



DÁIL ÉIREANN

AN BILLE UM CHÚRAM LEANAÍ (LEASÚ) 2009 CHILD CARE (AMENDMENT) BILL 2009

LEASUITHE COISTE COMMITTEE AMENDMENTS

DÁIL ÉIREANN

AN BILLE UM CHÚRAM LEANAÍ (LEASÚ) 2009 —ROGHCHOISTE

CHILD CARE (AMENDMENT) BILL 2009 —SELECT COMMITTEE

Leasuithe Amendments

SECTION 1

1. In page 5, subsection (5), line 27, to delete “*section 6,*” and substitute “*sections 6 and 46*.*”

—An tAire Sláinte agus Leanaí.

[*Note: This is a reference to the section proposed to be inserted by amendment No. 16.]

SECTION 5

2. In page 6, before section 5, to insert the following new section:

“Amendment of
section 5 of
Principal Act.

- 5.—The following is substituted for section 5 of the Principal Act—

“5.—(1) Where it appears to the Health Service Executive that a child in its area is homeless, the Executive shall enquire into the child’s circumstances, and if the Executive is satisfied that there is no suitable and appropriate accommodation available to him or her which he or she can reasonably occupy, unless the child is received into the care of the Executive under the provisions of this Act, the Executive shall have due regard to what constitutes appropriate accommodation for him or her.

(2) For the purposes of this Act suitable accommodation shall include having due regard to the following:

- (a) a room for each child;
- (b) adequate and suitable furniture;
- (c) a sufficient number of lavatories, wash basins, baths and showers;
- (d) adequate facilities for laundry;
- (e) adequate light, heat and ventilation;
- (f) sufficiently clean premises, appropriately decorated and maintained in good structural order;
- (g) adequate recreation facilities;
- (h) an appropriate and adequate level of security.

(3) The Executive shall have regard to the need for accommodation to be appropriate to the age and support needs of the child who is homeless.

[SECTION 5]

(4) The Executive shall have regard to the need to provide a child who is homeless with appropriate long term accommodation and care.”.”.

—Jan O'Sullivan, Kathleen Lynch.

SECTION 9

3. In page 8, line 28, to delete “detention” and substitute “placement”.

—Jan O'Sullivan, Kathleen Lynch.

4. In page 45, line 18, before “shall” to insert the following:

“where an order to that effect is made by the High Court pursuant to section 23NF,”.

—Jan O'Sullivan, Kathleen Lynch.

5. In page 45, between lines 39 and 40, to insert the following subsection:

“(2) Without prejudice to the obligation of the Executive to have regard to the views of the child, bearing in mind the child’s age and understanding, prior to taking steps under this section, the court shall give such directions as are appropriate where the Health Service Executive proposes to take steps to which the child does not consent.”.

—Jan O'Sullivan, Kathleen Lynch.

6. In page 45, line 42, after “shall” to insert the following:

“with the consent of either child’s parent or guardian, a person acting in *loco parentis* or the child’s guardian *ad litem*”.

—Charles Flanagan.

7. In page 45, between lines 46 and 47, to insert the following subsection:

“(3) In any action under this section, regard shall be had to the views of the child having regard to the child’s age and level of understanding. Prior to taking steps under this section, the court shall give such directions as are appropriate in the best interests of the child where the Health Service Executive proposes to take steps to which the child does not consent.”.

—Charles Flanagan.

8. In page 46, line 1, to delete “detained” and substitute “placed in secure care”.

—Charles Flanagan.

9. In page 48, to delete line 48 and substitute the following:

“23NF.—(1) For the avoidance of doubt, a child may not be removed from the jurisdiction by the Health Service Executive for any purpose without an order of the High Court providing such authorization to the Health Service Executive.

(2) Notwithstanding the detention of a”.

—Charles Flanagan.

SECTION 10

10. In page 62, between lines 44 and 45, to insert the following subsection:

“(2) Section 24 of the principal Act is amended in paragraph (b) by the deletion of the words “in so far as practicable”.”.

—Charles Flanagan.

SECTION 12

11. In page 63, lines 11 and 12, to delete paragraph (b).

—Charles Flanagan.

12. In page 63, to delete lines 35 to 42 and substitute the following:

“(a) the guardian *ad litem* appointed may appoint a solicitor to represent them in respect of those proceedings and give directions as to the performance of the solicitor of his or her duties, which may include, if necessary, having regard to the circumstances of the case, directions in relation to the instruction of counsel, and”.

—Charles Flanagan.

13. In page 64, between lines 17 and 18, to insert the following paragraph:

“(g) by inserting the following subsection after subsection (4):

“(5) (a) The Minister shall, within three months of the enactment of the *Child Care (Amendment) Act 2010*, publish by regulations in relation to the registration, role, qualifications and training of guardian *ad litem*s.

(b) Regulations made under *paragraph (a)* shall be approved by the Houses of the Oireachtas.”.

—Charles Flanagan.

SECTION 22

14. In page 67, before section 22, to insert the following new section:

“Amendment of section 45 of Principal Act.

22.—Section 45 (as amended by the Act of 2004) of the Principal Act is amended by substituting the following section for section 45—

“45.—(1) (a) Where a child leaves the care of the Health Service Executive, the Executive shall, in accordance with subsection (2), assist him or her for so long as the Executive is satisfied as to his or her need for assistance and, subject to paragraph (b), he or she has not attained the age of 21 years.

(b) Where that person attains the age of 21 years, the Executive shall continue to provide such assistance until the completion of the course of education in which he or she is engaged.

(2) (a) The Health Service Executive shall assist a person under this section in one or more of the following ways—

(i) by causing him or her to be visited or assisted;

(ii) by arranging for the completion of his or her education and by contributing towards his or her maintenance while he or she is completing his or her education;

(iii) by placing him or her in a suitable trade, calling or business and paying such fee or sum as may be requisite for that purpose;

[SECTION 22]

- (iv) by providing a residential aftercare programme for him or her;
- (v) by co-operating with housing authorities in planning accommodation for children leaving care on reaching the age of 18 years;
- (vi) by arranging for any existing or emerging health care needs to be addressed by appropriate qualified persons.

(b) For the purposes of this section, the Minister shall prescribe the manner in which aftercare may be provided.

(3) In providing assistance under this section, the Executive shall comply with any general directions given by the Minister.

(4) For the purposes of this section, the reference in subsection (1)(a) to the care of the Health Service Executive includes special care provided under Part IVA (as amended by the *Child Care (Amendment) Act 2010*).”.”.

—Jan O'Sullivan, Kathleen Lynch.

15. In page 67, before section 22, to insert the following new section:

“22.—Section 45 (as amended by the Act of 2004) of the Principal Act is amended by substituting the following section for section 45—

“45.—(1) (a) Where a child leaves the care of the Health Service Executive, the Executive shall, in accordance with subsection (2), assist him for so long as the Executive is satisfied as to his need for assistance and, subject to paragraph (b), he has not attained the age of 21 years.

(b) Where the Health Service Executive is assisting a person in accordance with subsection (2)(b), and that person attains the age of 21 years, the Executive shall continue to provide such assistance until the completion of the course of education in which he is engaged.

(2) (a) The Health Service Executive shall assist a person under this section in one or more of the following ways—

- (i) by causing him to be visited or assisted;
- (ii) by arranging for the completion of his education and by contributing towards his maintenance while he is completing his education;
- (iii) by placing him in a suitable trade, calling or business and paying such fee or sum as may be requisite for that purpose;
- (iv) by providing a residential aftercare programme for him;
- (v) by co-operating with housing authorities in planning accommodation for children leaving care on reaching the age of 18 years;
- (vi) by arranging for any existing or emerging health care needs to be addressed by appropriate qualified persons;

[SECTION 22]

(b) For the purposes of this section, the Minister shall prescribe the manner in which aftercare is to be provided by regulation.

(3) Any arrangement made by a health board under section 55(4) or (5) of the Health Act, 1953, in force immediately before the commencement of this section shall continue in force as if made under this section.

(4) In providing assistance under this section, a health board shall comply with any general directions given by the Minister.

(5) For the purposes of this section, the reference in subsection (1)(a) to the care of the Health Service Executive includes special care provided under Part IVA (as amended by the *Child Care (Amendment) Act 2010*).”.”.

—Charles Flanagan.

Section opposed.

—Jan O'Sullivan, Kathleen Lynch.

SECTION 35

Section opposed.

—Jan O'Sullivan, Kathleen Lynch.

NEW SECTION

16. In page 74, after line 46, to insert the following new section:

“Amendment of
Adoption Act 2010.

46.—The Adoption Act 2010 is amended—

(a) in section 3, by substituting the following definition for the definition of “bilateral agreement”:

“ ‘bilateral agreement’ means an agreement referred to in section 73 entered into by the Government and a non-contracting state concerning intercountry adoption;”,

(b) in section 157(f), by substituting “section 13” for “section 13(1)”, and

(c) in section 158(d), by substituting “section 23V(2)(a)” for “section 23V(2)(d)”.”.

—An tAire Sláinte agus Leanaí.

TITLE

17. In page 5, line 14, after “2001;” to insert “TO AMEND THE ADOPTION ACT 2010;”.

—An tAire Sláinte agus Leanaí.