



An Bille um Chúram Leanaí (Leasú), 2025
Child Care (Amendment) Bill 2025

Meabhrán Mínitheach
Explanatory Memorandum



AN BILLE UM CHÚRAM LEANAÍ (LEASÚ), 2025
CHILD CARE (AMENDMENT) BILL 2025

EXPLANATORY MEMORANDUM

Purpose of the Bill

The Child Care Act, 1991 provides a statutory foundation for the safeguarding of children and promotes the welfare of children who may not be receiving adequate care and protection. The purpose of this Bill is to update the Child Care Act, 1991 to reflect significant developments in child welfare and protection policy and practice since the inception of the Act.

The Child Care (Amendment) Bill 2025 will make further and better provision in relation to the care and protection of children by amending and updating provisions in relation to care orders and other care arrangements under Parts II, III and IV of the Act, and provide for related matters.

This Bill will provide for the establishment and functions of a new inter-agency committee, to be called *An Coiste Forfheidhmithe agus Idirghníomhaireachta um Chúram Leanaí* (referred to as the 'Implementation and Inter-Agency Committee') to provide a focus for cooperation between relevant Government Departments and State agencies in carrying out their obligations to children and families receiving support and services under the Act.

The Bill introduces principles to guide activities under the Act in relation to the care, protection and welfare of children and a duty on Government Departments, certain State agencies and other specified bodies to cooperate in respect of supporting the development, welfare and protection of children and others who are receiving support and services from the Child and Family Agency.

It will give further effect to Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011. Miscellaneous amendments to amend the Child and Family Agency Act, 2013 and the National Vetting Bureau (Children and Vulnerable Persons) Act, 2012 are also made. The Bill contains 29 sections in 4 Parts.

Main Provisions of the Bill

PART 1

Preliminary and General

Section 1: Short title, collective citation and commencement

Section 1 contains the short title of the Bill, the collective citation, and provides that sections 2, 20 and 28 will commence on enactment. All other provisions of the Bill will be subject to commencement orders to be made by the Minister for Children, Disability and Equality ('the Minister'), enabling a phased implementation of the measures contained in the Bill.

Section 2: Definitions

Section 2 provides definitions for key terms used in the Bill.

Section 3: Repeals

Section 3 enables repeal of section 7 and section 8 of the Child Care Act, 1991 (the Principal Act). Section 7 of the Act established Child Care Advisory Committees. All such Committees have been wound up. Section 8 mandates the Child and Family Agency to review its services, and to produce an annual report which reviews the adequacy of its services. This reporting will be replaced by provisions in section 29 of the Bill.

PART 2

Amendments of Principal Act (Protection of Children)

Section 4: Amendment of section 2(1) of Principal Act

Section 4 amends section 2 of the Principal Act. Section 2 is a standard provision, outlining definitions used in the Act. Definitions are amended or inserted as necessary to give effect to provisions of the Bill. The definition of 'child' is amended to remove wording that excludes a person who has been or is married from that definition.

Other key definitions include terms employed in the establishment and operation of an Implementation and Inter-Agency Committee, and in the introduction of a duty on certain bodies to cooperate. The relevant bodies involved in the duty to cooperate are set out.

Section 5: Amendment of section 3 of Principal Act

Section 3 of the Principal Act sets out the function of the Agency under the Act, which is to promote the welfare of children who are not receiving adequate care and protection. This section also sets out what the Agency shall do in the performance of that function. Section 5 of the Bill amends section 3 of the Principal Act by the insertion of a new subsection (2A). This provides that the Child and Family Agency may, and shall at the request of the Minister, prepare and publish guidelines to provide practical guidance on the performance of its function under the Act and the exercise of its powers in respect of that function, as set out in section 3.

Section 6: Voluntary Care

Section 6 provides for the substitution of section 4 of the Principal Act (Voluntary Care). The revised provisions of this new section 4 are set out in subsection 6(1) and clarify that a voluntary care arrangement is put in place as a temporary measure on the basis that the parent or person acting in *loco parentis* will be able to resume care of the child within a reasonable period of time. Consent by the parent or person acting in *loco parentis* to the voluntary care arrangement is set out as a condition, and

clear provision is made for consent being given and being withdrawn. The Child and Family Agency must provide information to the parent or person acting in *loco parentis* who is consenting to the arrangement on how the arrangement will function. This includes information about the giving and withdrawal of consent, the Agency's obligations under this section, and the purpose and intended duration of any voluntary care arrangement.

The Child and Family Agency must review a voluntary care arrangement not less than every six months, to consider whether the arrangement should continue, or be ended, or an application for a care order should be made. If the consent of the parent or person acting in *loco parentis* to the voluntary care arrangement is withdrawn, the arrangement must be brought to an end.

Where consent is withdrawn, but there are serious concerns for the health or welfare of the child, the Agency can apply for an emergency care order according to the process outlined in subsection 12(4) of the Principal Act, with the modification that the court sitting to hear the application for the emergency care order must occur within three working days of the date on which the consent of the parent is withdrawn. The child may remain in the voluntary care placement while that application is in progress.

A transitional provision from the Principal Act is retained. Further transitional provisions at subsection 6(2) will ensure that the new provisions on voluntary care arrangements will apply to all such arrangements, including those already in place.

Section 7: Accommodation for homeless children

Section 7 replaces the entire of section 5 of the Principal Act (Accommodation for Homeless Children). The section refers to children who are estranged from, or otherwise out of, the family home. The provisions set out that the Child and Family Agency, on finding that a child has no accommodation which they may reasonably occupy, shall take steps to provide suitable accommodation, if the child is not being received into its care under the Act, and for as long as they remain a child. In providing accommodation under this section, the Agency is not taking the child into its care but will be required to make efforts to engage with the child and their family to support the child's return to the family, if return would be possible and in the child's best interests.

The Child and Family Agency shall regularly review accommodation provided for a child, to consider whether it is possible that the child return to their family, or whether an application for a care order should be made, or whether the child should continue to be provided with the accommodation in place.

Section 8: Regulations as to accommodation for homeless children

Section 8 inserts a new section 5A into the Principal Act, which establishes a regulation making power for the Minister, whereby the Minister may set regulations concerning the accommodation to be provided to children who are estranged from, or otherwise out of, the family home, under the new section 5. Regulations may be made in respect of the conditions under which children may be accommodated under the section and the requirements in relation to the accommodation. Regulations made under this section may make different provision for different circumstances or categories of children and in respect of children of different ages or children with different levels of vulnerability or risk.

In making regulations, the Minister shall consult with other Ministers if the Minister considers it appropriate to do so.

Section 9: Lost or abandoned children

Section 9 inserts a new section 5B into the Principal Act. This replaces a previous subsection of section 4 of the Act; section 4 is being replaced in its entirety by section 6 of the Bill. Where the Child and Family Agency has taken a child into its care under the Act because it appears the child is lost, or has been deserted or abandoned, this section obliges the Child and Family Agency to attempt to reunify the child with the parent having custody of the child or person acting in *loco parentis*, if reunification appears to be in that child's best interests.

Section 10: Establishment of Child Care Implementation and Inter-Agency Committee and related matters

Section 10 inserts eight new sections into the Principal Act which together establish and set out provisions for the membership and operation of a committee, to promote inter-agency cooperation and national coordination on child protection matters, to be called *An Coiste Forfheidhmithe agus Idirghníomhaireachta um Chúram Leanai* (which may be referred to as the 'Implementation and Inter-Agency Committee'). Section 6A to 6H are inserted after the current section 6, which is not amended.

- ***6A Child Care Implementation and Inter-Agency Committee***

Empowers the Minister to establish the Committee to perform the functions conferred on it.

- ***6B Objectives, functions and powers of the Implementation and Inter-Agency Committee***

Outlines the objectives of the committee and the functions and powers it will have to achieve the objectives. The overarching objectives of the committee are to cooperate in, monitor, promote and ease the planning, provision and delivery of services and supports to relevant persons. Relevant persons are children who are not receiving adequate care and protection, or who are in the care of the Child and Family Agency under Part III, IV or IVA, or receiving other services from the Agency, or are a person for whom the Agency prepares an aftercare plan.

The functions of the committee include the development and implementation of solutions to any identified barriers experienced by relevant persons in the access of services or supports that the nominating bodies provide. The committee will also provide advice and proposals to the Minister on these matters and provide the Minister with any reports or information the Minister may request. The committee will keep the operation and effectiveness of the implementation of the Act under review.

The committee, in performing its functions, must have regard to the principle that the best interests of the child is a primary consideration. The committee shall have all powers needed for the performance of its functions.

- ***6C Membership of the Implementation and Inter-Agency Committee***

Provides that the Minister will appoint membership of the Committee, including a chairperson, and sets out the composition of membership. This includes members nominated by a relevant Minister from seven Departments of State and at least one member from each of the Child and Family Agency, An Garda Síochána

and the Health Service Executive. The Minister may also nominate a member from outside of these bodies if appropriate. The Minister may dissolve the Committee.

- *6D Conditions and cessation of membership*

Enables the Minister to set the terms and conditions of an appointment to the Committee; provides for the removal, resignation and replacement of a member of the Committee.

- *6E Directions to Implementation and Inter-Agency Committee*

Provides that the Minister may give a direction to the Committee in relation to the performance by it of its functions, and that any direction given may be amended or revoked. The Minister shall consult with other Ministers of the Government regarding directions to the Committee where the Minister considers it appropriate.

- *6F Meetings and procedures of the Implementation and Inter-Agency Committee*

Allows that the Committee shall hold as many meetings as necessary for the performance of its functions and may regulate its own procedures subject to any directions the Minister may give.

- *6G Annual Report of the Implementation and Inter-Agency Committee*

Provides that the Committee shall prepare a report on the performance of its functions and its activities and submit same to the Minister not later than 6 months after the end of each year, and that the report shall be in such form as the Minister approves and may be subject to the Minister's direction. This section provides that the Minister shall lay the report before the Houses of the Oireachtas, and that being done, ensure that the report is published in such form as may be considered appropriate.

- *6H Sharing information for performance of functions of Implementation and Inter-Agency Committee*

Enables the Committee, or a nominating body who is represented at the Committee, to share information with the Committee or another nominating body for the purposes of the functions of the Committee or of a nominating body under the Act. This information may not include personal data.

Section 11: Guiding principles, duties of relevant bodies and related matters

Section 11 inserts five new sections into the Principal Act. Sections 11A to 11E are inserted after the current section 11, which is not amended.

- *Guiding Principles*

Section 11A establishes principles to guide the Child and Family Agency in the performance of its obligations and duties under the Principal Act and under subsection 8(1) of the Child and Family Agency Act 2013.

These principles foreground the best interests of the child, which is the paramount consideration for the Agency. In considering the best interests of the child, the Agency is required to have regard to the factors set out in section 24(2) of the Act which include, inter alia, the age, maturity and any special characteristics of the child, the child's needs, the benefit to the child of having a meaningful relationship with the child's parents, relatives and other persons involved in

their upbringing, and any harm the child has suffered or is at risk of suffering.

The principles affirm that the child, having regard to their age and capacity, should be informed about, be enabled to participate in, and have their views heard on, developments in relation to their care and protection, and that due weight be given to the views of the child, having regard to the child's age, maturity and circumstances.

These principles are in addition to the existing principles set out at section 3 of the Principal Act which include the principle that it is generally in the best interests of a child to be brought up in their own family.

- *Duty of relevant bodies to cooperate*

Section 11B sets out that relevant bodies shall cooperate with each other in the performance of their existing functions, when those functions are performed in the planning and delivery of services to, and activities for, children and their families or young adults for whom the Child and Family Agency has prepared an aftercare plan. Cooperation includes the sharing of information to an extent that is in accordance with the law and necessary and proportionate for the purpose.

The relevant bodies are set out in section 4 of the Bill. In cooperating under this section, relevant bodies must have regard to the principle that the best interests of the child are a primary consideration (other than the Child and Family Agency, for whom it is the paramount consideration). The relevant bodies are:

- the Child and Family Agency
- a children's detention school (within the meaning of the Act of 2001)
- a Department of State
- An tÚdarás um Ard-Oideachas
- a designated institution of higher education (within the meaning of the Higher Education Authority Act 2022)
- an education and training board established under section 9 of the Education and Training Boards Act 2013
- An Garda Síochána
- the Health Service Executive
- a body established by or under an enactment to perform functions in relation to health services
- a person or body with whom the Health Service Executive has entered into an arrangement under section 38 or 39 of the Health Act 2004,
- a person, other than a person referred to in paragraph (h), with whom the Health Service Executive has entered into an arrangement to provide health services
- a private hospital (within the meaning of the Health Act 2007),
- a person carrying on the business of providing a prescribed private health service (within the meaning of the Health Act 2007)

- a safety partnership (within the meaning of Part 3 of the Policing, Security and Community Safety Act 2024)
- a local authority
- a Local Community Development Committee established pursuant to section 49A of the Local Government Act 2001
- a recognised school
- a body, or a body belonging to a class of bodies that has been designated by the Minister under section 11C.
- *Designation of relevant body*

Section 11C provides that the Minister may designate a body or a class of bodies to be a relevant body, where the body is in receipt of public funding, where some or all their functions support the development, welfare or protection of a relevant person or their family, and where it is desirable that the body cooperate with other relevant bodies. The Minister will seek consent for the designation from another Minister of the Government if the body falls under their aegis.

- *Sharing of information for purposes of section 11B*

Section 11D provides that if a relevant body sees the necessity of sharing information, including personal data and special categories of personal data, with another relevant body for the purposes of the duty to cooperate, it may do so. The receiving body must use the information shared with it under this section solely for the purposes for its relevant functions under section 11B.

- *Processing of personal data and special categories of personal data*

Section 11E sets out that relevant bodies may process such personal data or special categories of personal data as shall be necessary and proportionate for the performance of their functions under sections 11B and 11D. Any such processing shall be in accordance with the General Data Protection Regulation and with the Data Protection Act 2018. The Minister will prescribe suitable and specific measures for the processing of such data in regulations to be made under this section.

Section 12: Amendment of section 12 of Principal Act

Section 12 of the Bill amends section 12 of the Principal Act, which provides for emergency powers for a member of An Garda Síochána to take a child to safety and then deliver the child to the custody of the Child and Family Agency. Where, on foot of such action, the Child and Family Agency applies for an emergency care order, it may retain custody of the child pending a hearing at the next sitting of the District Court, or a sitting arranged for that purpose.

Section 12(a) of the Bill amends section 12(4) of the Principal Act to allow a maximum of three working days in place of the current three days. This is a pragmatic amendment to enable sufficient time to arrange for a court sitting or to attain a hearing at the next court sitting, where the removal of the child occurs during a public holiday or weekend.

Section 12(b) of the Bill inserts a new subsection, 12(6) to provide that, having removed a child from an unsafe situation, a member of An Garda Síochána may follow a direction from the Child and Family Agency to take the child to suitable accommodation. This would facilitate an alternative to an emergency care placement if there were a person who

is in the child's life and is known to the Child and Family Agency (for example, is named in a safety plan for the child) and who could provide temporary accommodation while the Child and Family Agency ascertain the next steps. The intention is to minimise trauma for children where possible by ensuring an alternative to an emergency care placement is permissible under the direction of the Agency, if it is appropriate, feasible and in the best interests of the child. In the application of this provision, it will be considered that the child has been delivered to the custody of the Agency for the purposes of this section of the Act.

Section 13: Amendment of section 13 of Principal Act

Section 13 amends section 13(2) of the Principal Act. The current subsection 13(2) is separated into two provisions. The first provision, subsection 13(2)(a), will preserve the current period of time for which an emergency care order may be in force, which is for a period not greater than 8 days. The second provision, subsection 13(2)(b), will permit a duration for an emergency care order of more than 8 days, but not exceeding 15 days, which the court may specify, where the court is satisfied that the period of time is necessary in the circumstances of the case.

The amendment will allow the court discretion over the period of time that an emergency care order could be in place for, with a clear upper limit. The changes reflect the complexity of circumstances that can lead to an emergency care order being necessary. In some cases, the court may consider it is proportionate and in the child's best interests to allow more time in which the circumstances that precipitated the emergency care order may be resolved or to allow for the Child and Family Agency to reunify the child with their parent or guardian or to plan for the next steps if reunification is not in the child's best interests at that time.

Section 14: Amendment of section 17 of Principal Act

Section 14 amends section 17 of the Principal Act, which is concerned with interim care orders, by three subsections, 14(1), 14(2) and 14(3).

Subsection 14(1)(a) makes changes to the permitted duration of an interim care order in subsection 17(2) of the Principal Act. The current duration of 29 days is preserved, however subsection 14(1)(a) of the Bill will enable the court, of its own motion or on the application of any of the parties, to set a duration of not more than 90 days for an interim care order, if an assessment of the welfare of the child is to be carried out and is unlikely to be completed within a 29 day period. It also introduces an upper limit of 6 months for the duration of an interim care order which has been put in place with the consent of the parent of the child or a person acting in *loco parentis* and of the Child and Family Agency. An existing provision on extension of an interim care order is deleted and is replaced by new provisions inserted by subsection 14(1)(b) of the Bill.

Subsection 14(1)(b) inserts three new subsections, (2A), (2B) and (2C), into section 17 of the Principal Act. Under 17(2A) the court will be able to grant an extension of an interim care order if the court believes that the grounds for making the initial order still apply with respect to the child. An extension may be for any of the permitted time periods set out in subsection 17(2) if the conditions attached to those time periods are met. Subsection 17(2B) establishes a cumulative maximum for the duration of an interim care order so that the maximum time any single interim care order, including extensions, may run for is 18 months. Subsection 17(2C) allows that a subsequent interim care order may be made in respect of a child if the court believes that the grounds for the interim care order being

made continue, and if the Child and Family Agency can show that it is making progress towards resolving the situation for the child.

Subsection 14(1)(c) provides that the court may put in place a supervision order under section 19 of the Principal Act, if the court is satisfied that an interim care order is not necessary or appropriate. An additional provision clarifies the meaning of ‘an assessment of the welfare of the child’ for the purposes of this section, which includes a report on any aspect of the health, development or welfare of the child.

Subsections 14(2) and 14(3) are transitional provisions. Subsection 14(2) provides that any interim care order, or extension to an order, which is in place when the changes introduced by subsection 14(1) come into force, will remain in place until it reaches the end of its effective time period, or for 12 months from the commencement of subsection 14(1), whichever is earlier. Subsection 14(3) allows that applications for subsequent interim care orders under subsection 17(2C) may be made with respect to interim care orders in place before the commencement of these provisions even if the preceding interim care order ran for longer than 18 months.

Section 15: Amendment of section 19 of Principal Act

Section 15 amends section 19 of the Principal Act by replacing subsection (2) and introducing two new subsections, (2A) and (2B).

The effect of the current subsection 19(2) is preserved with updated wording and to clarify that a supervision order authorises the Child and Family Agency to visit a child in order to satisfy itself as to the health, development and welfare of a child, and to give advice to the parent or person acting in *loco parentis* as to the care of the child.

Subsection 19(2A) clarifies the authority a supervision order gives to the Child and Family Agency in respect of a child. The Agency may visit the child at any location, including their home or their school. The Agency may ascertain the views of the child, including by speaking to them without the parent or person acting in *loco parentis* present, and ascertain the views of any other person who the Agency believes would be of assistance to it in carrying out its duties to the child under the supervision order.

Subsection 19(2B) inserts a new requirement for the Child and Family Agency to review the operation of, and necessity for, a supervision order at regular intervals and not less than 6 months after the supervision order has been made in respect of a child. The Agency in conducting the review shall consider whether it should make an application to the court to end the supervision order, apply to vary the order or any directions attaching to it, or to make an application for a different arrangement or care order under the Principal Act.

Existing provisions ensure that a supervision order does not exceed a total 12-month duration. By introducing a review that may be conducted at an interval of the Agency’s choosing and must be conducted not later than 6 months from the commencement of the supervision order, this upper threshold is supported, and a focus is kept on supervision orders as a shorter-term intervention.

Section 16: Amendment of section 20 of Principal Act

Section 16 amends section 20 of the Principal Act by inserting a new subsection 2A after subsection 2, which is not amended. Section 20 of the Act provides that where a child is the subject of certain proceedings other than those under the Principal Act, those proceedings may be adjourned if the court wishes the Child and Family Agency to undertake

an investigation of the circumstances of the child. Subsection 2A is inserted to require that, where the Child and Family Agency are given such a direction by the court, the Agency shall be given all relevant documentation necessary to undertake the investigation. Section 20 covers proceedings other than those under the Principal Act, such as proceedings under Guardianship of Infants Act, 1964 or the Judicial Separation and Family Law Reform Act, 1989 and others, and therefore the Agency may not have had reason for prior engagement with the child or have knowledge of their circumstances. The amendment is intended to aid the Agency to conduct a timely and effective inquiry.

Section 17: Amendment of section 25 of Principal Act

Section 17 makes two amendments to section 25 of the Principal Act. Subsection 17(a) amends subsection 25(1) of the Principal Act by the substitution of “views of the child and the circumstances of the case that it is in the best interests of the child” for “wishes of the child and the circumstances of the case that it is necessary in the interests of the child”.

The purpose of this amendment is to lower the threshold by which a child may be made a party to proceedings. By providing that the court may join a child as a party to the proceedings where it is satisfied that it is in the best interests of the child to do so (while having regard to the age, understanding and views of the child), it is intended to facilitate children to be joined as parties and give greater effect to the voice of the child.

Subsection 17(b) amends subsection 25(6) of the Principal Act to ensure that the provisions of subsection 25(6) apply to both to section 25 of the Act and to the new section 25A, which is being inserted by section 18 of this Bill.

Section 18: Assistance to court

Section 18 inserts a new section 25A. This new section concerns a specified cohort of bodies, which are a children’s detention school, a Department of State, An Garda Síochána, the Health Service Executive, or a local authority. These bodies also fall within the definition of ‘relevant body’ in section 4 of the Bill.

If, in any proceedings concerning the care and protection of a child, it appears to the court that any of these bodies would be of assistance in the case, the court may request that the body attend the proceedings. Should the court make such a request, the body must attend. The body concerned may be asked to give evidence or provide the court with assistance. The amendment aligns with the provisions of the new duty to cooperate in respect of these bodies and is intended to be of use to the court in dealing with cases where the child may require supports or services within the purview of bodies other than the Child and Family Agency or where the court believes that bodies other than the Agency will be of assistance in the case.

Section 19: Amendment of section 29(5B) of Principal Act

Section 19 is a technical amendment of section 29(5B) of the Principal Act, which removes the definition of “special categories of personal data” from this section. The definition is repositioned by section 4 of the Bill, inserting it into section 2(1) of the Act, and so including it in the section covering definitions in the Act generally.

Section 20: Amendment of section 32 of Principal Act

Section 20 amends section 32 of the Principal Act which concerns the presumption and determination of age in applications to the court for an order under the Act. This amendment ensures Ireland is fully aligned with its obligations under Article 18(3) of Directive 2011/93/EU of the

European Parliament and of the Council on combating the sexual abuse and sexual exploitation of children and child pornography.

Subsection 20(a) provides that the existing section 32 be designated as subsection 32(1). The effect of the existing section is thus preserved.

Subsection 20(b) inserts new subsections 32(2) and 32(3). Subsection 32(2) provides that where the age of the person is uncertain, but there is reason to believe they are a child and they are or may be a victim of a relevant offence, the person shall be presumed to be a child unless it can be proven they are not. The presumption is made in the proceedings and will not be subject to the discretion of the court. The relevant offences are already established in other legislation. Subsection 32(3) lists the relevant offences and enables the Minister to prescribe additional offences for the purpose of the section, in consultation with the Minister for Justice, Home Affairs and Migration.

Section 21: Amendment of section 35D(3) of Principal Act

Section 21 amends section 35D(3) of the Principal Act. Section 35D concerns the provision of legal advice and legal representation to a *Guardian ad Litem* who is appointed to a child who is the subject of child care proceedings under the Act. This provision has not yet been commenced but it is anticipated that commencement will proceed in tandem with development of the Guardian ad Litem National Service.

Subsection 21(a) is a small technical amendment to the text. Subsection 21(b) introduces a new subsection, which will be 35D(3)(e). This inserts an additional factor for the Minister to consider in arranging for the provision of legal advice or representation for a *Guardian ad Litem*, which is consideration of whether a solicitor has been appointed to represent the child in proceedings. In cases where legal representation has been appointed to the child, it is possible that separate representation to the *Guardian ad Litem* may not always be necessary.

Section 22: Amendment of section 37(4) of Principal Act

Section 22 is a technical amendment of section 37(4) of the Principal Act to update a reference to section 4 of the Act. This is consequential to changes set out in section 6 of the Bill.

Section 23: Amendment of section 43A of Principal Act

Section 23 amends section 43A of the Principal Act. This amendment will make significant changes to the eligibility of a foster parent or relative having care of a child to apply for enhanced rights in relation to the child. The amendment will clarify the circumstances in which an application for enhanced parental rights can be made and reduces the time for which the child must be in the care of the applicant, before such an application can be made.

Subsection 23(a) sets out that the child must be in care under section 18 of the Act in order for section 43A to apply to them. The current wording provides for the child to be in care under section 18 (care order) or placed under section 4 of the Act (voluntary care). The amendment is necessary to ensure there is a clear process for the application for enhanced rights, in that the child should already be in a stable placement in which the Child and Family Agency has like control over the child as if it were the child's parent. Changes to section 4 of the Act brought forward in section 6 of the Bill are designed to reinforce the temporary nature of voluntary care arrangements and an application for enhanced rights will not be appropriate under the revisions to voluntary care arrangements introduced by this Bill.

Subsection 23(b)(i) reduces the period of time for which the child must be placed with the person who makes the application from 5 years to 3 years. Subsection 23(b)(ii) provides that Tusla must give notice to the parent of the child of the application for enhanced rights by the foster parent or relative in respect of the child.

Subsection 23(c) sets out that an interruption of the reckonable 3-year time period is permissible provided the cumulative total does not exceed 30 days and clarifies that any period of time in which the child is placed with the applicant under a voluntary care arrangement may be included in the reckonable time for this 3-year time period.

Subsection 23(d) makes a textual change to reflect the changes in subsection (b), substituting the word ‘notification’ for ‘consent or notification’. The giving of consent by the parent or guardian is not required given that the option of applying for enhanced rights in respect of a child in voluntary care is no longer available. A section 18 care order, which provides that the Agency has like control over the child as if it were the child’s parent, must be in place before the application for enhanced rights in respect of the child is made. The notification obligation is waived where the court is satisfied that the parent or guardian is missing and cannot be found by the Agency. Subsection (d) further sets out that the court may also waive the notification to the parent or guardian if the court believes it would be in the best interests of the child to do so.

Subsection 23(e) clarifies the term ‘relevant time’ for the purposes of this and the following section, which should be taken to mean the time immediately before a care order is made in respect of the child.

Enhanced rights in relation to the child means the foster parent or relative will have like control over the child as if they were the child’s parent. The amendment will promote stability in placements for children by reducing the reckonable timeframe for which the child must be placed with the person who wishes to make the application, whether under a care order or a voluntary care arrangement. While a care order must be in place in order that the application be made, the time the child was placed with the applicant under a voluntary care arrangement can still be counted towards overall time spent in the care of the applicant.

Section 24: Amendment of section 43B(2) of Principal Act

Section 24 amends section 43B(2) of the Principal Act, to reflect and accommodate changes resulting from the previous section 23 amendments to section 43A. Sections 43B and 43A are related as section 43B allows for the variation, discharge or cessation of an order granted on application under 43A. Subsection 24(a) deletes paragraph (a) of subsection 43B(2) as this relates to children placed in a voluntary care arrangement. Subsection 24(b) makes a further textual change to reflect that applications under 43A may only be made in respect of children for whom a section 18 order (care order) is in place. Subsection 24(c) makes a textual change to reflect the amendment made in section 4 of this Bill which changes the definition of a child in the Act.

Section 25: Transitional provisions relating to sections 23 and 24

Section 25 provides for transitional measures relating to sections 23 and 24. This section provides that any order under section 43A of the Principal Act made in respect of a child who was in the care of the applicant under section 4 of the Principal Act (a voluntary care arrangement) prior to the commencement of the changes introduced by sections 23 and 24, shall not be affected by the changes introduced, and the order already made will remain in force.

PART 3

Miscellaneous Amendments to Principal Act

Section 26: Amendment of section 58A of Principal Act

Section 26 is a technical amendment of section 58A of the Principal Act, which removes the definition of “recognised school” from this section. The definition is repositioned by section 4 of the Bill, inserting it into section 2(1) of the Act, which covers definitions in the Act generally.

Section 27: Amendment of section 69 of Principal Act

Section 27 amends section 69 of the Principal Act, which concerns the powers of the Minister to give general directions to the Child and Family Agency in relation to the performance of the functions assigned to the Agency by or under the Principal Act. Section 27 will insert three new subsections, 69(6), 69(7) and 69(8). These set out that the Minister may issue guidelines to the Agency concerning the performance of its functions under the Act, that the Agency must have regard to any guidelines issued under the section and that the Minister shall publish any such guidelines that he or she chooses to issue.

PART 4

Amendments of Other Acts of the Oireachtas

Section 28: Amendment of Schedule 1 to National Vetting Bureau (Children and Vulnerable Persons) Act 2012

Section 28 amends Part 1 of Schedule 1 of the National Vetting Bureau (Child and Vulnerable Persons) Act 2012 by the insertion of a new paragraph 14A. The purpose of this is to allow the vetting of the emergency contact person of an early years service provider and the vetting of household members aged 16 and over who live in the premises where a childminding service is provided.

Section 29: Amendment of Act of 2013

Section 29 amends the Child and Family Agency Act 2013 (the Act of 2013) in four places.

Subsection 29(a) amends the current section 2 of the Act of 2013. The definition of ‘child’ is amended to remove wording that excludes a person who has been married from that definition. This is to update the definition and align it with an identical change being made to the definitions of the Principal Act, contained in section 4 of this Bill.

Subsection 29(b) amends section 8 of the Act of 2013, by the insertion of a new subsection (2A). This subsection requires that the Child and Family Agency shall prepare and publish information in relation to its role and responsibilities regarding child care proceedings under the Principal Act. The intended audience for such information is primarily parents or persons acting in *loco parentis*. The information should not be specific to any one case but rather sets out general information about the types of orders that may be made under the Principal Act and other arrangements that may be put in place, and the functions of the Agency in relation to children who are placed in its care under the Principal Act.

Subsection 29(c) inserts two new sections into the Act of 2013, sections 46A and 46B. The first new section is section 46A, which introduces a new reporting requirement to the Child and Family Agency, called the ‘annual service performance and activity report’. This report will replace the current obligation on the Agency to provide a “Review

of Services” under section 8 of the Principal Act, which will be repealed following commencement of this subsection.

This ‘annual service performance and activity report’ will be submitted annually by the Agency. It will include statistical information on the services which the Agency delivers pursuant to its functions under section 8 of the Act of 2013, the Principal Act or under any other enactment. The types of data to be included in the reports are set out, and provision is made to clarify that the Agency may include data in the report that relate to services provided on its behalf and seek that data from service providers or others.

The second new section is section 46B, which introduces a new thematic reporting requirement on the Child and Family Agency. A thematic report can be requested by the Minister in consultation with the Minister for Education and Youth, on a topic or topics of their choosing, every three years. The intention is to enable a focus on a topic of interest, particular service or other function of the Agency. The Agency may specifically request information from service providers or other third parties for the purpose of a thematic report and will be given 6 months’ notice of the intended topic for a forthcoming thematic report before the start of a new three-year reporting cycle.

Subsection 29(d) amends section 47 of the Act of 2013, which concerns the Minister’s power to give directions to the Child and Family Agency. A new subsection (7) is introduced that sets out that neither the Minister nor the Minister for Education and Youth may give the Agency a direction concerning the provision of service to any one person, or a direction concerning the decision making for the eligibility of any one person for a support or service, or the extent or manner of their eligibility. While subsection 47(5) already precludes the Minister from giving any direction that interferes with the exercise of professional judgement in any particular case, this amendment will further strengthen the existing provisions of this section by clarifying that directions to the Agency from the Minister or the Minister for Education and Youth cannot apply to individual cases.

*An Roinn Leanaí, Michumais agus Comhionannais,
Nollaig, 2025.*

