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**An Bille um Thaifid an Choimisiúin Imscrúdúcháin  
(Árais Máithreacha agus Naíonán agus Nithe áirithe  
gaolmhara), agus um Ní eile, 2020**  
**Commission of Investigation (Mother and Baby Homes  
and certain related Matters) Records, and another  
Matter Bill 2020**

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*Meabhrán Mínitheach agus Airgeadais  
Explanatory and Financial Memorandum*

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**AN BILLE UM THAIFID AN CHOIMISIÚIN IMSCRÚDÚCHÁIN  
(ÁRAIS MÁITHREACHA AGUS NAÍONÁN AGUS NITHE  
ÁIRITHE GAOLMHARA), AGUS UM NÍ EILE, 2020  
COMMISSION OF INVESTIGATION (MOTHER AND BABY  
HOMES AND CERTAIN RELATED MATTERS) RECORDS, AND  
ANOTHER MATTER BILL 2020**

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**EXPLANATORY AND FINANCIAL MEMORANDUM**

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**Introduction**

This Bill deals with the arrangements for the transfer and management of the records of the commission of investigation established by the Commission of Investigation (Mother and Baby Homes and certain related Matters) Order 2015 (S.I. No. 57 of 2015), upon its dissolution.

The Commission of Investigation (Mother and Baby Homes and certain related Matters) is due to submit its final report to the Minister for Children, Equality, Disability, Integration and Youth by 30 October 2020. On submission of its final report, the Commission of Investigation (Mother and Baby Homes and certain related Matters) will stand dissolved and, this Bill responds to a number of issues raised by the Commission in relation to finalising its records.

The Bill also carries a number of unrelated amendments to the Judicial Council Act 2019.

**Primary Purpose of the Bill**

The Bill ensures that the records of the Commission of Investigation (Mother and Baby Homes and certain related Matters) are deposited with the specified Minister, or with the Child and Family Agency, in the case of the subset of specified databases and related records, without redaction. Most significantly, the Bill provides for the transfer of specified databases and records relating to the former residents of the institutions being examined by the Commission, to the Child and Family Agency (Tusla). The Bill further sets out the restrictions on processing of records by the Child and Family Agency unless those records were given to the Commission by the Agency in the first instance. In particular, processing of records/data other than those provided by the Agency is limited to the purposes authorised by the Data Protection Regulation, the Data Protection Acts 1988 to 2018 or any other enactment (other than in this Bill). However, nothing in the Bill prevents the Agency from processing information from a related record given to the Commission by the Agency. In addition, the Bill also provides appropriate access for the essential maintenance of the digital systems and related records. Notably, the Bill provides a statutory basis for these matters without amendment to the generality of the Commissions of Investigation Act 2004. The Bill provides no new entitlement to access information in

the possession of the Child and Family Agency, or to the archive which transfers to the Minister in accordance with section 43(2) of the 2004 Act.

The Bill also amends the Judicial Council Act 2019 to allow the Personal Injuries Guidelines Committee to complete its work within a new statutory deadline, and for the Council to adopt the personal injuries guidelines by a specified date.

### **Provisions of the Bill**

*Section 1* provides definitions of key terms used in the Bill. “Database” includes all the databases developed by the Commission in relation to the former residents of the institutions being examined by the Commission (as specified in the Schedule to its terms of reference). The definition of “related record” is aligned with the relevant definition in the Commissions of Investigation Act 2004, and includes evidence within the meaning of the Act of 2004 received by the Commission, any document created by or for the Commission within the meaning of section 43 of that Act, or a copy of any such evidence or document, from which information was obtained for the purpose of creating the database.

*Section 2* provides for the Commission to deposit the database and all related records with the Child and Family Agency (the Agency) as soon as possible after enactment. The Bill substitutes the Agency for the Minister as the recipient of these specific records.

*Section 3* deals with restrictions on processing of the database and records received by the Agency from the Commission. It provides that the Agency may not process records or information provided to the Commission by someone other than the Agency, except where authorised or required by or under the Data Protection Regulation, the Data Protection Acts 1988 to 2018 or any other enactment (other than this Act) or for legitimate purposes related to maintenance. In addition, the section expressly states that nothing in the Bill or Act of 2004 shall prevent the processing of information which originated from any record given by the Agency to the Commission.

*Section 4* deals with the application of section 45 of the Act of 2004 in respect of evidence and documents to be available to tribunals. This section ensures consistency with the Act of 2004 insofar as the evidence and records to be deposited with the Agency can be made available to a Tribunal of Inquiry in the event of the future establishment of such a body.

*Section 5* provides that, for the avoidance of doubt, the obligation to deposit records with the Minister, in accordance with subsection (2) of section 43 of the Act of 2004, is an obligation to deposit such evidence and documents without redaction therefrom.

*Section 6* substitutes a new paragraph for subsection (2) of section 7 of the Judicial Council Act 2019, and amends subsection (4) of section 18 of the Act of 2019, to allow the Personal Injuries Guidelines Committee to complete its work within a new, extended, statutory deadline of 9 December 2020, and for the Council to adopt the personal injuries guidelines by 31 July 2021, at the latest.

*Section 7* is a standard provision enabling expenses incurred in the administration of the Act (other than section 6) to be paid by the Minister out of moneys provided by the Oireachtas.

*Section 8* provides for the short title of the Bill. This Act may be cited as the Commission of Investigation (Mother and Baby Homes and certain related Matters) Records, and another Matter Act 2020.

**Financial Implications**

The provisions of this Bill are not expected to give rise to any significant additional costs to the Exchequer. The associated costs (other than section 6) will be met from within the vote of the Department of Children, Equality, Disability, Integration and Youth.

*An Roinn Leanaí agus Gnóthaí Óige*  
*Deireadh Fómhair, 2020*