



An Bille um Chúram Leanaí (Leasú), 2019
Child Care (Amendment) Bill 2019

Mar a tionscnaíodh

As initiated



**AN BILLE UM CHÚRAM LEANAÍ (LEASÚ), 2019
CHILD CARE (AMENDMENT) BILL 2019**

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AN BILLE UM CHÚRAM LEANAÍ (LEASÚ), 2019
CHILD CARE (AMENDMENT) BILL 2019

Bill

entitled

An Act to amend and extend the law in relation to guardians *ad litem* appointed under the Child Care Act 1991; and for those and other purposes to amend the Child Care Act 1991, the Children Act 2001, the Mental Health Act 2001, the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 and the Children First Act 2015 and to repeal section 26 of the Child Care Act 1991 and certain provisions of the Child Care (Amendment) Act 2011; to increase the membership of the Board of the Child and Family Agency; and for that purpose, to amend the Child and Family Agency Act 2013; and to provide for related matters. 5 10

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL 15

Short title, collective citation and commencement

1. (1) This Act may be cited as the Child Care (Amendment) Act 2019.
- (2) The Child Care Acts 1991 to 2015 and this Act, other than *section 8* and *Part 3*, may be cited together as the *Child Care Acts 1991 to 2019*.
- (3) This Act shall come into operation on such day or days as the Minister for Children and Youth Affairs may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions. 20

Definition

2. In this Act, “Principal Act” means the Child Care Act 1991. 25

Repeals

3. The following provisions are repealed:
 - (a) section 26 of the Principal Act;

(b) sections 13(b), (c) and (d) and 14(b) of the Child Care (Amendment) Act 2011.

PART 2

GUARDIAN AD LITEM

Amendment of section 24 of Principal Act

4. The Principal Act is amended by the substitution of the following section for section 24: 5
- “Best interests of child**
24. (1) In any proceedings before a court under this Act in relation to the care and protection of a child, including proceedings before the High Court under Part IVA in relation to special care, the court shall regard the best interests of the child as the paramount consideration in the resolution of any such proceedings. 10
- (2) In determining for the purposes of subsection (1) what is in the best interests of the child, the court shall have regard to all of the factors or circumstances that it considers relevant to the child including, where relevant— 15
- (a) the child’s age, maturity and any special characteristics of the child,
 - (b) the benefit to the child of having a meaningful relationship with each of his or her parents and with the other relatives and persons who are involved in the child’s upbringing,
 - (c) the views of the child where he or she has chosen to express such views, 20
 - (d) the physical, psychological and emotional needs of the child,
 - (e) the social, intellectual and educational upbringing and needs of the child,
 - (f) the religious, spiritual, cultural and linguistic upbringing and needs of the child, and 25
 - (g) any harm which the child has suffered or is at risk of suffering, including harm as a result of household violence, and the protection of the child’s safety and psychological well-being.
- (3) In this section ‘household violence’ has the same meaning as it has in section 31(7) of the Guardianship of Infants Act 1964.”. 30

Views of child

5. The Principal Act is amended by the insertion of the following section after section 24:
- “24A.** Where in any proceedings before a court under this Act in relation to the care and protection of a child, including proceedings before the High Court under Part IVA in relation to special care, the child is capable of forming his or her own views, the court, in so far as practicable shall— 35

- (a) determine the means by which to facilitate the expression by the child of his or her views in the proceedings, and
- (b) give such views as the child wishes to express due weight, having regard to the age and maturity of the child.”.

Guardians *ad litem* - insertion of Part VA in Principal Act 5

6. The Principal Act is amended by the insertion of the following Part after Part V:

“PART VA

GUARDIAN *AD LITEM*

CHAPTER 1

Interpretation (Part VA) 10

Interpretation (Part VA)

35A. (1) In this Part—

‘appointed’ means appointed under section 35C(1);

‘authorisation’ means an authorisation issued under section 35L(1);

‘child’, in relation to a guardian *ad litem*, means the child to whom the proceedings under Part IV, IVA, IVB or VI relate, and for whom the guardian *ad litem* is, or is to be, appointed; 15

‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016¹ on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation); 20

‘guardian *ad litem*’ means a person in respect of whom an authorisation is issued;

‘information’ means information contained in a document, a computer or otherwise; 25

‘relevant date’ means the date on which *Part 2 of the Child Care (Amendment) Act 2019* comes into operation;

(2) In this Part—

(a) a reference to the District Court shall be construed as including a reference to the Circuit Court on appeal from the District Court, and 30

(b) where the proceedings are proceedings under Part IVA, ‘court’ means the High Court.

¹ O.J. No. L 119, 4.5.2016, p. 1

*Appointment, functions and powers***Order directing appointment of guardian *ad litem***

- 35B.** (1) A guardian *ad litem* shall not be appointed for a child unless an order directing such appointment has been made under this section. 5
- (2) In proceedings under Part IVA the High Court shall by order direct that a guardian *ad litem* be appointed for a child.
- (3) In proceedings under Part IV, IVB or VI the District Court, of its own motion or on the application of any party to the proceedings, shall consider whether to direct that a guardian *ad litem* be appointed for a child and the court may by order so direct. 10
- (4) In deciding whether to make an order under subsection (3), the District Court shall have regard to each of the following matters:
- (a) the best interests of the child;
- (b) the age and maturity of the child; 15
- (c) the nature of the issues in dispute in the proceedings;
- (d) any report on any question affecting the welfare of the child;
- (e) where the child wishes to express his or her views, whether an order under that subsection will assist the expression by the child of his or her views in the proceedings; 20
- (f) any views regarding such an order expressed by the child and the parties to the proceedings or any other person to whom the proceedings relate.
- (5) Where the District Court decides not to make an order under subsection (3), the court shall— 25
- (a) give reasons for its decision, and
- (b) where the court is satisfied that a child is capable of forming his or her own views in the proceedings, determine the means by which to facilitate the expression by the child of those views.
- (6) Where a court makes an order under subsection (2) or (3), the court shall give directions relating to— 30
- (a) the service of such documents relating to the proceedings on the Minister as the Minister may require for the performance by the Minister of his or her function under section 35C(1), and
- (b) the service of documents relating to the proceedings on such guardian *ad litem* as may be appointed. 35

Appointment of guardian *ad litem* for child

- 35C.** (1) Where an order under section 35B(2) or (3), as the case may be, is made, the Minister shall appoint a guardian *ad litem* for the child to whom the order relates.
- (2) The Minister shall notify the court that made the order under section 35B(2) or (3), as the case may be, of an appointment under subsection (1) as soon as practicable thereafter. 5
- (3) The power to appoint a guardian *ad litem* under subsection (1) includes the power to appoint a guardian *ad litem* in place of the guardian *ad litem* who stands appointed under that subsection. 10

Legal advice and legal representation

- 35D.** (1) Where an order under section 35B(2) is made, the Minister shall provide, or arrange for the provision, to the guardian *ad litem* appointed for the child, of legal advice and legal representation.
- (2) Following the making of an order under section 35B(3), the Minister may at the request of the guardian *ad litem* appointed for the child provide, or arrange for the provision, to the guardian *ad litem* of such legal advice or legal representation, or both, as the Minister considers appropriate having regard to the matters specified in subsection (3). 15
- (3) The following matters are specified for the purposes of subsection (2): 20
- (a) whether it is in the best interests of the child that legal representation be provided;
 - (b) any views in relation to legal representation for the guardian *ad litem* expressed by the court that made the order;
 - (c) whether the guardian *ad litem* intends to make an application under this Act in relation to the child; 25
 - (d) the opinion of the guardian *ad litem* in relation to any application in the proceedings by the Child and Family Agency;
 - (e) whether it would be unreasonable to expect the guardian *ad litem* to deal with the matter to which the proceedings concerned relate without legal advice or legal representation, or both, because of its complexity or for any other reason; 30
 - (f) whether there are special circumstances that make it appropriate for legal representation to be provided;
 - (g) such other matters as the Minister considers appropriate. 35

Functions of guardians *ad litem* appointed for children

- 35E.** (1) The functions of a guardian *ad litem* appointed for a child shall be—
- (a) in so far as practicable and where the child is capable of forming his or her own views, to ascertain any views expressed by the child in relation to the matters to which the proceedings relate, and 40

- (b) having considered the views, if any, referred to in paragraph (a), to make recommendations to the court regarding what is in the best interests of the child.
- (2) Without prejudice to the generality of subsection (1), a guardian *ad litem* appointed for a child shall— 5
 - (a) furnish to the court a report that—
 - (i) conveys to the court any views expressed by the child in relation to the matters to which the proceedings relate, and
 - (ii) contains the recommendations of the guardian *ad litem* regarding what is in the best interests of the child and the reasons for those recommendations, 10
 - (b) having regard to the age and maturity of the child, inform him or her of—
 - (i) the recommendations referred to in paragraph (a)(ii),
 - (ii) the outcome of the proceedings, and 15
 - (iii) such other matters relevant to the proceedings as the guardian *ad litem* considers appropriate,

and
 - (c) inform the court of any additional matters, relevant to the best interests of the child, coming to his or her knowledge as a result of the performance by the guardian *ad litem* of his or her functions. 20
- (3) A guardian *ad litem*, in the performance of his or her functions under this section, shall regard the best interests of the child as the paramount consideration.
- (4) In determining for the purposes of this section what is in the best interests of the child, a guardian *ad litem* appointed for the child shall have regard to all of the circumstances that he or she considers relevant to that child including the matters referred to in paragraphs (a) to (g) of section 24(2). 25
- (5) A copy of a report furnished to the court under subsection (2)(a) shall be made available to the counsel or solicitor, if any, representing each party in the proceedings, or, if any party is not so represented, to that party and may be received in evidence in the proceedings. 30
- (6) The court or any party to the proceedings may call a guardian *ad litem* appointed for a child as a witness. 35
- (7) The court to which a report is furnished under subsection (2)(a) may, where it considers appropriate, order that such part of the report as is specified in the order shall be omitted from a copy made available under subsection (5).
- (8) A guardian *ad litem* appointed for a child shall be independent in the performance of his or her functions. 40

- (9) A guardian *ad litem* appointed for a child is not a party to the proceedings.

Powers of guardians *ad litem* appointed for children

- 35F.** (1) A guardian *ad litem* appointed for a child may make an application to the court— 5
- (a) subject to subsection (3), to procure a report on any question affecting the welfare of the child where—
 - (i) there is no report on the question concerned, or
 - (ii) the information in a report on the question concerned is out of date, 10
 - (b) for the provision of information to the guardian *ad litem* by any person, or
 - (c) in relation to any other matter relating to his or her functions.
- (2) A court may by order—
- (a) on an application under subsection (1)(a), direct the Child and Family Agency to procure a report from such person as the court may nominate on any question affecting the welfare of the child, 15
 - (b) on an application under subsection (1)(b), direct such person as the court considers appropriate to provide specified information to the guardian *ad litem* appointed for the child, and 20
 - (c) on an application under subsection (1)(c), give such other directions as the court considers appropriate.
- (3) A guardian *ad litem* appointed for a child shall consult the parties to the proceedings or the counsel or solicitor, if any, representing such parties before making an application under subsection (1)(a). 25
- (4) Where a court by order gives a direction under subsection (2), a person to whom the direction is made shall, subject to subsection (8), comply with such direction.
- (5) A copy of a report prepared pursuant to a direction under subsection (2)(a) shall be made available to the guardian *ad litem* appointed for the child, the counsel or solicitor, if any, representing each party in the proceedings or, if any party is not so represented, to that party and may be received in evidence in the proceedings. 30
- (6) The court may where it considers appropriate order that such part of a report, prepared pursuant to a direction under subsection (2)(a), as is specified in the order shall be omitted from a copy made available under subsection (5). 35
- (7) Where a person prepares a report pursuant to a direction under subsection (2)(a)—
- (a) the fees and expenses of the person shall be paid by such party or parties to the proceedings as the court shall order, and 40

(b) the court, the guardian *ad litem* or any party to the proceedings may call the person as a witness.

(8) Nothing in this section shall operate to require a person to provide a guardian *ad litem* appointed for a child with any information that the person would be entitled to refuse to provide on the grounds of legal professional privilege. 5

Provision of information by Child and Family Agency

35G. (1) A guardian *ad litem* appointed for a child may request the Child and Family Agency to provide to him or her any information relating to the welfare of the child necessary for the performance by the guardian *ad litem* of his or her functions under this Act. 10

(2) Notwithstanding anything contained in any other enactment or rule of law, but subject to the Data Protection Regulation and the Data Protection Act 2018, the Agency shall comply with a request under subsection (1). 15

(3) The Child and Family Agency, in complying with a request under subsection (1), is not required to furnish information that would be exempt from production in proceedings in a court on the grounds of legal professional privilege.

(4) The Child and Family Agency shall provide a guardian *ad litem* with the reasons for any refusal by the Agency to comply with a request under subsection (1). 20

Cessation of effect of order under section 35B(2) or (3)

35H. (1) Subject to subsections (4) and (5), an order under section 35B(2) ceases to have effect— 25

(a) where the High Court makes a special care order—

(i) on the expiration of the period specified in the special care order or such extended period (within the meaning of section 23J(9)), if any, for which the special care order has effect, or

(ii) upon the discharge of the order under section 23NE, 30
whichever is the sooner,

(b) where the High Court makes an interim special care order—

(i) on the expiration of the period specified in the interim special care order or such extended period (within the meaning of section 23N(9)), if any, for which the interim special care order has effect, or 35

(ii) upon the discharge of the order under section 23NE,
whichever is the sooner,

(c) upon a determination by the High Court not to make a special care order or an interim special care order, as the case may be, in respect of the child to whom the order relates, 40

- (d) by direction of the High Court, or
 - (e) when the child to whom the order relates attains the age of 18 years,
whichever is the sooner.
- (2) Subject to subsections (4) and (5), an order under section 35B(3) ceases to have effect—
- (a) where the District Court makes an interim care order under section 17, on the expiration of the period specified in the interim care order or any extension of such period under subsection (2) of that section, 10
 - (b) upon a determination by the District Court to refuse to make an interim care order under section 17,
 - (c) upon a determination by the District Court of an application under section 18(1) for a care order,
 - (d) upon a determination by the District Court of an application under section 19(1) for a supervision order, 15
 - (e) upon a determination by the District Court of an application under paragraph (a), (b) or (c) of section 22, section 43A or 43B(1),
 - (f) other than where the child to whom the order relates is in the care of the Child and Family Agency under section 17, upon a determination by the District Court of an application under section 37(2) or (3) or 47, 20
 - (g) by direction of the District Court, or
 - (h) when the child to whom the order relates attains the age of 18 years,
whichever is the sooner. 25
- (3) In subsections (1) and (2), a reference to an order, a determination or a direction is a reference to such order, determination or direction in relation to which, at the expiration of the time for bringing an appeal against it, no such appeal has been brought or, if such an appeal has been brought, it has been abandoned or determined by the court. 30
- (4) Where a court by order directs that proceedings, in which an order has been made under section 35B(2) or (3), as the case may be, be kept under review, the court may direct that the order under the section concerned, shall not cease to have effect until the conclusion of the review. 35
- (5) Where a child in respect of whom a court has made an order under section 35B(2) or (3), as the case may be, becomes a party to the proceedings by order under section 25(1), or otherwise than by reason of such an order, the court that made the order under the section concerned shall determine when it ceases to have effect. 40

- (6) For the purposes of subsection (1)(b)(i), where the High Court, pursuant to an application to which subsection (2)(b) or (5)(b) of section 23NJ applies, makes a special care order (in this subsection referred to as the “subsequent care order”), a reference in subsection (1)(b)(i) to the expiration of the period specified in a special care order shall be construed as including a reference to the expiration of the period specified in the subsequent care order and a reference to the expiration of an extended period for which the special care order has effect shall be construed as including a reference to the expiration of an extended period for which the subsequent care order has effect. 5 10
- (7) Where an interim special care order referred to in subsection (1)(c) is an order made in accordance with section 23L(3), a reference in the aforesaid subsection to an interim special care order shall be construed as including a reference to such interim special care order that the High Court may make at a hearing referred to in section 23M(1)(a). 15

Costs

- 35I.** (1) Any costs or expenses reasonably incurred by a guardian *ad litem* in the exercise of his or her functions under this Act shall be paid by the Minister and the Minister may apply to the court to have the amount of any such costs or expenses measured or taxed. 20
- (2) The court may, on the application to it in that behalf by the Minister, order any party to proceedings in which a guardian *ad litem* is appointed to pay to the Minister any costs or expenses payable by the Minister under subsection (1).
- (3) In this section, ‘costs and expenses’ means costs and expenses in respect of work done on or after the relevant date. 25

Regulations (Part VA)

- 35J.** (1) The Minister may, for the purpose of promoting high professional standards and good practice, make regulations relating to the performance by guardians *ad litem* of their functions under this Act, and, without prejudice to the generality of the foregoing, such regulations may— 30
- (a) specify the standards to be applied by guardians *ad litem* to the performance by them of their functions under this Act;
- (b) make provision for the training of guardians *ad litem*; 35
- (c) make provision for codes of conduct for guardians *ad litem*;
- (d) make provision for the procedures that are to apply to monitor, measure and evaluate the performance by guardians *ad litem* of their functions under this Act;
- (e) make provision for the establishment and administration of a system of investigation and adjudication of complaints against guardians *ad litem*; 40

- (f) make provision for the procedures that are to apply in respect of the keeping of records by guardians *ad litem*;
 - (g) specify such fees and expenses as the Minister, with the consent of the Minister for Public Expenditure and Reform, may from time to time determine shall be paid to guardians *ad litem*; 5
 - (h) make provision for such matters of procedure and administration as appear to the Minister to be necessary or expedient in respect of the provision, or arrangement for the provision of, legal advice to, and legal representation for, guardians *ad litem*;
 - (i) make provision for such other matters as the Minister considers necessary to ensure that guardians *ad litem* are capable of performing their functions under this Act. 10
- (2) Regulations under this section may make different provision in relation to different classes of persons and different classes of proceedings, and contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations. 15

Provision of information by guardians *ad litem* to Minister

- 35K.** (1) The Minister may request a guardian *ad litem* to provide the Minister with such information relating to the performance of the functions of the guardian *ad litem* under this Act (including information relating to the proceedings in which he or she has been appointed for a child) as is necessary for the performance by the Minister of his or her functions under this Part. 20
- (2) Notwithstanding anything contained in any other enactment or rule of law, but subject to the Data Protection Regulation and the Data Protection Act 2018, a guardian *ad litem* shall comply with a request under subsection (1). 25
- (3) The Minister may use such information furnished under subsection (2) as the Minister requires for the performance of his or her functions under this Part. 30

CHAPTER 3

Authorisation

Authorisation

- 35L.** (1) Subject to this section, the Minister may issue an authorisation in writing to such and so many persons as the Minister considers appropriate to perform the functions conferred on a guardian *ad litem* by or under this Act. 35
- (2) A person will not be considered appropriate for the purposes of subsection (1) unless— 40
- (a) the person is a member of a class prescribed under subsection (3) (a), and

- (b) subject to such exemptions as may be provided for under subsection (3)(c), the person satisfies such requirements as may be specified under subsection (3)(b),
- (3) The Minister may by regulations—
- (a) prescribe a class or classes of persons, who in the opinion of the Minister, are suitable to be guardians *ad litem*, 5
- (b) specify the requirements that a member of a class or classes prescribed under paragraph (a) shall satisfy in order to be considered appropriate for the purposes of subsection (1), and
- (c) provide for exemptions from any requirement referred to in paragraph (b) for a specified class or classes of persons. 10
- (4) When prescribing a class or classes of persons under subsection (3)(a), the Minister shall have regard to—
- (a) the functions to be performed by guardians *ad litem* under this Act, and 15
- (b) the qualifications, minimum level of professional experience, training and expertise of such class or classes of persons.
- (5) When specifying requirements under subsection (3)(b) and providing for exemptions under subsection (3)(c) in respect of such requirements, the Minister shall have regard to— 20
- (a) the functions to be performed by guardians *ad litem* under this Act, and
- (b) the promotion of high professional standards and good practice.
- (6) Where the Minister is considering issuing an authorisation to a person, the Minister may request the person to provide the Minister with such information as the Minister may require in order to decide whether to issue the authorisation and the person shall comply with the request concerned. 25
- (7) Where in the opinion of the Minister a person fails without good cause to comply with a request under subsection (6), the Minister may have regard to such failure when considering whether to issue an authorisation to the person. 30

Notification of relevant matters

- 35M.** (1) A guardian *ad litem* shall notify the Minister in writing of any relevant matter in relation to him or her which would be likely to affect his or her authorisation, as soon as practicable and in any event not later than 14 days after that matter comes to the knowledge of the guardian *ad litem*. 35
- (2) In this section ‘relevant matter’, in relation to a guardian *ad litem*, includes a criminal record within the meaning of section 2 of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 other than a conviction to which section 14A of that Act applies. 40

Revocation of authorisation

35N. The Minister may revoke an authorisation issued in respect of a person if it appears to the Minister that—

- (a) any requirement for the granting of the authorisation is no longer satisfied, 5
- (b) the person has failed to comply with section 35M(1),
- (c) the person has committed a serious breach of regulations made under this Part,
- (d) the person has become incapable through ill-health of performing the functions of a guardian *ad litem* under this Act, or 10
- (e) there are other good and sufficient reasons to do so.

Cessation of authorisation

35O. (1) An authorisation issued in respect of a person shall cease—

- (a) where it is revoked under section 35N,
 - (b) in the case of a person who is an officer of the Minister, where the person ceases to be an officer of the Minister, 15
 - (c) in the case of a person with whom the Minister has entered into a contract for services under section 35P, on the expiry of the period of the contract, or such further period as the Minister may direct in accordance with subsection (3), or 20
 - (d) at the request of the person.
- (2) Where an authorisation ceases in accordance with subsection (1) and the person in respect of whom the authorisation was issued stands appointed for a child, the person concerned shall cease to be so appointed. 25
- (3) Where the period of a contract referred to in subsection (1)(c) is due to expire before the conclusion of proceedings in which a person is appointed for a child, the Minister may direct that the authorisation issued in respect of the person shall continue for such period as the Minister considers necessary having regard to the proceedings concerned. 30

CHAPTER 4

Miscellaneous

Contracts for services

35P. (1) The Minister may enter into contracts for service with such and such number of persons as the Minister considers necessary for the performance by him or her of the functions under section 35C(1) or 35L(1) and contracts with such persons shall contain such terms and conditions as the Minister may, with the consent of the Minister for Public Expenditure and Reform, determine. 40

- (2) The Minister may issue an authorisation to a person with whom the Minister has entered into a contract for services under subsection (1) to perform any of the functions of a guardian *ad litem* under this Act.

Transitional and saving provisions (Part VA)

- 35Q.** (1) Where immediately prior to the relevant date a person— 5
- (a) stands appointed under section 26 as a guardian *ad litem*,
 - (b) is a person in respect of whom the Minister has received a vetting disclosure, and
 - (c) is a person who the Minister is satisfied is a fit and proper person to be a guardian *ad litem*, 10
- then on and from that date the appointment shall be deemed to be an appointment under section 35C(1).
- (2) Where an appointment is deemed under subsection (1) to be an appointment under section 35C(1) this Part shall apply to the person concerned subject to the following and any other necessary 15 modifications—
- (a) an order made by a court prior to the relevant date under section 26—
 - (i) in the case of a person appointed to act as a guardian *ad litem* in any proceedings under Part IVA, shall be treated as if it was an order under section 35B(2), and 20
 - (ii) in the case of a person appointed to act as a guardian *ad litem* in any proceedings under Part IV, IVB or VI, shall be treated as if it was an order under section 35B(3),
 - (b) an order referred to in paragraph (a)(i) shall cease to have effect— 25
 - (i) in accordance with section 35H(1), or
 - (ii) after a period of 12 months commencing on the relevant date if no authorisation is issued in respect of the person in that period, whichever is the sooner,
 - (c) an order referred to in paragraph (a)(ii) shall cease to have effect— 30
 - (i) in accordance with section 35H(2), or
 - (ii) after a period of 12 months commencing on the relevant date if no authorisation is issued in respect of the person in that period, whichever is the sooner, and
 - (d) where prior to the relevant date the person had instructed a solicitor or counsel, or both, to represent him or her in the proceedings concerned, on and from that date, the solicitor or counsel, or both, as the case may be, may continue to represent the person in such proceedings for such period as the order has effect, in accordance with paragraph (b) or (c), as the case may be. 35 40

- (3) In this section, ‘vetting disclosure’ has the same meaning as it has in the National Vetting Bureau (Children and Vulnerable Persons) Act 2012.”.

Miscellaneous amendments to Principal Act

7. The provisions of the Principal Act specified in column (2) of *Part 1* of the *Schedule* are amended to the extent specified in column (3) of that Part. 5

Amendments to other Acts

8. Each Act specified in columns (2) and (3) of *Part 2* of the *Schedule* is amended to the extent specified in column (4) of that Part.

PART 3

10

INCREASE IN MEMBERSHIP OF BOARD OF CHILD AND FAMILY AGENCY

Amendment of Child and Family Agency Act 2013

9. The Child and Family Agency Act 2013 is amended—
- (a) in section 19(1), by the substitution of “9” for “7”, and
 - (b) in section 22—
 - (i) in subsection (4), by the substitution of “6” for “5” in each place where it occurs,
 - (ii) in subsection (6), by the substitution of “5 ordinary members” for “4 ordinary members”, and
 - (iii) in subsection (7), by the substitution of “4” for “3”. 20

SCHEDULE
MISCELLANEOUS AMENDMENTS

Section 7

Part 1

MISCELLANEOUS AMENDMENTS TO PRINCIPAL ACT

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Item (1)	Provision affected (2)	Amendment (3)	
1	section 23G	Subsection (1)(c) is amended by the substitution of “Part VA in respect of proceedings under this Part” for “ <i>section 26</i> (as amended by the Child Care (Amendment) Act 2011) in respect of proceedings under this Part and whose appointment has effect in accordance with <i>section 26(4)</i> ”.	10
2	section 23M	Subsection (1)(c) is amended—	
		(a) by the substitution of “a person is appointed under section 35C(1) pursuant to an order under section 35B(2)” for “it makes an appointment under <i>section 26</i> (as amended by the Child Care (Amendment) Act 2011)”, and	15
		(b) by the substitution of “the person so appointed” for “a person appointed under that section”.	20
3	section 23NK	Paragraph (b) is amended by the substitution of “the guardian of the child, a guardian <i>ad litem</i> , where such guardian <i>ad litem</i> is appointed in accordance with Part VA in respect of proceedings under this Part” for “the guardian of the child”.	25
4	section 27	The following subsections are inserted after subsection (5):	
		“(6) In subsection (3), a reference to a party includes a reference to the guardian <i>ad litem</i> , if any, appointed in accordance with Part VA in respect of the proceedings concerned.	30
		(7) In this section, where the proceedings are proceedings under Part IVA, ‘court’ means the High Court.”.	35
5	section 28	Subsection (3)(c) is amended by the substitution of “Part V (as amended by the Child Care (Amendment) Act 2011) or VA” for “Part V (as amended by the Child Care (Amendment) Act 2011)”.	40

Item (1)	Provision affected (2)	Amendment (3)
6	section 33	<p>Subsection (1) is amended—</p> <p>(a) by the substitution of “IV, VA” for “IV”, and</p> <p>(b) by the insertion of the following subsection after subsection (3):</p> <p style="padding-left: 40px;">“(4) In subsection (2), a reference to parties to proceedings includes a reference to the guardian <i>ad litem</i>, if any, appointed in accordance with Part VA in respect of the proceedings concerned.”.</p>

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Part 2

AMENDMENTS TO OTHER ACTS

Item (1)	Number and Year (2)	Short Title (3)	Amendment (4)	
1	No. 24 of 2001	Children Act 2001	Section 71 is amended in subsection (1) (a) by the substitution of “(inserted by this Act), V or VA” for “(inserted by this Act) or V”.	5
2	No. 25 of 2001	Mental Health Act 2001	Section 25 is amended by the substitution of the following subsection for subsection (14):	10
			“(14) Sections 21, 22, 24, 25, 27 to 35Q, 37 and 47 of the Child Care Act 1991 shall apply to proceedings under this section as they apply to proceedings to which those sections apply, subject to the following modifications:	15
			(a) references in those sections to proceedings or an order under Part III, IV, IVA, IVB, V, VA or VI of that Act shall be construed as references to proceedings or an order under this section;	20
			(b) the District Court, in an application under subsection (1), shall appoint a guardian <i>ad litem</i> for the child to whom the application relates;	25
			(c) the guardian <i>ad litem</i> is entitled to the provision of legal representation in the proceedings for which they are appointed for the child;	30
			(d) any other necessary modifications.”.	35
3	No. 47 of 2012	National Vetting Bureau (Children and Vulnerable Persons) Act 2012	Part 1 of Schedule 1 is amended by the insertion of the following paragraph after paragraph 15:	40
				45

			<p>“16. Any work or activity by a guardian <i>ad litem</i> within the meaning of Part VA of the Child Care Act 1991 as such a guardian.”.</p>	5
4	No. 36 of 2015	Children First Act 2015	<p>Schedule 2 is amended by the substitution of the following paragraph for paragraph 14:</p> <p>“14. Guardian <i>ad litem</i> appointed under section 35C(1) of the Child Care Act 1991.”.</p>	10

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do leasú agus do leathnú an dlí i ndáil le caomhnóirí *ad litem* arna gceapadh faoin Acht um Chúram Leanaí, 1991; agus chun na gcríoch sin agus chun críoch eile do leasú an Achta um Chúram Leanaí, 1991, Acht na Leanaí, 2001, an Achta Meabhair-Shláinte, 2001, an Achta um an mBiúró Náisiúnta Grinnfhiosrúcháin (Leanaí agus Daoine Soghonta), 2012 agus an Achta um Thús Áite do Leanaí, 2015 agus d'aisghairm alt 26 den Acht um Chúram Leanaí, 1991 agus forálacha áirithe den Acht um Chúram Leanaí (Leasú), 2011; do mhéadú líon comhaltaí Bhord na Gníomhaireachta um Leanaí agus an Teaghlach; agus, chun na críche sin, do leasú an Achta fán nGníomhaireacht um Leanaí agus an Teaghlach, 2013; agus do dhéanamh socrú i dtaobh nithe gaolmhara.

An tAire Leanaí agus Gnóthaí Óige a thiolaic,

8 Lúnasa, 2019

BILL

(as initiated)

entitled

An Act to amend and extend the law in relation to guardians *ad litem* appointed under the Child Care Act 1991; and for those and other purposes to amend the Child Care Act 1991, the Children Act 2001, the Mental Health Act 2001, the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 and the Children First Act 2015 and to repeal section 26 of the Child Care Act 1991 and certain provisions of the Child Care (Amendment) Act 2011; to increase the membership of the Board of the Child and Family Agency; and for that purpose, to amend the Child and Family Agency Act 2013; and to provide for related matters.

Presented by the Minister for Children and Youth Affairs,

8th August, 2019

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