



## **AN BILLE UM CHURAM LEANAÍ, 1988** **CHILD CARE BILL, 1988**

### **EXPLANATORY MEMORANDUM**

#### *Introduction*

The purpose of the Bill is to up-date the law in relation to the care of children, particularly children who have been assaulted, ill-treated, seriously neglected or sexually abused or who are at risk.

The main provisions of the Bill are as follows:—

- (i) the placing of a statutory duty on health boards to promote the welfare of children who are not receiving adequate care and protection;
- (ii) strengthening of the powers of health boards to provide child care and family support services;
- (iii) improved procedures to facilitate immediate intervention by health boards and the Gardaí where children are in serious danger;
- (iv) revised provisions to enable the courts to place children who have been assaulted, ill treated, seriously neglected or sexually abused or who are at risk in the care of or under the supervision of health boards;
- (v) introduction of arrangements for the inspection and supervision of pre-school services;
- (vi) revised provisions in relation to the inspection and approval of residential centres for children.

#### **PART I**

##### **PRELIMINARY**

*Section 1* provides that the Bill will be known as the Child Care Act and empowers the Minister for Health to bring its provisions into effect by order. *Section 2* defines terms used in the Bill. The term "child" is defined as any person up to 18 years (other than a married person). The main effect of this is to raise from 16 to 18 years the age up to which health boards are responsible for children and the age up to which children may be placed in care.

#### **PART II**

##### *Promotion of Welfare of Children*

This Part contains a number of provisions aimed at promoting the welfare of children.



*Section 3* gives health boards responsibility to promote the welfare of children who are not receiving adequate care and protection and power to provide child care and family support services. It also requires health boards to have regard to the principle that it is generally in the best interests of a child to be brought up in his own family. Thus the emphasis is on providing support and assistance so that children can remain at home; only in exceptional cases are children to be taken into care.

*Section 4* enables health boards to receive into care, without reference to the courts, orphans and abandoned children and, with the consent of the parents, children whose parents are unable to care for them due, for example, to serious illness, sudden bereavement, marital breakdown or other family crisis.

*Section 5* provides for the establishment of Child Care Advisory Committees in each health board area to advise the board on the performance of its functions under the Bill. The Committees would include representatives of voluntary bodies involved in child care. *Section 6* requires health boards to carry out periodic reviews of the adequacy of the child care services in their areas. *Section 7* enables health boards to make arrangements with voluntary bodies to provide child care and family support services on their behalf. *Section 8* empowers health boards to grant-aid voluntary bodies providing child care and family support services. *Section 9* enables the Minister for Health and health boards to carry out research in the area of child care.

### PART III

#### *Protection of Children in Emergencies*

This Part enables the Gardaí or health board staff to intervene quickly where there is an immediate and serious threat to the safety and well being of a child.

*Section 10* enables a Garda to remove, without warrant, to a place of safety a child who has been assaulted, ill-treated, neglected or sexually abused and who is in immediate danger. *Section 11* empowers a District Justice to make an emergency care order authorising the removal of a child from his home and his placement in the care of a health board for up to 8 days where there is an immediate and serious risk to his safety. *Section 12* requires that the parents be informed when a child is taken to a place of safety. *Section 13* requires each health board to ensure that there is an adequate number of places of safety in its area.

### PART IV

#### *Care Proceedings*

This Part enables the courts to place children who have been assaulted, ill-treated, seriously neglected or sexually abused or who are at risk in the care of or under the supervision of health boards.

*Section 14* imposes a statutory duty on a health board to apply for a care order or a supervision order, as appropriate, whenever it appears to the board that the conditions required for the making of an order exist with respect to a child.

*Section 15* provides for the making of a care order. A care order would, in effect, suspend the parents' right to custody of the child and place him in the custody of the health board. In order to obtain



a care order, it would be necessary for a health board to satisfy the court that—

- (a) the child has been or is being assaulted, ill-treated, seriously neglected or sexually abused, or
- (b) the child's health, development or well-being has been or is being avoidably impaired or seriously neglected, or
- (c) there are reasonable grounds for believing that his health, development or well-being is likely to be avoidably impaired or seriously neglected,

and that the child requires care or protection which he is unlikely to receive unless he is placed in the care of the health board.

In reaching its decision, the court would be required to have regard to the rights and duties of parents, whether under the Constitution or otherwise, and to the natural and imprescriptible rights of the child.

A care order would remain in force until the child attained the age of 18 unless it was successfully challenged by the parents or discharged by the court because of changed circumstances.

*Section 16* enables the court to make a supervision order. This would authorise a health board to have a child visited in his home to ensure that he was being cared for properly. The court would also have power to direct the parents to bring the child to a day care centre, child guidance clinic, hospital etc. A supervision order would apply for 12 months and would be renewable.

*Section 17* enables the court to make orders as to the right of access of parents and other persons to children in care. *Section 18* provides that an appeal from an order under this Part shall not stay the operation of the order unless the court so directs. *Section 19* enables the court to vary or discharge orders. *Section 20* confers jurisdiction to hear and determine care proceedings on the District Court and the Circuit Court on appeal. *Section 21* provides that care proceedings will be heard in private and will be as informal as possible. *Section 22* provides that a child involved in care proceedings need not be brought before the court for all or any part of the hearing unless the court so directs. *Section 23* prohibits the publication or broadcast of any matter that would serve to identify a child who is the subject of care proceedings. *Section 24* deals with the presumption and determination of age by the court.

## PART V

### *Children in the care of Health Boards*

This Part sets out the arrangements which may be made by health boards in looking after children in their care.

*Section 25* empowers a health board to place a child in foster care, in a children's residential centre, in an institution approved by the Minister for Health (e.g. a special school) or to make such other arrangements as may be approved by the Minister. *Section 26* empowers health boards to provide residential facilities for children. *Section 27* gives the Minister power to make regulations governing the placement of children in foster care and *Section 28* confers a similar power in relation to residential care. *Section 29* specifies the procedures for the removal of a child from foster care or residential care. *Section 30* deals with children in the care of health boards who become adopted. *Section 31* enables a health board to provide "aftercare" e.g. support and assistance for persons who were formerly



in care. *Section 32* enables a health board or the Gardaí to recover children who have been unlawfully removed from care or who have absconded. *Section 33* enables the court to give directions on any matter affecting the welfare of a child in care. *Section 34* is a transitional provision in relation to children who are already in care when this Part comes into operation.

## PART VI

### *Supervision of Pre-School Services*

This Part provides for the supervision and inspection of pre-schools, playgroups, creches, nurseries and similar services for pre-school children.

*Section 35* defines terms used in this Part. *Section 36* enables the Minister for Health, after consultation with the Minister for Education, to make regulations for securing the safety and promoting the development of children attending pre-school services. *Section 37* requires persons carrying on pre-school services to notify their local health board. *Section 38* places a statutory duty on persons carrying on pre-school services to take all reasonable measures to safeguard the children concerned. *Section 39* requires health boards to arrange for the inspection of pre-school services. *Section 40* provides for the appointment of authorised persons (which may include officers of the Minister for Education) to carry out inspections. *Section 41* outlines the powers of inspection of authorised persons. *Section 42* empowers health boards to provide pre-school services and to make available information on pre-school services. *Section 43* deals with offences under this Part.

## PART VII

### *Children's Residential Centres*

This Part updates the arrangements for the inspection and supervision of residential centres for children. These include 24 residential homes (formerly industrial schools) for which the Minister for Health has responsibility and 17 homes approved under the Health Act, 1953.

*Section 44* enables the Minister to approve a centre as suitable for the reception of children in the care of health boards. *Section 45* enables the Minister to make regulations governing the conduct and operation of centres. *Section 46* requires the Minister to have centres inspected from time to time. *Section 47* enables the Minister to withdraw approval should the need arise. *Section 48* deals with the situation where a centre is being phased out of operation. *Section 49* provides for the introduction of a superannuation scheme for the staff of certain residential centres. *Section 50* is a transitional provision in relation to the approval of centres which are already in operation when this Part comes into force.

## PART VIII

### *Administration*

This Part contains various technical measures in relation to the administration of the Bill.

*Section 51* gives the Minister power to make regulations. *Section 52* requires the Minister to supervise health boards in the performance



of their functions. *Section 53* enables health boards to charge for certain services. *Section 54* provides for the prosecution of offences. *Section 55* assigns certain functions under the Bill to chief executive officers of health boards. It is intended that most of these functions will be delegated by chief executive officers to other officers of health boards. *Section 56* is the usual expenses provision.

## PART IX

### *Miscellaneous and Supplementary*

*Section 57* is a technical provision which is required to enable the State to ratify the United Nations Covenant on Civil and Political Rights. *Section 58* makes it an offence to sell solvent-based products to children for "glue-sniffing". Provision is made for fines of up to £1,000 or 12 months imprisonment. *Sections 59, 60 and 61* provide for some minor amendments to the School Attendance Act, 1926 and the Guardianship of Infants Act, 1964. *Section 62* provides for deductions from pay of members of the Defence Forces who may have children in care. *Section 63* enables special rules of court to be made to facilitate the expeditious hearing of proceedings under the Bill. *Section 64* provides for repeals. The opportunity is being taken to repeal a large number of outdated provisions in relation to children.

*An Roinn Sláinte,  
Bealtaine, 1988.*



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for the inspection of pre-school services. Section 40 provides for the appointment of authorised persons (which may include members of the Minister for Education) to carry out inspections. Section 41 outlines the powers of inspection of authorised persons. Section 42 empowers health boards to provide pre-school services and to make available information on pre-school services. Section 43 deals with offences under this Part.

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MEETING

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AND THE SOCIETY OF ETHNOLOGISTS

AT THE MUSEUM OF NATURAL HISTORY

ON FRIDAY, 11th DECEMBER, 1891

AT 8.15 P.M.

THE LECTURE WILL BE GIVEN BY

MR. H. H. SCHODD, F.R.S.

ON THE

PHYSIOLOGY OF THE HUMAN VOICE

AND THE MEANS OF IMPROVING IT

THE LECTURE WILL BE OPENED BY

MR. H. H. SCHODD, F.R.S.

AT 8.15 P.M.

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