

Your Ref: Dr Kathy Munro

Our Ref: 21000342/56: Children's Law Committee

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Dear Research Director

### ***FAMILY RESPONSIBILITIES COMMISSION AND OTHER ACTS AMENDMENT BILL 2011***

Thank you for the opportunity to provide comments on the *Family Responsibilities Commission and Other Acts Amendment Bill 2011* ("the Bill"). This submission has been prepared with the assistance of the Children's Law Committee of the Queensland Law Society ("the Society").

#### **1. Consultation**

The Society has not been consulted on this Bill previously, however we note that we made submissions on the 'Proposing Amendments to the *Child Protection Act 1999* Policy Paper' in July 2008.

#### **2. *Child Protection Act 1999* changes**

The changes to the *Child Protection Act 1999* deal with the temporary custody order which was created though the *Child Protection and Other Acts Amendment Act 2010*. Section 51AB of the *Child Protection Act 1999* states that the objective of the temporary custody order is to:

"to authorise the action necessary to ensure the immediate safety of a child while the chief executive decides the most appropriate action to meet the child's ongoing protection and care needs (for example, applying for a child protection order)."

The Bill makes further consequential amendments to the operation of this order.

The Society supports the introduction of the new temporary custody order, but again would caution against this type of order becoming a standard order sought by the Department of Child Safety before filing for an application for a child protection order.

As the temporary custody order is envisaged to be a short-term order sought in circumstances where the department, through prior involvement, has already determined that a child is in need of protection, we want to encourage Departmental officers where possible to be in a position to seek the most appropriate order to ensure the child's ongoing protection and care needs in the first instance, rather than relying on a temporary custody order that will invariably be heard *ex parte*.

Furthermore, the Society notes that the principal Act, which introduced the temporary custody order and a raft of other amendments, namely the *Child Protection and Other Acts Amendment Act 2010*, did not contain any transitional provisions. From a practice perspective, this made the shift unclear and difficult to navigate. The Society submits that any further legislative instruments should contain the appropriate transitional provisions to assist practitioners with amendments.

We would be happy to meet with you to discuss these concerns further. Please contact Ms Raylene D'Cruz, a Policy Solicitor with our office on (07) 3842 5884 or [r.dacruz@qls.com.au](mailto:r.dacruz@qls.com.au) if you would like to schedule a meeting.

Yours faithfully

Bruce Doyle  
**President**