



**SEANAD ÉIREANN**

---

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

**LEASUITHE TUARASCÁLA  
REPORT AMENDMENTS**

---



# SEANAD ÉIREANN

---

## AN BILLE UM CHÚRAM LEANAÍ (LEASÚ) 2009 —AN TUARASCÁIL

### CHILD CARE (AMENDMENT) BILL 2009 —REPORT

---

*Leasuithe  
Amendments*

---

[\*Government amendments are  
distinguished by an asterisk.]

1. In page 6, between lines 6 and 7, to insert the following:

“3.—The Minister shall within three months of the commencement of this Act, publish a report on the provision of secure care under this Act which shall include consideration of how such provision compares with best practice internationally.”

—*Senators Ciaran Cannon, Frances Fitzgerald.*

2. In page 6, between lines 29 and 30, to insert the following:

- 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 take such steps as are necessary to decide on what constitutes appropriate accommodation for him or her.

- (2) For the purposes of this Act suitable accommodation shall include:

- (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.

(4) The Executive shall have regard to the need to provide a child who is homeless with appropriate long term accommodation and care.”.”.  
—*Senators Alex White, Michael McCarthy, Brendan Ryan, Phil Prendergast, Ivana Bacik, Dominic Hannigan.*

3. In page 8, line 28, to delete “detention” and substitute “placement”.  
—*Senators Alex White, Michael McCarthy, Brendan Ryan, Phil Prendergast, Ivana Bacik, Dominic Hannigan.*

\* 4. In page 12, lines 17 to 26, to delete all words from and including “purpose” in line 17 down to and including “23NG.” in line 26 and substitute the following:

“purpose of such provision and may, during the period for which the special care order or interim special care order has effect, include the release of the child from the special care unit—

(i) in accordance with section 23NF, and

(ii) where the release is required for the purposes of section 23D or 23E, in accordance with section 23NG.”.

\* 5. In page 12, line 45, after “order” to insert the following:

“and, where the order is made in respect of that child, from applying for an extension of that order under section 23J or, as the case may be, section 23N, in respect of that child”.

\* 6. In page 13, line 22, after “determined” to insert the following:

“and the Health Service Executive shall, as soon as practicable, inform the Court hearing that charge that the child is the subject of a special care order, or an interim special care order, and of the period for which the order has effect”.

\* 7. In page 14, line 38, after “paragraph (a)” to insert the following:

“and, where the High Court makes a special care order or an interim special care order, to inform the Court hearing that charge that the order concerned was made and the period for which it has effect”.

\* 8. In page 14, to delete lines 39 to 48 and substitute the following:

“(II) of the application referred to in paragraph (b) and where the order has been extended, to inform the Court hearing that charge of the period for which that order was extended.”.

\* 9. In page 15, line 29, after “order” where it secondly occurs to insert “or an application under section 23J or 23N”.

\* 10. In page 16, line 1, to delete “subsection (7),” and substitute “subsections (7), (9) and (10),”.

\* 11. In page 16, lines 3 to 5, to delete all words from and including “Health” in line 3 down to and including “or” in line 5 and substitute the following:

“Health Service Executive from providing special care, in accordance with a special care order or an interim special care order, to a child who has been found guilty, or”.

\* 12. In page 16, to delete lines 26 and 27 and substitute the following:

“and without prejudice to the generality of the foregoing nothing in this Act shall be construed as preventing the Health Service Executive from applying for a special care order or an interim special care order and, where the order is made in respect of such child, from applying for an extension under section 23J or 23N in respect of such child, or as preventing the High Court from hearing and determining such application.”.

\* **13.** In page 16, line 28, to delete “Where a child” and substitute the following:

“Without prejudice to subsection (1), where a child”.

\* **14.** In page 17, to delete lines 1 to 3 and substitute the following:

“(c) preventing the High Court from hearing and determining an application referred to in paragraph (b),

and the Health Service Executive shall, as soon as practicable, inform the Court which imposed the suspended custodial sentence, deferred making the children detention order, suspended the period of detention or made the Children Act order that the child is the subject of a special care order or an interim special care order and the period for which such order has effect.”.

\* **15.** In page 17, line 31, after “paragraph (a)” to insert the following:

“and, where a special care order or interim special care order is made, to inform that Court accordingly and of the period for which the order has effect”.

\* **16.** In page 17, to delete lines 32 to 41 and substitute the following:

“(II) of the application referred to in paragraph (b), and where the order has been extended, to inform that Court of the period for which the order was extended.”.

\* **17.** In page 18, line 33, after “paragraph (a)” to insert the following:

“and, where a special care order or interim special care order is made, to inform that Court accordingly and the period for which the order has effect”.

\* **18.** In page 18, to delete lines 34 to 43 and substitute the following:

“(II) of the application referred to in paragraph (b), and, where the order has been extended, to inform that Court of the period for which the order was extended.”.

\* **19.** In page 19, lines 14 and 15, to delete “subsection (8)” and substitute “subsection (6)”.

\* **20.** In page 19, line 20, after “paragraph (a)” to insert the following:

“and, where the special care order or the interim special care order is made, to inform that Court accordingly and the period for which the order has effect”.

\* **21.** In page 19, to delete lines 21 to 30 and substitute the following:

“(II) of the application referred to in paragraph (b), and, where the order has been extended, to inform that Court of the period for which the order was extended.”.

\* 22. In page 22, line 26, after “23NG” to insert the following:

“for the purposes of complying with such suspended custodial sentence”.

\* 23. In page 22, line 28, to delete “subsection (9)(a)” and substitute “subsection (9)”.

\* 24. In page 23, line 12, after “23NG” to insert the following:

“for the purposes of complying with such Children Act order”.

25. In page 24, to delete lines 40 to 47 and in page 25, to delete lines 1 to 3.

—*Senators Ciaran Cannon, Frances Fitzgerald.*

\* 26. In page 25, to delete lines 4 to 20 and substitute the following:

“(5) The Health Service Executive shall, subject to subsection (6), convene a family welfare conference in accordance with section 7 (as amended by the *Child Care (Amendment) Act 2010*) of the Act of 2001 if it is satisfied that there is reasonable cause to believe that the child requires special care, after having carried out the consultations in accordance with subsection (3) or not carried them out in accordance with subsection (4).

(6) Notwithstanding subsection (5), where the Health Service Executive is satisfied that, having regard to the protection of the life, health, safety, development or welfare of the child, there is reasonable cause to believe that it is not in the best interests of the child to convene the family welfare conference referred to in subsection (5), it may decide not to convene that conference.”.

\* 27. In page 25, line 21, to delete “(6) Where a family” and substitute the following:

“(7) Where a family”.

\* 28. In page 25, line 23, to delete “subsection (5)(a)” and substitute “subsection (5)”.

\* 29. In page 25, line 28, to delete “subsection (5)(b)” and substitute “subsection (6)”.

\* 30. In page 25, line 33 to delete “(7) Where the Health” and substitute the following:

“(8) Where the Health”.

\* 31. In page 25, line 40, to delete “(8) Where the Health” and substitute the following:

“(9) Where the Health”.

\* 32. In page 25, line 47, to delete “(9) Where the Health” and substitute the following:

“(10) Where the Health”.

\* 33. In page 25, lines 49 and 50, to delete “subsection (5)(b)” and substitute “subsection (6)”.

\* 34. In page 26, line 3, to delete “(10) The Health Service Executive” and substitute the following:

“(11) The Health Service Executive”.

\* 35. In page 28, line 10, to delete “section 23F(8)” and substitute “section 23F(9)”.

\* 36. In page 28, line 25, to delete “section 23F(9)” and substitute “section 23F(10)”.

37. In page 45, between lines 11 and 12, to insert the following:

“(2) Regard shall be had to the views of the child, having regard to 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.”

—*Senators Alex White, Michael McCarthy, Brendan Ryan, Phil Prendergast, Ivana Bacik, Dominic Hannigan.*

38. In page 45, between lines 11 and 12, to insert the following:

“(2) (a) In any proceedings under this section, regard shall be had to the child’s age and understanding.

(b) Prior to taking any 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.”

—*Senators Ciaran Cannon, Frances Fitzgerald.*

39. In page 45, line 14, after “shall” to insert the following:

“with the consent of either the child’s parent or guardian, a person acting *in loco parentis* or the child’s Guardian Ad Litem,”

—*Senators Ciaran Cannon, Frances Fitzgerald.*

40. In page 45, line 23, to delete “detained” and substitute “housed”.

—*Senators Ciaran Cannon, Frances Fitzgerald.*

\* 41. In page 52, line 23, after “detention” to insert the following:

“referred to in sections 23E(4)(i), 23E(8) and 23E(12)”.

\* 42. In page 52, line 26, to delete “section 23E(4)(i),” and substitute “sections 23E(3)(i),”.

\* 43. In page 52, to delete lines 49 and 50 and in page 53, to delete lines 1 to 10 and substitute the following:

“(4) The High Court may—

(a) vary the special care order or interim special care order to authorise the release of the child from the special care unit during the period for which the special care order or interim special care order has effect for all or any of the purposes referred to in subsection (1),

(b) make such other provision and give directions in respect of the release under this section as the High Court, having regard to all the circumstances of the child, considers necessary and in the best interests of the child,

- (c) without prejudice to the generality of paragraphs (a) and (b), vary the special care order or interim special care order for a specified period or a number of specified periods and may include terms and conditions as the High Court, having regard to all the circumstances of the child, considers necessary and in the best interests of the child,

and without prejudice to the generality of the foregoing where the release is for the purposes referred to in paragraph (a) or (b) of subsection (1) or for any other purpose for which the release of the child is required pursuant to section 23D, the variation shall be made in accordance with section 23D(3).”.

\* 44. In page 58, line 37, to delete “the risk it poses” and substitute “the risk such behaviour poses”.

\* 45. In page 59, line 20, to delete “subject to paragraph (a).”.

\* 46. In page 61, line 26, after “section 23NF” to insert “or 23NG”.

\* 47. In page 61, line 30, after “section 23NF” to insert “or 23NG”.

48. In page 62, between lines 12 and 13, to insert the following:

“(b) in subsection (1) by the substitution of “shall” for “may, if it is satisfied that it is necessary in the interests of the child and in the interests of justice to do so”;

—*Senators Ciaran Cannon, Frances Fitzgerald.*

49. In page 63, to delete lines 26 to 30.

—*Senators Ciaran Cannon, Frances Fitzgerald.*

\* 50. In page 65, line 23, to delete “following subsections” and substitute “following subsection”.

\* 51. In page 65, line 24, to delete “Subject to subsection (5), a placement” and substitute “A placement”.

\* 52. In page 65, to delete all words from and including “has effect.” in line 28 down to and including “has effect.” in line 34 and substitute the following:

“has effect.”.

53. In page 66, to delete lines 20 to 26 and substitute the following:

“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;
- (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.

(4) In providing assistance under this section, the Executive 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*).”.”.  
 —*Senators Alex White, Michael McCarthy, Brendan Ryan, Phil Prendergast, Ivana Bacik, Dominic Hannigan.*

54. In page 66, line 28, after “by” to insert “the substitution of “shall” for “may” and,”.

—*Senators Ciaran Cannon, Frances Fitzgerald.*

55. In page 69, to delete lines 26 and 27.

—*Senators Alex White, Michael McCarthy, Brendan Ryan, Phil Prendergast, Ivana Bacik, Dominic Hannigan.*