (Factors to be taken into account on sentencing)**

After section 284(1), insert:

- (1A) If the court is considering whether to transfer a proceeding to another court for sentence or decision under section 283(o), in addition to the factors in subsection (1), the court must consider and give greater weight to all of the following:
- (a) the seriousness of the offending;
  - (b) the criminal history of the young person;
  - (c) the interests of the victim;
  - (d) the risk posed by the young person to other people.

**107A Section 296 amended (Expiry of orders)**

In section 296(2), replace “18 years” with “19 years”.

**108 Section 316 amended (Court may cancel supervision with residence order if young person absconds)**

- (1) In the heading to section 316, after “**absconds**”, insert “**or fails to comply with order**”.
- (2) After section 316(1), insert:
- (1A) The Youth Court may, on the application of the chief executive, cancel an order made under section 311 placing a young person aged 17 years in the custody of the chief executive, if the court is satisfied that the young person’s behaviour and compliance with any obligations placed on them by the order have been unsatisfactory to a more than minor extent.
- (3) In section 316(2), after “subsection (1)”, insert “or **(1A)**”.

**109 Section 323 amended (Appointment of youth advocate to represent child or young person)**

In section 323(3)(b), after “previous proceedings”, insert “or appointed to represent a child or young person at a family group conference under **section 248A**”.

**110 Section 361 amended (Application of sections 362, 364, 365, 387, 390 to 392, 394, and 395)**

In section 361(a), delete “or section 141”.

**111 Section 363 amended (Payment to person or organisation providing care)**

After section 363(1), insert:

- (1A) The purpose of a payment is to meet the reasonable needs of the child or young person.

**112 Section 364 amended (Authority to establish residences)**

After section 364(1), insert:

- (1A) When deciding the number, types, and range of residences to be established and maintained, the chief executive must consider establishing a sufficient number, sufficient types, and a sufficient range of community-based residences to be available for children and young persons who are detained in the chief executive’s custody under section 238(1)(d).

**113 Section 365 amended (Chief executive may place children and young persons in residences)**

- (1) In section 365(2), replace “objects” with “purposes”.
- (2) In section 365(2), replace “sections 4, 5, and 6” with “**sections 4, 4A, and 5**”.

**114 Cross-heading above section 386A replaced**

Replace the cross-heading above section 386A with:

*Moving to independence*

**115 New sections 386AAA to 386AAG inserted**

Before section 386A, insert:

**386AAA Interpretation**

For the purposes of this section and **sections 386AAB to 386C**,—  
**caregiver** means either—

- (a) a person in whose charge a young person aged under 18 years has been placed under section 362; or
- (b) a person with whom a young person who is a young adult (aged 18 years or over but under 21 years) is living under **section 386AAD**

**young person** means a young person within the meaning given in section 2(1) and,—

- (a) for the purposes of **sections 386AAD, 386C, and 447(cb) and (da)**, includes a young adult who is aged 18 years or over but under 21 years:
- (b) for the purposes of **sections 386A and 447(cc) and (da)**, includes a young adult who is aged 18 years or over but under 25 years.

**386AAB Purposes**

The purposes of **sections 386AAC to 386C** are—

- (a) to prepare young persons to be ready to thrive as independent young adults and for the preparation for moving to independence to begin early:

- (b) to ensure that young persons have opportunities to have relationships with caregivers and other trusted adults that endure into adulthood:
- (c) to enable young persons to access the government and community support that they need to manage challenges and to grow and develop as adults.

**386AAC Principles to be applied when assisting young person to move to independence**

A person who is performing functions or exercising powers under **sections 386AAD to 386C** to assist a young person to move to independence must be guided by, in relation to a young person aged under 18 years the principles in **section 5**, in relation to a young adult aged 18 years or over the principle in **section 5(1)(a)** only, and in both cases the following principles:

- (a) the young person is to increasingly lead decisions about matters affecting them and is to be supported by adults to do this:
- (b) a holistic approach is to be taken and the young person's strengths and identity are to be built on and nurtured:
- (c) the relationships between the young person and their family, whānau, hapū, iwi, and family group are, if appropriate, to be maintained and strengthened:
- (d) family, whānau, hapū, iwi, family groups, and communities are to be supported to help the young person move to independence:
- (e) the relationships between the young person and a caregiver, other trusted adults, and the wider community are to be established, built on, and maintained:
- (f) the young person is to be supported, to the extent that is reasonable and practicable, to address the impact of harm and to achieve and meet their aspirations and needs, with priority to be given to supporting the stability of their education:
- (g) assistance to the young person is to be provided proactively, promptly, and to be sustained regardless of the decisions that the young person makes.

**386AAD Young persons entitled to live with caregiver up to age of 21 years**

- (1) ~~This section applies to any young person (as defined in **section 386AAA**) who is or has been at any time for a continuous period of at least 3 months after the age of 14 years and 9 months, in 1 or both of the following circumstances:~~
  - ~~(a) in the care of the chief executive or a body or an organisation under an order or agreement referred to in section 361(a), (c), or (d):~~
  - ~~(b) in the care or custody of the chief executive under the Care of Children Act 2004.~~

Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill

Part 1 cl 115

- (1A) ~~The young person is entitled to be supported to live with a caregiver at any time and for any period up to the age of 21 years, and, before they leave care or turn 18 years, the chief executive must advise them of this entitlement.~~
- (2) ~~The young person may, at any time up to the age of 21 years, request support from the chief executive to live with or return to living with a caregiver.~~
- (3) ~~The young person is entitled to be supported by the chief executive to live with or return to living with a particular caregiver with whom they are or were placed with or receiving care from before they turn or turned 18 years unless—~~
- ~~(a) the caregiver does not agree to have the young person live or return to living with them or is not otherwise available; or~~
- ~~(b) the young person does not agree to live with that caregiver; or~~
- ~~(e) after taking into account the expressed wishes of the young person, the chief executive considers that living with that caregiver is likely to be detrimental to the well-being of the young person.~~
- (4) ~~If no caregiver is available under **subsection (3)**, the young person is entitled to be supported by the chief executive to live with another caregiver but only if, in relation to a particular caregiver, **subsection (3)(b) or (c)** does not apply.~~
- (5) ~~If a young person is living with a caregiver under **subsection (3) or (4)** or this subsection and at some time during the course of that living arrangement any of the matters in **subsection (3)(a) to (c)** come to apply, the young person is entitled to be supported by the chief executive to live with another caregiver but only if, in relation to a particular caregiver, **subsection (3)(b) or (c)** does not apply.~~

**386AAD Young persons entitled to live with caregiver up to age of 21 years**

- (1) This section applies to any young person (as defined in **section 386AAA**) who, after the age of 14 years and 9 months, is or has been, at any time for a continuous period of at least 3 months, in 1 or both of the following types of care or custody:
- (a) the care or custody of the chief executive, an iwi social service, a cultural social service, or the director of a child and family support service under any agreement or order referred to in section 361(a), (c), or (d);
- (b) the care of the chief executive as the agent of the court under section 33(1)(c)(ii) of the Care of Children Act 2004.
- (2) The young person is entitled to be supported to live with a caregiver at any time and for any period from the age of 18 years up to the age of 21 years and may request to do so at any time.
- (3) Before the young person leaves care or custody, the chief executive must advise them of the entitlements under **subsection (2)**.

- (4) The young person is entitled to be supported by the chief executive to live with or return to living with a particular caregiver with whom they are placed or have previously been placed or lived unless—
- (a) the caregiver does not agree to have the young person live with them or is not otherwise available; or
  - (b) the young person does not agree to live with that caregiver; or
  - (c) after taking into account the expressed wishes of the young person, the chief executive considers that living with that caregiver is likely to be detrimental to the well-being of the young person.
- (5) If no caregiver is available under **subsection (4)**, the young person is entitled to be supported by the chief executive to live with another caregiver but only if, in relation to a particular caregiver, **subsection (4)(b) or (c)** does not apply.
- (6) If a young person is living with a caregiver under **subsection (4) or (5)** or this subsection and at some time during the course of that living arrangement any of the matters in **subsection (4)(a) to (c)** come to apply, the young person is entitled to be supported by the chief executive to live with another caregiver but only if, in relation to a particular caregiver, **subsection (4)(b) or (c)** does not apply.

**386AAE Providing support to young persons to negotiate support arrangements and monitoring of support arrangements**

- (2) If a young person is to live with a caregiver under **section 386AAD**, the chief executive must provide them with support to negotiate and agree the terms on which they will live with ~~at~~ that caregiver.
- (3) The agreed terms must be recorded in writing (the **support arrangement**).
- (4) The support arrangement must—
- (a) be consistent with the purposes in **section 386AAB**; and
  - (b) give effect to the principles in **section 386AAC**; and
  - (c) meet the standards referred to in **subsection (5)**; and
  - (d) be approved by the chief executive.
- (5) The chief executive must monitor the operation of all support arrangements against standards set in regulations made under **section 447(cb)**.

**386AAF Role of caregivers under support arrangements**

A caregiver is expected to—

- (a) act in accordance with the support arrangement; and
- (b) assist the young person who is living with them to become increasingly independent.

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Part 1 cl 116

**386AAG Financial assistance for support arrangements**

- (1) The chief executive must provide financial assistance to a young person who lives with a caregiver under **section 386AAD** to meet ~~necessary living~~reasonable costs associated with living with the caregiver, but only if the chief executive has first considered—
  - (a) what other financial assistance is available to the young person; and
  - (b) the personal circumstances of the young person.
- (2) The financial assistance must be paid directly to the young person unless the chief executive considers it appropriate to pay all or any of it to the young person's caregiver or other person.
- (3) Financial assistance paid under this section must be paid in accordance with any regulations made under **section 447(da)**.
- (4) Financial assistance may be withdrawn if,—
  - (a) during the course of monitoring a support arrangement, the chief executive considers that the living arrangement is detrimental to the young person's well-being; and
  - (b) the chief executive has attempted to resolve any concerns; and
  - (c) another living arrangement (with a caregiver under **section 386AAD**) has been offered to the young person, but it has been refused.
- (5) If another living arrangement is offered under **subsection (4)(c)**, **sections 386AAD to 386AAF** and this section apply.

**116 Section 386A replaced (Advice and assistance for people moving from care to independence)**

Replace section 386A with:

**386A Advice and assistance for young persons up to age of 25 years**

- (1) ~~This section applies to any young person (as defined in **section 386AAA**) who is or has been at any time for a continuous period of at least 3 months after the age of 14 years and 9 months, in 1 or more of the following circumstances:~~
  - (a) ~~in a residential placement under section 234(c)(ii) or (iii), 235, 238(1)(d), 307(4), or 311 or in Police custody under section 236 or 238(1)(e);~~
  - (b) ~~in the care of the chief executive, an iwi social service, a cultural social service, or the director of a child and family support service under any agreement or order referred to in section 361(a), (c), or (d);~~
  - (c) ~~in the care or custody of the chief executive under the Care of Children Act 2004;~~
  - (d) ~~under remand or a prison sentence in the adult justice system before the young person turns or turned 18 years.~~

- (2) A person (including the chief executive) or body or organisation who or that has the care or custody of the young person must, before the young person leaves care or turns 18 years,—
- (a) consider what support by way of advice and assistance the young person will need to become and remain independent after they are no longer in those circumstances; and
  - (b) provide or arrange for the provision of that support to that young person.
- (2A) If the advice or assistance assessed under **subsection (2)(a)** is of a type listed in **section 386B**, the person (not including the chief executive), body, or organisation that has the care or custody of the young person must refer the assessment to the chief executive.
- (2B) The young person is entitled to support or further support by way of advice or assistance (described in **section 386B**) at any time up to the age of 25 years and,—
- (a) before they leave care or turn 18 years, the chief executive must advise them of this entitlement; and
  - (b) the support is available whether or not they are living with a caregiver under **section 386AAD**.
- (3) If a young person requests any support or further support, the person or body or organisation that receives the request must refer the request to the chief executive.
- (4) If a request is made to the chief executive, or if an assessment or request is referred to the chief executive under **subsection (2A) or (3)**, the chief executive must consider the matters in **subsection (2)(a)** in relation to the young person who made the request.

**386A Advice and assistance for young persons up to age of 25 years**

- (1) This section applies to any young person (as defined in **section 386AAA**) who, after the age of 14 years and 9 months, is or has been, at any time for a continuous period of at least 3 months, in 1 or more of the following types of care or custody:
- (a) a residential placement under section 234(c)(ii) or (iii), 235, 238(1)(d), 307(4), or 311 or in Police custody under section 236 or 238(1)(e);
  - (b) the care or custody of the chief executive, an iwi social service, a cultural social service, or the director of a child and family support service under any agreement or order referred to in section 361(a), (c), or (d);
  - (c) the care of the chief executive as the agent of the court under section 33(1)(c)(ii) of the Care of Children Act 2004;
  - (d) under remand or a prison sentence in the adult justice system (before turning 18).

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Part 1 cl 116

- (2) A person (including the chief executive), a body, or an organisation that has the care or custody of the young person must, before the young person leaves that care or custody,—
- (a) assess what support by way of advice and assistance the young person will need to become and remain independent after they are no longer in that care or custody; and
  - (b) provide or arrange for the provision of that support to that young person to the extent that the support reasonably relates to the period before the young person leaves the care or custody; and
  - (c) advise the young person of their entitlements under **subsection (4)** and **section 386B**.
- (3) A person (excluding the chief executive), a body, or an organisation that has the care or custody of the young person must, before the young person leaves that care or custody, provide a copy of the assessment made under **subsection (2)(a)** to the chief executive and advise the chief executive of the date on which the young person will leave that care or custody.
- (4) The young person is entitled to support by way of advice or assistance from the chief executive (*see* **section 386B**) at any time from when they leave care or custody up to the age of 25 years and may request this support at any time.
- (5) The young person is entitled to this support whether or not they—
- (a) have received any support under **subsection (2)(b)**; or
  - (b) are living with a caregiver under **section 386AAD**.
- (6) If a young person who has left the care or custody of a person, a body, or an organisation (that is not the care or custody of the chief executive) requests any support or further support, the person, body, or organisation receiving the request must refer it to the chief executive.
- (7) If a request is made or referred to the chief executive, the chief executive must consider the entitlements of the young person under **section 386B**.
- (8) When an assessment is provided to the chief executive under **subsection (3)**, the chief executive must consider the entitlements of the young person under **section 386B** taking into account that assessment.

**386B Provision of advice and assistance by chief executive**

- (2) Under **section 386A**, the chief executive, in accordance with regulations made under **section 447(cc) and (da)**,—
- (a) must provide, or arrange the provision of, support by way of advice and non-financial assistance that the chief executive considers the young person will need to achieve independence; and
  - (b) may provide, or arrange the provision of, support by way of financial assistance that the chief executive considers the young person will need to

- achieve independence, but only if the chief executive has first considered what other financial assistance is available to the young person.
- (4) Advice and assistance may include—
- (a) giving information:
  - (b) assisting the young person to obtain accommodation, enrol in education or training, or obtain employment:
  - (c) legal advice:
  - (d) counselling:
  - (e) contributing to the expenses incurred by the young person in living near the place where they are or will be—
    - (i) employed or seeking employment; or
    - (ii) receiving education or training:
  - (f) making a grant to assist the young person to meet expenses connected with their education or training.
- (4A) When deciding whether to provide financial assistance in any case, the chief executive must give particular consideration to whether the young person has high or complex needs.
- (5) Financial assistance must be paid directly to the young person unless the chief executive considers it appropriate to pay all or any of it to the young person's caregiver or other person.
- (6) If the chief executive is providing financial assistance to a young person that includes making a contribution or grant for a course of education or training or any other financial assistance the young person needs in order to complete the course, the chief executive may—
- (a) continue to do so even if the young person reaches the age of 25 years before completing the course; and
  - (b) disregard any interruption in the young person's attendance at the course if they resume it as soon as practicable.

**117 New section 386C inserted (Chief executive to maintain contact with young persons up to age of 21 years)**

After section 386B, insert:

**386C Chief executive to maintain contact with young persons up to age of 21 years**

- (1) This section applies to any young person (as defined in **section 386AAA**) who has been in any of the circumstances listed in **section 386A(1)**.
- (2) Irrespective of whether the young person is living with a caregiver under **section 386AAD** or is being provided with any advice or assistance under **sec-**

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Part 1 cl 117A

**tion 386A**, the chief executive must take reasonable steps to maintain contact with the young person.

- (3) The following factors must be taken into account when a decision is made about the extent to which contact is maintained with the young person:
- (a) whether the young person wishes contact to be made with them:
  - (b) the young person’s particular needs:
  - (c) the young person’s age, maturity, and the desirability of them being independent when they are able to do so.

**117A Section 403 amended (Approval of Community Services)**

In section 403(3), replace “objects” with “purposes”.

**117B Section 405 amended (Revocation of approval)**

In section 405(1), replace “objects” with “purposes”.

**118 New sections 445E and 445F and cross-heading inserted**

After section 445D, insert:

*Limit on proceedings and Crown liability*

**445E Limit on proceedings**

- (1) No proceedings may be brought in any court—
- (a) in relation to any act or omission that occurred on or after the commencement of this section by the chief executive, the chief executive’s delegate, or an employee of the department that could have been the subject of a complaint under the 1 or more complaints mechanisms established, amended, or replaced by the chief executive and a review of the outcome of that complaint under the review mechanism provided for in regulations made under **section 447(fb)**, unless—
    - (i) a complaint has been made under that mechanism and determined; and
    - (ii) ~~any~~the opportunity for review established under regulations made under **section 447(fb)** has been exercised by the complainant and the review completed:
  - (b) in relation to any purported breach of duty owed to the child or young person under this Act or any regulations made under this Act by the chief executive or the chief executive’s delegate, or an employee or contractor of the department, or an organisation or other person having the care or custody of a child or young person (including an organisation or person with whom a child or young person is placed by the chief executive under section 362), except by a child or young person to whom the duty is allegedly owed.

- (2) In this section and **section 445F**, **young person** includes a young person as defined in **section 386AAA**.

**445F Limitation on liability**

- (1) The Crown, the department, the chief executive, the chief executive's delegate, any employee or contractor of the department, and any ~~organisation or other person having the care or control of a child or young person in the chief executive's care or custody (including an~~ organisation or other person with whom a child or young person is placed by the chief executive) are not liable in respect of the matters set out in **subsection (2)**.
- (2) The matters are anything suffered by a child or young person in the care or custody of the chief executive as a consequence of an act or omission that occurs on or after the commencement of this section by a person who is not—
- (a) the Crown:
  - (ab) the department:
  - (b) the chief executive:
  - (c) the chief executive's delegate:
  - (d) an employee or a contractor of the department:
  - (e) an organisation or ~~other~~ person in whose charge the child or young person has been placed by the chief executive.
- (3) An organisation or person ~~who has the care or custody of a child or young person under this Act specified in~~ **subsection (4)(a) to (d)** (other than a person or organisation referred to in **subsection (1)**) is not liable in respect of the matters referred to in **subsection (4)**.
- (4) The matters are anything suffered by a child or young person in the care or custody of a person or organisation referred to in **subsection (3)**, as a consequence of an act or omission that occurs on or after the commencement of this section by a person who is not—
- (a) the organisation or person with care or custody of the child or young person:
  - (b) the organisation's or person's delegate:
  - (c) an employee or contractor of that organisation or person:
  - (d) another organisation or ~~other~~ person in whose charge the child or young person has been placed by the organisation or person referred to in **paragraph (a)**.

**119 Section 447 amended (Regulations)**

- (1) After section 447(ca), insert:

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Part 1 cl 119

- (cb) prescribing, in relation to a young person's entitlement to remain living with a caregiver under **sections 386AAD and 386AAE**, requirements and standards for support arrangements:
  - (cc) prescribing, in relation to providing advice and assistance to young persons under **sections 386A and 386B**,—
    - (i) processes and criteria for needs assessments:
    - (ii) the types of advice, assistance, and services to be available for young persons:
    - (iii) the manner or means of providing advice, assistance, and services to young persons:
- (2) After section 447(d), insert:
- (da) prescribing the circumstances in which amounts are payable and the amounts payable under ~~section 363~~ section 363 or to or on behalf of a young person as financial assistance under ~~sections 386AAG and or 386B~~, including—
    - (i) advances or reimbursements of reasonable costs:
    - (ii) allowances, which may vary in accordance with different criteria:
  - (db) prescribing, in relation to a youth advocate appointed under **section 248A**, the following:
    - (i) eligibility criteria for appointment:
    - (ii) the process for appointment by the chief executive:
    - (iii) the amounts payable for preparation for and attendance at a family group conference referred to in section 245:
- (3) After section 447(f), insert:
- (fa) prescribing the actions or steps that must be taken by the chief executive or the chief executive's delegates, or bodies or organisations approved under section 396, to help ensure that children and young persons in care or custody under Part 2 or 4 of this Act receive an appropriate standard of care that is consistent with the application of the principles in sections **4A, 5**, 13, and 208, including actions and steps relating to—
    - (i) the provision of care, services, and support to address the rights and needs of children and young persons in care:
    - (ii) the assessment and monitoring of care arrangements and residences, including youth justice residences:
    - (iii) the assessment, training, and support of caregivers and care providers:
    - (iv) the creation and maintenance of records for a child or young person recording important matters in their life (including significant life events and significant achievements) occurring while they are

- in care, and the provision of access to those records for the child or young person:
- (v) the manner in which care standards are monitored or reported on, within the department, by the organisations approved under section 396, and by the agency or body referred to in **section 447A**:
- (fb) providing for the appointment by the Minister of a person or an organisation (independent of the department) to review the outcomes produced by the 1 or more complaints mechanisms established, amended, or replaced by the chief executive under **section 7(2)(bad)**, and establishing a review mechanism that—
- (i) ~~is accessible and timely:~~
  - (ii) ~~has the necessary capability (including required cultural competence, to ensure that reviews of outcomes are undertaken effectively):~~
  - (iii) ~~specifies the types of complaints whose outcomes under the complaint process may be the subject of a review:~~
  - (iv) ~~specifies the classes of complainants (or other persons) who may seek a review of the outcome of a complaint:~~
  - (v) ~~specifies the procedures to be adopted in conducting reviews:~~
  - (vi) ~~specifies who is qualified for appointment to conduct a review, and matters relating to their appointment and term of office:~~
  - (vii) ~~specifies the method of determining the remuneration of a person appointed to conduct a review:~~
  - (viii) ~~specifies the powers of the reviewer on reviewing the outcomes of a complaints process (which may include a power for the reviewer to set aside the outcome of the complaints mechanism, a power to award compensation up to a specified limit, and a power to substitute the reviewer's decision as the outcome, and any other remedies specified in the regulations that may be granted by the reviewer):~~
  - (ix) ~~specifies how the costs of undertaking the review are to be apportioned:~~
  - (x) ~~specifies any other matters that are necessary or desirable to establish or operate the review process:~~
  - (i) that is intended to be—
    - (A) accessible and timely:
    - (B) have the necessary capability (including required cultural competence to ensure that reviews of outcomes are undertaken effectively); and
  - (ii) for which 1 or more of the following are specified:

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Part 1 cl 119

- (A) the types of complaints whose outcomes under a complaint process may be the subject of a review:
  - (B) the classes of complainants (or other persons) who may seek a review of the outcome of a complaint:
  - (C) the procedures to be adopted in conducting reviews:
  - (D) who is qualified for appointment to conduct a review, and matters relating to their appointment and term of office:
  - (E) the method of determining the remuneration of a person appointed to conduct a review:
  - (F) the powers of the reviewer on reviewing the outcomes of a complaints process (which may, without limitation, include a power for the reviewer to set aside the outcome of the complaints mechanism, a power to award compensation up to a specified limit, a power to substitute the reviewer's decision as the outcome, and any other remedies specified in the regulations that may be granted by the reviewer):
  - (G) how the costs of undertaking the review are to be apportioned:
  - (H) any other matters that are necessary or desirable to establish or operate the review process.
- (4) After section 447(g), insert:
- (ga) designating, after consultation with the Privacy Commissioner, the Children's Commissioner, and persons representing the affected organisations,—
    - (i) organisations or classes of organisations as child welfare and protection agencies:
    - (ii) persons or classes of persons as independent persons:
  - (gb) prescribing transitional arrangements in relation to standards of care for children and young persons and any other matters provided for in regulations:
- (5) In section 447, insert as subsection (2):
- (2) The Minister must,—
- (a) within 12 months of the commencement of **subsection (1)(fa)**, recommend the making of regulations under that provision; and
  - (b) not recommend the revocation of regulations made under **subsection (1)(fa)** without recommending new regulations to be made under that provision; and
  - (c) regularly review the regulations in force under **subsection (1)(fa)**.

**120 New section 447A inserted (Minister to appoint persons to monitor compliance with prescribed standard of care)**

After section 447, insert:

**447A Minister to appoint independent persons to monitor compliance with prescribed standard of care**

The Minister must appoint an agency or a body (independent of the department) to—

- (a) monitor compliance by the chief executive, the chief executive's delegates, or bodies or organisations approved under section 396 with regulations made under **section 447(fa)**;
- (b) report on compliance with those regulations to the Minister.

**121 New section 448B and cross-heading inserted**

After section 448A, insert:

*Periodic review of legislation, government policy, and other arrangements*

**448B Periodic review of legislation, government policy, and other arrangements**

The Minister must, not later than 1 July 2022, and on at least 1 occasion during each 3-year period after that date, report to Parliament on the following matters:

- (a) whether existing legislation, government policy, and other arrangements that affect the accountability of the Minister, the chief executive, and other persons or bodies carrying out functions under this Act ensures that—
  - (i) the needs of children and young persons with whom the department is concerned are met; and
  - (ii) the needs of Māori children and young persons with whom the department is concerned are met:
- (b) whether any amendments to legislation, or government policies or other arrangements referred to in **paragraph (a)**, are necessary or desirable in order to ensure the needs of the children and young persons, or particular groups of children and young persons, referred to in **paragraph (a)(i) or (ii)** are met.

**121A Amendments to principal Act to replace gendered references with gender-neutral references**

Amend the principal Act as set out in **Schedule 1**.

**122 Schedule 1AA amended**

In Schedule 1AA, after Part 2, insert:

**Part 3****Provisions relating to Children, Young Persons, and Their Families  
(Oranga Tamariki) Legislation Act 2017**

- 4 New definition of young person not to apply to criminal proceedings underway at commencement date**
- (1) For the purpose of this clause, **commencement date** means the date on which **section 4(2)** of the **Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017** comes into force.
  - (2) Any defendant aged 17 years in criminal proceedings that are underway in the District Court or High Court on the commencement date must be dealt with by that court as if **section 4(2)** of this Act had not come into force.
- 5 Protections for young persons aged 17 years in criminal investigations**
- (1) For the purpose of this clause, **commencement date** means the date on which **section 4(2)** of the **Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017** comes into force.
  - (2) Sections 215 to 232 of this Act apply to investigations of alleged offending by persons aged 17 years only if the offending occurred or is alleged to have occurred on or after the commencement date.
- 6 Application of complaints mechanism**
- The<sup>A</sup> complaints mechanisms established under **section 7(2)(bad)** of this Act applies to any act or omission that occurred on or after 1 January 2008.
- 7 Previous definition of child or young person in need of care or protection applies to proceedings underway**
- (1) For the purpose of this clause, **commencement date** means the date on which **section 14 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017** comes into force.
  - (2) ~~**Section 14**~~ Section 14 of this Act (as it read before the commencement date) continues to apply to any proceeding that, immediately before the commencement date, had been brought but not determined.
- 8 Application of sections 17(2A), 18AAA, 21(2), and 30(1)(aaa)**
- (1) For the purpose of this clause, commencement date means the date on which **sections 17, 18, 25, and 30 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017** come into force.
  - (2) **Sections 17(2A), 18AAA, 21(2), and 30(1)(aaa)** of this Act apply to any investigation still underway or commenced on or after the commencement date.

**8A** **Determinations under section 18B(2)(c)**

A determination made under section 18B(2)(c) before the commencement of section 21 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 that there is no realistic prospect that a child or young person will be returned to a person's care, is to be treated, on and after the commencement of section 21 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017, as a determination that there is no realistic possibility that a child or young person will be returned to a person's care.

**9** **Information sharing**

- (1) For the purpose of this clause, **commencement date** means the date on which **section 38 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017** comes into force.
- (2) **Sections 65A to 66O** of this Act apply to any information whether it existed or was created before, on, or after the commencement date.

**10** **Applications for declaration made under section-67 68 before commencement date to be determined under previous provisions**

- (1) For the purpose of this clause, **commencement date** means the date on which **section 39 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017** comes into force.
- (2) An application for a declaration made under section-~~67~~ 68 of this Act before the commencement date must be determined under section-~~67~~ 68 and any related provisions as ~~these~~ those provisions read before the commencement date.

**11** **When custody order ceases to have effect**

- (1) For the purpose of this clause, **commencement date** means the day after the date on which the **Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017** receives the Royal assent.
- (2) Section 108(c) of this Act applies to any custody order made before or after 1 April 2017 and that expires after the commencement date, even if the order or any other document relating to the order contains words to the effect that the order ceases to have effect when the young person attains the age of 17 years.

**12** **Agreements for extended care of severely disabled children and young persons and agreements with persons providing residential disability care**

- (1) For the purpose of this clause, **commencement date** means the date on which **section 68 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017** comes into force.
- (2) Any agreement made under sections 141 or 142 of this Act before the commencement date continues to have effect until it is terminated or expires and this Act continues to apply to those agreements as if the **Children, Young**

**Persons, and Their Families (Oranga Tamariki) Legislation Act 2017** had not been enacted.

**13 Youth justice principles**

- (1) For the purpose of this clause, **commencement date** means the date on which **section 92(6)** of the **Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017** comes into force.
- (2) **Section 208(3) and (4)** of this Act applies only if offending occurred or is alleged to have occurred on or after the commencement date.

**14 Review of detention of young persons in residence or Police custody**

- (1) For the purpose of **subclause (2)**, **commencement date** means the date on which **section 95** of the **Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017** comes into force.
- (2) **Section 241(2)** of this Act applies to any order made under section 238(1)(e), whether made before or after the commencement date.
- (3) For the purpose of **subclause (4)**, **commencement date** means the date on which **section 96(1)** of the **Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017** comes into force.
- (4) **Section 242(1A)** of this Act applies to any child or young person detained in a residence on or after the commencement date, whether the order for detention of that child or young person was made before or after the commencement date.

**15 Consideration of restorative justice actions by Family Group Conferences**

- (1) For the purpose of this clause, **commencement date** means the date on which **section 100(3)** of the **Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017** comes into force.
- (2) **Section 258(2) and (3)** of this Act applies to any Family Group Conference that takes place on or after the commencement date, including a conference that has been adjourned from an earlier date.

**16 Factors to be taken into account on sentencing**

- (1) For the purpose of this clause, **commencement date** means the date on which ~~both sections 4(2) and 107~~**section 107** of the **Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017** ~~are in~~ comes into force.
- (2) **Section 284(1A)** of this Act applies only if the offending occurred on or after the commencement date.

**17 Moving to independence**

- (1) For the purpose of this clause, **commencement date** means the date on which **sections 115 to 117** of the **Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017** come into force.
- (2) **Section 386AAD** of this Act applies only to persons who are aged under 18 years on the commencement date.
- (3) Any young person receiving advice and assistance under section 386A of this Act immediately before the commencement date is to be treated as receiving advice and assistance under new **section 386A** on or after the commencement date.
- (4) **Section 386C** of this Act applies only to persons who are subject to any process or proceeding under this Act on or after the commencement date.

**18 References to Children, Young Persons, and Their Families Act 1989**

Unless the context otherwise requires, every reference to the Children, Young Persons, and Their Families Act 1989 in any document is, after the commencement of **section 122** of the **Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017**, to be read as a reference to the **Oranga Tamariki Act 1989**.

**122A Schedule 1 amended**

In Schedule 1, clause 3(b), replace “Children, Young Persons, and Their Families Act 1989” with “**Oranga Tamariki Act 1989**”.

**123 New Schedule 1A inserted**

After Schedule 1, insert the **Schedule 1A** set out in **Schedule 2** of this Act.

**Part 2**

**Amendments to other Acts**

Subpart 1—Amendments to Criminal Procedure Act 2011

**124 ~~Principal Act~~**

~~This subpart amends the Criminal Procedure Act 2011 (the **principal Act**).~~

**124 Amendments to Criminal Procedure Act 2011**

This subpart amends the Criminal Procedure Act 2011.

**125 Section 174 amended (Remand of defendant under 17 years for assessment report)**

- (1) In the heading to section 174, replace “17” with “18”.
- (2) In section 174(1) and (2), replace “17” with “18”.

Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill

Part 2 cl 126

**126 Section 175 amended (Remand of defendants aged 17 to 20 years)**

- (1) After section 175(1), insert:
- (1A) Despite section 15 of the Bail Act 2000, if the person is aged 17 years, the court may remand that person in custody, and if the court does so,—
- (a) the person must be remanded in the custody of the chief executive of the department responsible for the administration of the **Oranga Tamariki Act 1989**, unless that chief executive and the chief executive of the Department of Corrections agree on the matter in **subsection (1B)**;
  - (b) if the 2 chief executives agree on the matter in **subsection (1B)**, the person may instead be remanded in custody in a youth unit of a prison.
- (1B) The matter that must be agreed by the 2 chief executives is that detention in a youth unit of a prison is necessary to ensure the safety of a young person (as defined in section 2(1)) who is in the custody of the chief executive.
- (2) In section 175(2), replace “Despite section 15 of the Bail Act 2000,”, with “If the person is aged 18 to 20 years,”.

**126A New section 380A inserted (Transfer of proceedings commenced in Youth Court back to Youth Court in certain circumstances)**

After section 380, insert:

**380A Transfer of proceedings commenced in Youth Court back to Youth Court in certain circumstances**

Proceedings commenced in the Youth Court and transferred to the District Court or High Court under section 275 of the **Oranga Tamariki Act 1989** must, if the circumstances described in **section 276A** of that Act arise and the requirements of that section are met, be transferred back to the Youth Court.

Subpart 2—Amendment to Income Tax Act 2007

~~127 Principal Act~~

~~This subpart amends the Income Tax Act 2007 (the **principal Act**).~~

127 Amendments to Income Tax Act 2007

This subpart amends the Income Tax Act 2007.

**128 Section CW 33 amended (Allowances and benefits)**

After section CW 33(1)(b), insert:

- (ba) a payment under section 363, ~~386AAG, or 386B~~ of the **Oranga Tamariki Act 1989**:

Subpart 3—Amendment to Social Security Act 1964

**129 Principal Act**

This subpart amends the Social Security Act 1964 (the **principal Act**).

**129 Amendments to Social Security Act 1964**

This subpart amends the Social Security Act 1964.

**130 Section 3 amended (Interpretation)**

In section 3(1), definition of **income**, paragraph (f)(xiii), after “child or young person (as those terms are defined in that Act)”, insert “including financial assistance received by a young person (including a young adult), a caregiver, or other person under **section 386AAG or 386B** of that Act”.

Subpart 4—Amendments to Vulnerable Children Act 2014

**131 Principal Act**

This subpart amends the Vulnerable Children Act 2014 (the **principal Act**).

**132 Section 8 amended (Preparation of vulnerable children’s plan)**

In section 8(1), after “work together”, insert “, under the co-ordination of the chief executive of the department responsible for the administration of the **Oranga Tamariki Act 1989**,”.

**133 Section 9 amended (Content of vulnerable children’s plan)**

In section 9, insert as subsections (2) and (3):

- (2) Without limiting **subsection (1)**, the vulnerable children’s plan (and any draft of it) must—
- (a) set out the outcomes aligned with the Government’s priorities to be achieved in relation to children and young persons who have early risk factors for future involvement in the statutory care, protection, and youth justice systems under the **Oranga Tamariki Act 1989**;
  - (b) set out the steps that ~~will be taken by~~ the chief executives of the children’s agencies will take to achieve those outcomes;
  - (c) apply to children and young persons receiving assistance or in care or receiving transition support from the department (irrespective of whether those persons are in need of care or protection) under Parts 2 and 7 of the **Oranga Tamariki Act 1989** and to children and young persons who are subject to proceedings or orders under Part 4 of that Act (which relates to youth justice);
  - (d) specify the steps that the chief executives of the children’s agencies will take to improve the well-being of children and young persons referred to in **paragraph (c)**, including—

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Part 2 cl 134

- (i) participation by the children’s agencies (and any contracted or related service providers) in assessment, planning, and decision making in relation to those children and young persons:
  - (ii) the provision of services (including any contracted or related services where appropriate) to those children and young persons:
  - (e) apply also to any other persons aged less than 21 years who have been in care under the **Oranga Tamariki Act 1989** or who are eligible for support under **section 386A** of that Act:
  - (f) set out the steps that the chief executives of the children’s agencies will take to improve the well-being of persons aged under 21 years referred to in **paragraph (e)**.
- (3) In this section, **in care** has the same meaning as in section 7(4) of the **Oranga Tamariki Act 1989**.

**134 Section 11 amended (Effect of vulnerable children’s plan)**

In section 11(1)(a), after “been in force”, insert “and the progress that has been made in achieving the outcomes set out in the plan”.

**135 Section 15 amended (Interpretation)**

In section 15(1), replace the definition of **child** with:

**child** means a person who is under the age of 18 years

**136 Section 23 amended (Interpretation)**

In section 23(1), definition of **key agency**, after paragraph (d), insert:

(e) the department responsible for the administration of the **Oranga Tamariki Act 1989**

**136A Schedule 1 amended**

In **Schedule 1**, item 8 replace “sections 4(a)” with “**sections 4(1)(a)**”.

**137 Schedule 2 amended**

In Schedule 2, after clause 4, insert:

4A An accessory after the fact to any offence referred to in clause 1 or 2 is a specified offence.

Subpart 5—Amendments to Acts and legislative instruments

**138 Consequential amendments to Acts and legislative instruments**

Amend the Acts and legislative instruments listed in **Schedule 3** as set out in that schedule.

**139 Repeal of and amendments to enactments**

- (1) Repeal section 2 of the Department of Child, Youth and Family Services Act 1999.
- (2) Amend the Acts and legislative instruments listed in **Schedule 4** as set out in that schedule.

## Schedule 1

### Amendments to principal Act to replace gendered references with gender-neutral references

s 121A

In section 2, definition of **enforcement officer**, paragraph (c), replace “his or her” with “their”.

In section 7A(2), replace “him or her” with “them”.

In section 7C(1), replace “his or her” with “the chief executive’s”.

In section 10(2)(b), replace “himself or herself” with “themselves”.

In section 11(2)(a), (b), and (c), replace “his or her” with “their” in each place.

In section 11(2)(b) and (c), replace “him or her” with “them”.

In section 11(4), replace “him or her” with “them”.

In section 17(1), replace “he or she” with “they”.

In section 17(2), replace “he or she” with “they”.

In section 18(1), replace “he or she” with “they”.

In section 18A(2), replace “he or she” with “the person”.

In section 18A(3)(a), replace “him or her” with “the parent”.

In section 18A(5), replace “he or she” with “the person”.

In section 18A(7), replace “he or she” with “the parent” in each place.

In section 18B(1)(a), replace “his or her” with “the person’s”.

In section 18B(1)(b), replace “him or her” with “that person”.

In section 18C(5), replace “he or she” with “the parent”.

In section 18D(b), replace “his or her” with “the chief executive’s”.

In section 18D(b), replace “he or she” with “the chief executive”.

In section 22(1)(d)(iii), replace “him or her” with “A”.

In section 24(1)(b), replace “he or she or it” with “the person”.

In section 30(1)(a)(i)(C), replace “him or her” with “A”.

In section 31(2), replace “he or she” with “the person”.

In section 44(1), replace “he or she” with “the child or young person”.

In section 48(1), replace “his or her” with “the chief executive’s”.

In section 54(a), replace “him or her” with “that child or young person”.

In section 59(1)(a), replace “he or she believes” with “they believe”.

In section 59(1)(a), replace “he or she thinks” with “they think”.

In section 82(4)(b), replace “he or she” with “the child or young person”.

In section 82(6)(a), replace “his or her” with “the chief executive’s”.

- In section 95(1)(b) and (d), replace “him or her” with “them”.
- In section 95(1)(d), replace “he or she” with “the child or young person”.
- In section 97(1)(a), replace “his or her” with “their”.
- In section 99(c), replace “he, she,” with “they consider”.
- In section 104(2), replace “his or her” with “the chief executive’s”.
- In section 105(1)(c) and (d), replace “his or her” with “the chief executive’s”.
- In section 110A(4)(a)(i), replace “his or her” with “their”.
- In section 113A(1)(a), replace “his or her” with “their”.
- In section 113B(2)(a), replace “his or her” with “their”.
- In section 122(1), replace “him or her” with “that child or young person”.
- In section 125(1B)(b), replace “his or her” with “their”.
- In section 129(1A), replace “his or her” with “the chief executive’s” in each place.
- In section 130(1)(ea)(i) and (ii), replace “his or her” with “that person’s”.
- In section 152(1)(b), replace “his or her” with “their”.
- In section 157(2), replace “him or her” with “the child or young person”.
- In section 163(2), replace “his or her” with “their”.
- In section 167, replace “he or she” with “the Judge”.
- In section 179(4)(a), replace “him or her” with “that child or young person”.
- In section 181(2), replace “he or she” with “the Judge”.
- In section 207D(1)(a), replace “his or her” with “the chief executive’s”.
- In section 207I(1)(b), replace “he or she” with “the child or young person”.
- In section 207I(1)(b) and (2)(b), replace “his or her” with “their”.
- In section 207I(2)(b), replace “he or she” with “the child, young person, or parent”.
- In section 207R(1)(b), replace “he or she” with “the child or young person”.
- In section 207R(1)(b), replace “his or her” with “their”.
- In section 207S(c), replace “his or her” with “their”.
- In section 207ZN(2), replace “his or her” with “their”.
- In section 208(b) and (f)(i), replace “his or her” with “their”.
- In section 215(1)(a), replace “his or her” with “their”.
- In section 215(1)(b), replace “that he or she” with “the child or young person”.
- In section 216(b), replace “makes up his or her mind” with “decides”.
- In section 221(1)(b)(ii), replace “made up his or her mind” with “decided”.
- In section 229(2)(b), replace “him or her” with “that person”.
- In section 235(2)(a), replace “his or her” with “the chief executive’s”.
- In section 236(1), replace “his or her” with “the chief executive’s”.

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Schedule 1

---

- In section 242(1)(b), replace “his or her” with “the chief executive’s”.
- In section 245(1), replace “he or she” with “the young person”.
- In section 254(1), replace “he or she or it is” with “they are”.
- In section 275(1)(c), replace “he or she” with “the young person”.
- In section 276(2), replace “he or she” with “the child or young person”.
- In section 276(3), replace “he or she wishes” with “they wish”.
- In section 276(5), replace “he or she” with “the child”.
- In section 280A(4)(b), replace “his or her” with “the”.
- In section 283(ja), replace “he or she” with “the young person”.
- In section 283(o)(i)(B), replace “him or her” with “the young person”.
- In section 284(1)(d)(ii), replace “himself or herself” with “themselves”.
- In section 290, replace “his or her” with “the Judge’s”.
- In section 290A(3), replace “he or she” with “the young person”.
- In section 296C(2)(b), replace “he or she” with “the young person”.
- In section 296C(3)(b), replace “he or she” with “the young person”.
- In section 296D(3), replace “he or she” with “the constable”.
- In section 296J(6), replace “his or her” with “the young person’s”.
- In section 296J(7), replace “his or her” with “the Judge’s”.
- In section 296L(1), replace “his or her” with “the chief executive’s”.
- In section 297B(4), replace “he or she lives” with “they live”.
- In section 302(a), replace “he or she” with “the young person”.
- In section 305(1)(b) and (e), replace “he or she” with “the young person”.
- In section 305(1)(c) and (f), replace “him or her” with “them”.
- In section 307(3), replace “he or she lives” with “they live”.
- In section 308C(3)(a), replace “his or her” with “the young person’s”.
- In section 312(2), replace “his or her” with “the chief executive’s”.
- In section 318(1), replace “his or her” with “the chief executive’s”.
- In section 321(5), replace “his or her” with “their”.
- In section 324(1), replace “he or she” with “they”.
- In section 326(2), replace “his or her” with “their”.
- In section 329(1)(ja), replace “his or her” with “the victim’s”.
- In section 363(4), replace “his or her” with “their”.
- In section 384A, definition of **pat down search**, paragraphs (a) and (b), replace “his or her hand” with “the person’s hand”.

In section 384A, definition of **pat down search**, paragraph (c), replace “his or her” with “the child’s or young person’s” in each place.

In section 384A, definition of **strip search**, paragraph (b), replace “his or her” with “the child’s or young person’s”.

In section 384C(1), replace “his or her” with “their”.

In section 384D(1), replace “him or her” with “the staff member”.

In section 384E(1), replace “his or her” with “their”.

In section 384J, replace “his or her” with “their”.

In section 385(2), replace “his or her” with “the chief executive’s”.

In section 386A(4)(a) and (b), replace “his or her” with “the chief executive’s”.

In section 386A(5)(f), replace “his or her” with “their”.

In section 389B(1), replace “he or she” with “that caregiver”.

In section 392(2), replace “his or her” with “their” in each place.

In section 395(a), (b), and (c), replace “his or her” with “their” in each place.

In section 395A(1)(b), replace “his or her” with “their”.

In section 401(2), replace “his or her” with “their”.

In section 409(2), replace “his or her” with “their”.

In section 423(2) and (3)(b) and (d), replace “his or her” with “their” in each place.

In section 423(3)(c), replace “he or she” with “the co-ordinator” in each place.

In section 425(2) and (3)(b) and (d), replace “his or her” with “their” in each place.

In section 425(3)(c), replace “he or she” with “the co-ordinator” in each place.

In section 427(1), replace “his or her” with “that social worker’s”.

In section 434(3), replace “he or she” with “the person”.

In section 434(6), replace “his or her” with “the Judge’s”.

In section 435A(2), replace “he or she” with “the Judge”.

In section 435A(5), replace “In exercising his or her powers” with “When exercising powers”.

In section 445A(a), replace “him or her” with “them”.

In section 445A(c), replace:

(a) “himself or herself” with “themselves”; and

(b) “his or her” with “their”.

In section 445A(d), replace “he or she” with “the person” in each place.

In section 445A(e), replace “he or she” with “the person” in each place.

In section 445A(f), replace “he or she is” with “they are” in each place.

**Schedule 2**  
**New Schedule 1A inserted**

s 123

**Schedule 1A**  
**Specified offences for young persons aged 17 years**

ss 272, 273, 275

<b>Offence description</b>	<b>Legislative provision</b>
Hijacking	Aviation Crimes Act 1972, section 3
Crimes relating to aircraft	Aviation Crimes Act 1972, section 5
Committing murder or manslaughter at an international airport that endangers the safety of an international airport	Aviation Crimes Act 1972, section 5A(1)(a)
Committing an act that endangers the safety of an international airport	Aviation Crimes Act 1972, section 5A(1)
Developing, producing, acquiring, stockpiling, or retaining chemical weapons	Chemical Weapons (Prohibition) Act 1996, section 6(1)(a)
Transferring, directly or indirectly, chemical weapons to another person	Chemical Weapons (Prohibition) Act 1996, section 6(1)(b)
Using chemical weapons	Chemical Weapons (Prohibition) Act 1996, section 6(1)(c)
Engaging in any military preparation to use chemical weapons	Chemical Weapons (Prohibition) Act 1996, section 6(1)(d)
Assisting, encouraging, or inducing any person to engage in any prohibited activity	Chemical Weapons (Prohibition) Act 1996, section 6(1)(e)
Using riot control agents as a method of warfare	Chemical Weapons (Prohibition) Act 1996, section 8
Taking hostages (outside New Zealand)	Crimes (Internationally Protected Persons, United Nations and Associated Personnel, and Hostages) Act 1980, section 3
Committing acts of torture	Crimes of Torture Act 1989, section 3(1)(a)
Aiding any person to commit an act of torture	Crimes of Torture Act 1989, section 3(1)(b)
Abetting any person in the commission of an act of torture	Crimes of Torture Act 1989, section 3(1)(c)
Inciting, counselling, or procuring any person to commit an act of torture	Crimes of Torture Act 1989, section 3(1)(d)
Breaching the Geneva Convention through wilful killing	Geneva Conventions Act 1958, section 3(4)(a)
Breaching the Geneva Convention	Geneva Conventions Act 1958, section 3(4)(b)
Committing, or conspiring to commit, genocide through wilful killing	International Crimes and International Criminal Court Act 2000, section 9(3)(a)
Committing, or conspiring to commit, genocide	International Crimes and International Criminal Court Act 2000, section 9(3)(b)
Committing a crime against humanity through wilful killing	International Crimes and International Criminal Court Act 2000, section 10(3)(a)
Committing a crime against humanity	International Crimes and International Criminal Court Act 2000, section 10(3)(b)

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Schedule 2

<b>Offence description</b>	<b>Legislative provision</b>
Committing a war crime through wilful killing	International Crimes and International Criminal Court Act 2000, section 11(3)(a)
Committing a war crime	International Crimes and International Criminal Court Act 2000, section 11(3)(b)
Causing murder or manslaughter while committing a crime relating to ships	Maritime Crimes Act 1999, section 4(1)
Causing murder or manslaughter while committing a crime relating to fixed platforms	Maritime Crimes Act 1999, section 5(1)
Crimes relating to ships	Maritime Crimes Act 1999, section 4(1)
Crimes relating to fixed platforms	Maritime Crimes Act 1999, section 5(1)
Recruiting a person to be a mercenary to take part in an armed conflict or a concerted act of violence	Mercenary Activities (Prohibition) Act 2004, section 7(1)
Using a mercenary to take part in an armed conflict or a concerted act of violence	Mercenary Activities (Prohibition) Act 2004, section 8
Financing a mercenary without lawful excuse to take part in an armed conflict or a concerted act of violence	Mercenary Activities (Prohibition) Act 2004, section 9(1)
Training a prospective mercenary to take part in an armed conflict or a concerted act of violence	Mercenary Activities (Prohibition) Act 2004, section 10
Training a mercenary to take part in an armed conflict or a concerted act of violence	Mercenary Activities (Prohibition) Act 2004, section 11
Mercenary taking part in hostilities or a concerted act of violence	Mercenary Activities (Prohibition) Act 2004, section 12
Engaging in a terrorist act	Terrorism Suppression Act 2002, section 6A
Terrorist bombing causing death or destruction	Terrorism Suppression Act 2002, section 7
Financing a terrorist act	Terrorism Suppression Act 2002, section 8
Recruiting members of terrorist groups	Terrorism Suppression Act 2002, section 12
Participating in terrorist groups	Terrorism Suppression Act 2002, section 13
-	-
-	-
-	-
-	-
-	-
-	-
Attempted murder (firearm)	Crimes Act 1961, section 173
Attempted murder (other weapon)	Crimes Act 1961, section 173
Attempted murder (manually)	Crimes Act 1961, section 173
Attempted murder (stabbing or cutting weapon)	Crimes Act 1961, section 173
Other attempted murder	Crimes Act 1961, section 173
-	-
-	-
-	-
-	-
-	-
-	-
-	-
-	-
-	-
Aiding suicide, etc	Crimes Act 1961, section 179

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Schedule 2

<b>Offence description</b>	<b>Legislative provision</b>
Kidnapping (for gain)	Crimes Act 1961, section 209
Kidnapping (no gain)	Crimes Act 1961, section 209
Other kidnapping	Crimes Act 1961, section 209
Dealing in slaves under 18	Crimes Act 1961, section 98AA
Dealing in slaves over 18	Crimes Act 1961, section 98
Dealing in people under 18 for sex, body parts, or forced labour	Crimes Act 1961, section 98AA
Aggravated robbery causing grievous bodily harm (firearm)	Crimes Act 1961, section 235
Aggravated robbery causing grievous bodily harm (other weapon)	Crimes Act 1961, section 235
Aggravated robbery causing grievous bodily harm (manual)	Crimes Act 1961, section 235
Aggravated robbery causing grievous bodily harm (stabbing or cutting weapon)	Crimes Act 1961, section 235
Aggravated robbery (firearm)	Crimes Act 1961, section 235
Aggravated robbery (other weapon)	Crimes Act 1961, section 235
Aggravated robbery (manual)	Crimes Act 1961, section 235
Aggravated robbery (stabbing or cutting weapon)	Crimes Act 1961, section 235
Other aggravated robbery	Crimes Act 1961, section 235
Assault with intent to rob (firearm)	Crimes Act 1961, section 236(1)
Assault with intent to rob (other weapon)	Crimes Act 1961, section 236(1)
Assault with intent to rob (stabbing or cutting weapon)	Crimes Act 1961, section 236(1)
Assault with intent to rob (with another person)	Crimes Act 1961, section 236(1)
Assault with intent to rob (causing grievous bodily harm)	Crimes Act 1961, section 236(1)
Compelling execution of documents (firearm)	Crimes Act 1961, section 239(1)
Compelling execution of documents (other weapon)	Crimes Act 1961, section 239(1)
Compelling execution of documents (stabbing or cutting weapon)	Crimes Act 1961, section 239(1)
Aggravated robbery (together with another person)	Crimes Act 1961, section 235
Wounding with intent to cause grievous bodily harm (firearm)	Crimes Act 1961, section 188(1)
Wounding with intent to cause grievous bodily harm (other weapon)	Crimes Act 1961, section 188(1)
Wounding with intent to cause grievous bodily harm (manual)	Crimes Act 1961, section 188(1)
Wounding with intent to cause grievous bodily harm (stabbing or cutting weapon)	Crimes Act 1961, section 188(1)
Aggravated wounding (firearm)	Crimes Act 1961, section 191(1)
Aggravated wounding (other weapon)	Crimes Act 1961, section 191(1)
Aggravated wounding (manual)	Crimes Act 1961, section 191(1)
Aggravated wounding (stabbing or cutting weapon)	Crimes Act 1961, section 191(1)
Dangerous act with intent to cause grievous bodily harm (firearm)	Crimes Act 1961, section 198(1)
Dangerous act with intent to cause grievous bodily harm (explosive, etc)	Crimes Act 1961, section 198(1)

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Schedule 2

<b>Offence description</b>	<b>Legislative provision</b>
Dangerous act with intent to cause grievous bodily harm (fire)	Crimes Act 1961, section 198(1)
Throwing acid with intent to injure	Crimes Act 1961, section 199(1)
Poisoning with intent to cause grievous bodily harm	Crimes Act 1961, section 200(1)
Infecting with a disease	Crimes Act 1961, section 201
Using a firearm against a law enforcement officer	Crimes Act 1961, section 198A(1)
Blackmail	Crimes Act 1961, sections 237(1) and 238
Abduction for marriage of a girl under 12	Crimes Act 1961, section 208
Abduction for marriage of a girl 12-16	Crimes Act 1961, section 208
Abduction for marriage of a female over 16	Crimes Act 1961, section 208
Abduction for sex of a girl under 12	Crimes Act 1961, section 208
Abduction for sex of a girl 12-16	Crimes Act 1961, section 208
Abduction for sex of a female over 16	Crimes Act 1961, section 208
Abduction for marriage	Crimes Act 1961, section 208
Abduction for sex	Crimes Act 1961, section 208
Other abduction for marriage or sex offences	Crimes Act 1961, section 208
Inducing sexual connection	Crimes Act 1961, section 129A
Other inducing sexual connection offences	Crimes Act 1961, section 129A
Male rapes a girl under 12	Crimes Act 1961, sections 128 and 128B
Male rapes a girl 12-16	Crimes Act 1961, section 128B
Male rapes a female over 16	Crimes Act 1961, section 128B
Husband rapes wife	Crimes Act 1961, section 128B
Unlawful sexual connection with a girl under 12	Crimes Act 1961, section 128B
Unlawful sexual connection with a girl 12-16	Crimes Act 1961, section 128B
Unlawful sexual connection with a female over 16	Crimes Act 1961, section 128B
Unlawful sexual connection with a spouse	Crimes Act 1961, section 128B
Other sexual violation offences	Crimes Act 1961, section 128B
Unlawful sexual connection with a boy under 12	Crimes Act 1961, section 128B
Unlawful sexual connection with a boy 12-16	Crimes Act 1961, section 128B
Unlawful sexual connection with a male over 16	Crimes Act 1961, section 128B
Compelling an indecent act with an animal	Crimes Act 1961, section 142A
Sexual connection with a child under 12	Crimes Act 1961, section 132
Sexual conduct with a child outside New Zealand	Crimes Act 1961, section 144A
Inducing or compelling a person to provide sexual services	Prostitution Reform Act 2003, section 16
Importing or exporting cocaine	Misuse of Drugs Act 1975, sections 6(1)(a) and 6(2)(a)
Importing or exporting heroin	Misuse of Drugs Act 1975, sections 6(1)(a) and 6(2)(a)
Importing or exporting LSD	Misuse of Drugs Act 1975, sections 6(1)(a) and 6(2)(a)
Importing or exporting morphine	Misuse of Drugs Act 1975, sections 6(1)(a) and 6(2)(b)
Importing or exporting opium	Misuse of Drugs Act 1975, sections 6(1)(a) and 6(2)(b)

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Schedule 2

<b>Offence description</b>	<b>Legislative provision</b>
Producing, manufacturing, or distributing cocaine	Misuse of Drugs Act 1975, sections 6(1)(b) and 6(2)(a)
Producing, manufacturing, or distributing heroin	Misuse of Drugs Act 1975, sections 6(1)(b) and 6(2)(a)
Producing, manufacturing, or distributing LSD	Misuse of Drugs Act 1975, sections 6(1)(b) and 6(2)(a)
Producing, manufacturing, or distributing morphine	Misuse of Drugs Act 1975, sections 6(1)(b) and 6(2)(b)
Producing, manufacturing, or distributing opium	Misuse of Drugs Act 1975, sections 6(1)(b) and 6(2)(b)
Selling, giving, supplying, administering, or dealing with cocaine	Misuse of Drugs Act 1975, sections 6(1)(e) and 6(2)(a)
Selling, giving, supplying, administering or dealing with heroin	Misuse of Drugs Act 1975, sections 6(1)(e) and 6(2)(a)
Selling, giving, supplying, or administering or dealing with LSD	Misuse of Drugs Act 1975, sections 6(1)(e) and 6(2)(a)
Selling, giving, supplying, or administering or dealing with morphine	Misuse of Drugs Act 1975, sections 6(1)(e) and 6(2)(b)
Selling, giving, supplying, or administering or dealing with opium	Misuse of Drugs Act 1975, sections 6(1)(e) and 6(2)(b)
Possessing cocaine for supply	Misuse of Drugs Act 1975, sections 6(1)(f) and 6(2)(a)
Possessing heroin for supply	Misuse of Drugs Act 1975, sections 6(1)(f) and 6(2)(a)
Possessing LSD for supply	Misuse of Drugs Act 1975, sections 6(1)(f) and 6(2)(a)
Possessing morphine for supply	Misuse of Drugs Act 1975, sections 6(1)(f) and 6(2)(b)
Possessing opium for supply	Misuse of Drugs Act 1975, sections 6(1)(f) and 6(2)(b)
Aiding a drug offence outside New Zealand	Misuse of Drugs Act 1975, section 10
Conspiring to deal with Class A drug	Misuse of Drugs Act 1975, section 6(2A)(a)
Importing or exporting cannabis resin	Misuse of Drugs Act 1975, sections 6(1)(a) and 6(2)(b)
Importing or exporting cannabis oil	Misuse of Drugs Act 1975, sections 6(1)(a) and 6(2)(b)
Producing, manufacturing, or distributing cannabis resin	Misuse of Drugs Act 1975, sections 6(1)(b) and 6(2)(b)
Producing manufacturing, or distributing cannabis oil	Misuse of Drugs Act 1975, sections 6(1)(b) and 6(2)(b)
Selling, giving, supplying, administering or dealing with cannabis oil	Misuse of Drugs Act 1975, sections 6(1)(e) and 6(2)(b)
Possessing cannabis resin for supply	Misuse of Drugs Act 1975, sections 6(1)(f) and 6(2)(b)
Possessing cannabis oil for supply	Misuse of Drugs Act 1975, sections 6(1)(f) and 6(2)(b)
Aiding a cannabis offence outside New Zealand	Misuse of Drugs Act 1975, section 10
Burglary with a weapon (firearm)	Crimes Act 1961, section 232(1)
Burglary with a weapon (other weapon)	Crimes Act 1961, section 232(1)

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Schedule 2

<b>Offence description</b>	<b>Legislative provision</b>
Remaining after a burglary (firearm)	Crimes Act 1961, section 232(1)
Remaining after a burglary (other weapon)	Crimes Act 1961, section 232(1)
Other aggravated burglary offences	Crimes Act 1961, section 232
Wilfully damaging property by explosive or endangering life	Crimes Act 1961, section 267
Wilfully setting fire to property or endangering life	Crimes Act 1961, section 267
Other arson	Crimes Act 1961, sections 267 and 268; and Summary Offences Act 1981, section 36
Hijacking an aircraft	Aviation Crimes Act 1972, section 3
Damaging an aircraft in service	Aviation Crimes Act 1972, section 5
Placing an item in an aircraft that is likely to destroy the aircraft	Aviation Crimes Act 1972, section 5
Importing or exporting methamphetamine or amphetamine	Misuse of Drugs Act 1975, sections 6(1)(a) and 6(2)(a)
Importing or exporting ecstasy	Misuse of Drugs Act 1975, sections 6(1)(a) and 6(2)(b)
Importing or exporting fantasy-type substances	Misuse of Drugs Act 1975, sections 6(1)(a) and 6(2)(b)
Producing or manufacturing methamphetamine or amphetamine	Misuse of Drugs Act 1975, sections 6(1)(b) and 6(2)(a)
Producing or manufacturing ecstasy	Misuse of Drugs Act 1975, sections 6(1)(b) and 6(2)(b)
Producing or manufacturing fantasy-type substances	Misuse of Drugs Act 1975, sections 6(1)(b) and 6(2)(b)
Supplying, administering, or dealing with methamphetamine or amphetamine	Misuse of Drugs Act 1975, sections 6(1)(c) and 6(2)(a)
Supplying, administering, or dealing with ecstasy	Misuse of Drugs Act 1975, sections 6(1)(c) and 6(2)(b)
Supplying, administering, or dealing with fantasy-type substances	Misuse of Drugs Act 1975, sections 6(1)(c) and 6(2)(b)
Possessing methamphetamine or amphetamine for supply	Misuse of Drugs Act 1975, sections 6(1)(f) and 6(2)(a)
Possessing ecstasy for supply	Misuse of Drugs Act 1975, sections 6(1)(f) and 6(2)(b)
Possessing fantasy-type substances for supply	Misuse of Drugs Act 1975, sections 6(1)(f) and 6(2)(b)
Attempting to manufacture methamphetamine or amphetamine	Misuse of Drugs Act 1975, sections 6(1)(b) and 6(2)(a)
Attempting to manufacture ecstasy	Misuse of Drugs Act 1975, sections 6(1)(b) and 6(2)(a)
Attempting to manufacture fantasy-type substances	Misuse of Drugs Act 1975, sections 6(1)(b) and 6(2)(b)
Corruption or bribery of Minister of Crown or member of Parliament	Crimes Act 1961, sections 102(1), 102(2), 103(1), and 103(2)
Judicial corruption	Crimes Act 1961, sections 100(1), 100(2), and 101(2)
Perjury	Crimes Act 1961, section 109
Smuggling of migrants	Crimes Act 1961, section 98C

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Schedule 2

<b>Offence description</b>	<b>Legislative provision</b>
<del>Trafficking in people by means of coercion or deception</del>	<del>Crimes Act 1961, section 98D</del>
<del>Treason</del>	<del>Crimes Act 1961, section 74</del>
<del>Piracy</del>	<del>Crimes Act 1961, section 92</del>
<del>Other miscellaneous offences against the national interest</del>	<del>Crimes Act 1961, section 78</del>
<b><u>Offence description</u></b>	<b><u>Legislative provision</u></b>
<u>Hijacking an aircraft</u>	<u>Aviation Crimes Act 1972, section 3</u>
<u>Crimes in connection with hijacking (if the crime is one listed in this schedule)</u>	<u>Aviation Crimes Act 1972, section 4</u>
<u>Crimes relating to aircraft</u>	<u>Aviation Crimes Act 1972, section 5</u>
<u>Crimes relating to international airports</u>	<u>Aviation Crimes Act 1972, section 5A</u>
<u>Offences relating to chemical weapons</u>	<u>Chemical Weapons (Prohibition) Act 1996, section 6</u>
<u>Using riot control agents as a method of warfare</u>	<u>Chemical Weapons (Prohibition) Act 1996, section 8</u>
<u>Treason</u>	<u>Crimes Act 1961, section 74</u>
<u>Espionage</u>	<u>Crimes Act 1961, section 78</u>
<u>Piracy</u>	<u>Crimes Act 1961, section 92</u>
<u>Dealing in slaves</u>	<u>Crimes Act 1961, section 98</u>
<u>Dealing in people under 18 for sexual exploitation, removal of body parts, or engagement in forced labour</u>	<u>Crimes Act 1961, section 98AA</u>
<u>Smuggling migrants</u>	<u>Crimes Act 1961, section 98C</u>
<u>Trafficking in persons</u>	<u>Crimes Act 1961, section 98D</u>
<u>Judicial corruption</u>	<u>Crimes Act 1961, section 100(1)</u>
<u>Corruption and bribery of Minister of the Crown</u>	<u>Crimes Act 1961, section 102(1)</u>
<u>Perjury in order to procure conviction</u>	<u>Crimes Act 1961, section 109(2)</u>
<u>Sexual violation</u>	<u>Crimes Act 1961, section 128B</u>
<u>Sexual connection with consent induced by threat</u>	<u>Crimes Act 1961, section 129A(1)</u>
<u>Sexual connection with child under 12</u>	<u>Crimes Act 1961, section 132(1)</u>
<u>Compelling indecent act with animal</u>	<u>Crimes Act 1961, section 142A</u>
<u>Sexual connection with a child under 12 outside New Zealand</u>	<u>Crimes Act 1961, section 144A(1)(a)</u>
<u>Attempted murder</u>	<u>Crimes Act 1961, section 173</u>
<u>Aiding and abetting suicide</u>	<u>Crimes Act 1961, section 179(1)</u>
<u>Wounding with intent to cause grievous bodily harm</u>	<u>Crimes Act 1961, section 188(1)</u>
<u>Aggravated wounding</u>	<u>Crimes Act 1961, section 191(1)</u>
<u>Discharging firearm or doing dangerous act with intent to cause grievous bodily harm</u>	<u>Crimes Act 1961, section 198(1)</u>
<u>Using firearm against law enforcement officer, etc</u>	<u>Crimes Act 1961, section 198A(1)</u>
<u>Acid throwing</u>	<u>Crimes Act 1961, section 199</u>
<u>Poisoning with intent to cause grievous bodily harm</u>	<u>Crimes Act 1961, section 200(1)</u>
<u>Infecting with disease</u>	<u>Crimes Act 1961, section 201</u>
<u>Abduction for purposes of marriage or sexual connection</u>	<u>Crimes Act 1961, section 208</u>
<u>Kidnapping</u>	<u>Crimes Act 1961, section 209</u>

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Schedule 2

<b>Offence description</b>	<b>Legislative provision</b>
<u>Aggravated burglary</u>	<u>Crimes Act 1961, section 232(1)</u>
<u>Aggravated robbery</u>	<u>Crimes Act, 1961 section 235</u>
<u>Assault with intent to rob</u>	<u>Crimes Act, section 236(1)</u>
<u>Blackmail</u>	<u>Crimes Act 1961, section 237</u>
<u>Compelling execution, etc. of documents</u>	<u>Crimes Act 1961, section 239(1)</u>
<u>Arson</u>	<u>Crimes Act 1961, section 267(1)</u>
<u>Crimes against persons protected by a convention (if the crime is one listed in this schedule and Schedule 1 of the Crimes (Internationally Protected Persons, United Nations and Associated Personnel, and Hostages) Act 1980)</u>	<u>Crimes (Internationally Protected Persons, United Nations and Associated Personnel, and Hostages) Act 1980, section 3</u>
<u>Hostage-taking</u>	<u>Crimes (Internationally Protected Persons, United Nations and Associated Personnel, and Hostages) Act 1980, section 8</u>
<u>Act of torture</u>	<u>Crimes of Torture Act 1989, section 3(1)</u>
<u>Grave breach of Geneva Conventions or First Protocol or Third Protocol</u>	<u>Geneva Conventions Act 1958, section 3</u>
<u>Genocide</u>	<u>International Crimes and International Criminal Court Act 2000, section 9</u>
<u>Crimes against humanity</u>	<u>International Crimes and International Criminal Court Act 2000, section 10</u>
<u>War crimes</u>	<u>International Crimes and International Criminal Court Act 2000, section 11</u>
<u>Crimes relating to ships</u>	<u>Maritime Crimes Act 1999, section 4</u>
<u>Crimes relating to fixed platforms</u>	<u>Maritime Crimes Act 1999, section 5</u>
<u>Recruiting person to be mercenary</u>	<u>Mercenary Activities (Prohibition) Act 2004, section 7</u>
<u>Using mercenary</u>	<u>Mercenary Activities (Prohibition) Act 2004, section 8</u>
<u>Financing mercenary</u>	<u>Mercenary Activities (Prohibition) Act 2004, section 9</u>
<u>Training prospective mercenary</u>	<u>Mercenary Activities (Prohibition) Act 2004, section 10</u>
<u>Training mercenary</u>	<u>Mercenary Activities (Prohibition) Act 2004, section 11</u>
<u>Mercenary taking part in hostilities or concerted act of violence</u>	<u>Mercenary Activities (Prohibition) Act 2004, section 12</u>
<u>Importing into or exporting from New Zealand any Class A or Class B controlled drug</u>	<u>Misuse of Drugs Act 1975, section 6(1)(a)</u>
<u>Producing or manufacturing any Class A or Class B controlled drug</u>	<u>Misuse of Drugs Act 1975, section 6(1)(b)</u>
<u>Supplying or administering, or offering to supply or administer, any Class A or Class B controlled drug to any other person, or otherwise dealing in any such controlled drug</u>	<u>Misuse of Drugs Act 1975, section 6(1)(c)</u>
<u>Possession of any Class A or Class B controlled drug for the purpose of supplying or administering, or offering to supply or administer, to any other person, or otherwise dealing in any such controlled drug</u>	<u>Misuse of Drugs Act 1975, section 6(1)(f)</u>

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Schedule 2

<b><u>Offence description</u></b>	<b><u>Legislative provision</u></b>
<u>Conspiring to commit an offence specified in sections 6(1)(a), (b), (c) or (f) of the Misuse of Drugs Act 1975 in relation to a Class A controlled drug</u>	<u>Misuse of Drugs Act 1975, section 6(2A)(a)</u>
<u>Inducing or compelling persons to provide commercial sexual services or earnings from prostitution</u>	<u>Prostitution Reform Act 2003, section 16</u>
<u>Engaging in a terrorist act</u>	<u>Terrorism Suppression Act 2002, section 6A</u>
<u>Terrorist bombing</u>	<u>Terrorism Suppression Act 2002, section 7</u>
<u>Financing of terrorism</u>	<u>Terrorism Suppression Act 2002, section 8</u>
<u>Recruiting members of terrorist group</u>	<u>Terrorism Suppression Act 2002, section 12</u>
<u>Participating in terrorist group</u>	<u>Terrorism Suppression Act 2003, section 13</u>

## Schedule 3 Consequential amendments to other enactments

s 138

### Part 1

#### Amendments to Acts consequential on change of Title of principal Act

In each place in the specified provisions of the Acts listed in the following table, replace “Children, Young Persons, and Their Families Act 1989” with “**Oranga Tamariki Act 1989**”.

<b>Acts</b>	<b>Provisions</b>
Adoption Act 1955 (1955 No 93)	Sections 2, 6
Adoption (Intercountry) Act 1997 (1997 No 109)	Section 2
Adult Adoption Information Act 1985 (1985 No 127)	Section 2
Bail Act 2000 (2000 No 38)	Sections 15, 34A
Births, Deaths, Marriages, and Relationships Registration Act 1995 (1995 No 16)	Section 21
Care of Children Act 2004 (2004 No 90)	Sections 8, 22, 23, 29A, 32, 46E, 56, 58, 131, 148
Child Support Act 1991 (1991 No 142)	Sections 8, 14, 25
Children, Young Persons, and Their Families Amendment Act (No 2) 2016 (2016 No 75)	Section 3
Children’s Commissioner Act 2003 (2003 No 121)	Sections 4, 11, 13, 19, 23, 31, 32
Contract and Commercial Law Act 2017 (2017 No 5)	Schedule 5
Coroners Act 2006 (2006 No 38)	Section 9
Corrections Act 2004 (2004 No 50)	Sections 3, 34A, 81A
Courts Security Act 1999 (1999 No 115)	Section 25
Crimes Act 1961 (1961 No 43)	Section 131A
Crimes of Torture Act 1989 (1989 No 106)	Section 16
Criminal Disclosure Act 2008 (2008 No 38)	Sections 6, 12, 13
Criminal Investigations (Bodily Samples) Act 1995 (1995 No 55)	Sections 4A, 8, 18, 21, 23, 24C, 24D, 24E, 24F, 26, 26A, 26B, 41B, 41C, 46, 57, 61A, 75
Criminal Procedure Act 2011 (2011 No 81)	Sections 7, 165, 173, 174, 175, 380
Criminal Records (Clean Slate) Act 2004 (2004 No 36)	Section 19
Department of Child, Youth and Family Services Act 1999 (1999 No 82)	Sections 3, 9, 10, 11
District Court Act 2016 (2016 No 49)	Sections 9, 19, 31, 45
Domestic Violence Act 1995 (1995 No 86)	Section 19
Education Act 1989 (1989 No 80)	Sections 18A, 22, 22A, 29, 92, 310
Electronic Transactions Act 2002 (2002 No 35)	Schedule
Evidence Act 2006 (2006 No 69)	Sections 56, 110
Families Commission Act 2003 (2003 No 128)	Section 13
Family Court Act 1980 (1980 No 161)	Sections 11, 11B, 11C, 12, 12A, 16A, 16D

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

<b>Acts</b>	<b>Provisions</b>
Family Proceedings Act 1980 (1980 No 94)	Section 2
Health Act 1956 (1956 No 65)	Section 22C
Health and Disability Services (Safety) Act 2001 (2001 No 93)	Section 8
Immigration Act 2009 (2009 No 51)	Sections 331, 332, 375
Income Tax Act 2007 (2007 No 97)	Sections HC 36, MB 13, MC 10, MD 6, YA 1
Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003 (2003 No 116)	Sections 5, 138
KiwiSaver Act 2006 (2006 No 40)	Section 4
Land Transport Act 1998 (1998 No 110)	Section 91A
Lawyers and Conveyancers Act 2006 (2006 No 1)	Section 47
Legal Services Act 2011 (2011 No 4)	Sections 4, 7, 8, Schedule 2
Parole Act 2002 (2002 No 10)	Sections 43, 91
Policing Act 2008 (2008 No 72)	Sections 34, 34A
Prisoners' and Victims' Claims Act 2005 (2005 No 74)	Sections 4, 18
Privacy Act 1993 (1993 No 28)	Schedule 2A
Protection of Personal and Property Rights Act 1988 (1988 No 4)	Section 2
Rates Rebate Act 1973 (1973 No 5)	Section 2
Search and Surveillance Act 2012 (2012 No 24)	Section 3, Schedule
Social Security Act 1964 (1964 No 136)	Sections 3, 40D, 75B, 157, 159
Social Security (Clothing Allowances for Orphans and Unsupported Children) Amendment Act 2015 (2015 No 58)	Section 4, new section 29B
Substance Addiction (Compulsory Assessment and Treatment) Act 2017 (2017 No 4)	Sections 4, 24, 33, 66, 78
Summary Proceedings Act 1957 (1957 No 87)	Sections 79, 88AE
Te Rarawa Claims Settlement Act 2015 (2015 No 79)	Section 217
Veterans' Support Act 2014 (2014 No 56)	Section 158
Victims' Rights Act 2002 (2002 No 39)	Sections 4, 35
Vulnerable Children Act 2014 (2014 No 40)	Sections 5, 15, 19, Schedule 1

## Part 2

### Amendments to legislative instruments consequential on change of Title of principal Act

In each place in the specified provisions of the legislative instruments listed in the following table, replace “Children, Young Persons, and Their Families Act 1989” with “**Oranga Tamariki Act 1989**”.

<b>Legislative instruments</b>	<b>Provisions</b>
Care of Children (Appointment of Additional Guardian by Parents) (Forms) Rules 2005 (SR 2005/97)	Schedule

**Proposed amendments to  
Children, Young Persons, and Their Families (Oranga  
Tamariki) Legislation Bill**

Schedule 3

<b>Legislative instruments</b>	<b>Provisions</b>
Children, Young Persons, and Their Families (Forms) Regulations 1989 (SR 1989/296)	Regulation 2, Schedule 1
Children, Young Persons, and Their Families (Minimum Rates of Payment for Board and Lodgings) Order 2017 (LI 2017/35)	Clause 3
Children, Young Persons, and Their Families (Residential Care) Regulations 1996 (SR 1996/354)	Regulation 2
Children, Young Persons, and Their Families Rules 1989 (SR 1989/295)	Rules 2, 3, Schedule 1
Corrections Regulations 2005 (SR 2005/53)	Regulation 175
Criminal Investigations (Bodily Samples) Regulations 2004 (SR 2004/53)	Schedule
Criminal Procedure Rules 2012 (SR 2012/415)	Rule 3.1
Crown Prosecution Regulations 2013 (SR 2013/178)	Regulation 3
District Court Rules 2014 (LI 2014/179)	Rule 1.5
Domestic Violence (General) Regulations 1996 (SR 1996/150)	Schedule
Domestic Violence Rules 1996 (SR 1996/148)	Schedule 1
Evidence Regulations 2007 (SR 2007/204)	Regulations 3, 22, 24
Family Court Rules 2002 (SR 2002/261)	Rules 5, 6, 8, 22, 25, 26, 28, 37, 52, 80, 104, 106, 107, 130, 136, 209, 220, 239, cross-heading above rule 274, 274, 416P, 427, Schedules 1, 4, 5, 9
Family Courts Fees Regulations 2009 (SR 2009/88)	Regulation 5A
Land Transport (Driver Licensing) Rule 1999 (SR 1999/100)	Rule 2
Legal Services Regulations 2011 (SR 2011/144)	Regulation 9B
National Civil Defence Emergency Management Plan Order 2015 (LI 2015/140)	Clause 70
Parental Leave and Employment Protection Regulations 2016 (LI 2016/68)	Regulations 6, 10, Schedule 2
Privacy (Information Sharing Agreement for Improving Public Services for Vulnerable Children) Order 2015 (LI 2015/162)	Clauses 3, 11, 13, Schedule
Sentencing Regulations 2002 (SR 2002/178)	Schedule
Social Security (Contracts and Information Sharing with Service Providers) Regulations 2012 (SR 2012/210)	Regulation 3
Social Security (Effect on Benefit of Warrant to Arrest—Excluded Beneficiaries) Regulations 2013 (SR 2013/249)	Regulation 5
Social Security (Exemptions under Section 105) Regulations 1998 (SR 1998/270)	Regulation 2
Social Security (Youth Support—Authorised Agencies) Order 2012 (SR 2012/209)	Clause 3

## Schedule 4

### Amendments to enactments

s 139

#### **Accident Compensation Act 2001 (2001 No 49)**

In section 283(1), replace “Department of Child, Youth and Family Services” with “department responsible for administering the **Oranga Tamariki Act 1989**”.

#### **Corrections Act 2004 (2004 No 50)**

In section 182C(b), replace “Department of Child, Youth and Family Services” with “department responsible for administering the **Oranga Tamariki Act 1989**”.

#### **Education (2016 School Staffing) Order 2015 (LI 2015/190)**

In the heading to clause 68, replace “**Child, Youth and Family students**” with “**Ministry for Vulnerable Children, Oranga Tamariki students**”.

In clause 68, replace “Child, Youth and Family students” with “Ministry for Vulnerable Children, Oranga Tamariki students”.

In the Schedule 6 heading, replace “**Child, Youth and Family students**” with “**Ministry for Vulnerable Children, Oranga Tamariki students**”.

#### **Education (2017 School Staffing) Order 2016 (LI 2016/179)**

In the heading to clause 68, replace “**Child, Youth and Family students**” with “**Ministry for Vulnerable Children, Oranga Tamariki students**”.

In clause 68, replace “Child, Youth and Family students” with “Ministry for Vulnerable Children, Oranga Tamariki students”.

In the Schedule 6 heading, replace “**Child, Youth and Family students**” with “**Ministry for Vulnerable Children, Oranga Tamariki students**”.

#### **Education (Hostels) Regulations 2005 (SR 2005/332)**

In regulation 58(4), replace “Department of Child, Youth and Family Services” with “department responsible for administering the **Oranga Tamariki Act 1989**”.

In regulation 70(2), replace “Department of Child, Youth and Family Services” with “department responsible for administering the **Oranga Tamariki Act 1989**”.

#### **Education (Pastoral Care of International Students) Code of Practice 2016 (LI 2016/57)**

In clause 22(c)(iv), replace “Child, Youth, and Family” with “the department responsible for administering the **Oranga Tamariki Act 1989**”.

In clause 25(1)(c), replace “Child, Youth and Family” with “the department responsible for administering the **Oranga Tamariki Act 1989**”.

**Social Security (Contracts and Information Sharing with Service Providers)  
Regulations 2012 (SR 2012/210)**

In regulation 8(b)(ii), replace “Child, Youth and Family” with “the department responsible for administering the **Oranga Tamariki Act 1989**”.

In regulation 11(2)(b), replace “Child, Youth and Family” with “the department responsible for administering the **Oranga Tamariki Act 1989**”.