



Government of Bermuda

Ministry of Social Development and Seniors

MINISTERIAL STATEMENT

by

**The Hon. Tinee S. Furbert, JP, MP
Minister of Social Development and Seniors**

Tabling a Bill entitled “Children Amendment Act 2022”

Friday, 18th March 2022

Mr. Speaker, I am pleased to lay before this Honourable House the Bill entitled “Children Amendment Act 2022”. This Bill amends the Children Act 1998, to reform the current legal structure and broaden the responsibilities of the Child Care Placement Board.

The aim of the Bill is to modernize the law to improve the legislative oversight, and composition of the existing Child Care Placement Board to enhance the experience for children in-care of the Director of Child and Family Services. Also, the proposed amendments will achieve the Government’s promise set out as an initiative in the Speech from the Throne delivered 6th November 2020. The Speech from the Throne states,

“The seed of the “new liberty” will be planted in the Island’s vulnerable children. The outdated Child Care Placement Board will be replaced by a Children’s Commission, whose remit will be to advocate for the children in care, promoting best practice policy, programmes and service response to meet their needs.”

Mr. Speaker, the purpose of the Children Act 1998, is to: - (a) protect children from harm; (b) promote the integrity of the family; (c) provide protection for the rights of children amongst persons who have regular contact with children; and (d) ensure the welfare of children. The Children Act 1998, benefits all children in Bermuda. However, this Bill focuses specifically on amendments to the Children Act 1998 that will benefit (will be beneficial to) children in-care of the Director of Child and Family Services either under a care order or interim care order.

Currently, **Mr. Speaker**, the Child Care Placement Board’s roles and responsibilities are limited. The existing formal structure used by the Board is outdated and requires much needed enhancements to close identified gaps by broadening the Board’s existing responsibilities. There is no legal framework in place to ensure that the voice of children in-care who are capable of forming their own views are heard, and considered by the Board. These matters could relate to the child’s social development and well-being which affects them while in the care of the Director of Child and Family Services. The proposed legislative framework will guarantee the voice of children in-care is being heard, respected and considered by a body, which will be implemented as a standing committee.

Mr. Speaker, the intent of the Bill is to replace the Child Care Placement Board with a Children In-Care Advisory Council with broadened responsibilities, and make consequential amendments to the principal Act. The proposed amendments will provide a new and necessary legal framework that will enhance the existing legislative oversight of the Child Care Placement Board by introducing the proposed amendments that would:

- establish a new body called the Children In-Care Advisory Council;
- authorize the Council to make recommendations to the Minister, after considering the potential effects of existing and proposed government standards, programs, policies, and legislation has on the rights of children in-care;
- enhance the new Council's membership to include persons with skillsets in specific areas such as educational, legal and medical fields; and
- introduce a Standing Committee of the Children In-Care Advisory Council (also referred to as Advisory Council Committee), which would provide an opportunity for children in-care to have a voice, access to the Council, and if need be ultimately access to the Minister.

Mr. Speaker, the innovative proposed enhancements takes into account furthering the best interest and wellbeing of children in-care by introducing a new legislative framework that will be enshrined in the Children Act 1998. This proposed framework guarantees the voice of children in-care who are capable of forming their own views is heard on matters affecting them, including issues relating to their social development and well-being to enhance their experiences while in care.

Mr. Speaker, the Ministry of Social Development and Seniors in conjunction with the Department of Child and Family Services conducted extensive research on Children's Commissions in other jurisdictions such as England, Jamaica, Jersey, and Malta to name a few. The analysis conducted shows that majority of Children's Commissions are independent of Government, and Parliament, are not specific to child/ren in care, and the persons appointed as Commissioner operates in a full-time position with support staff.

Mr. Speaker, this comparative research highlighted Bermuda's current vehicles that afford protection of children's rights; the Children's Act 1998, the UN Convention on the Rights of Children that was extended to Bermuda on 7th September 1994, the Human Rights Commission, the Ombudsman Office, Child Safeguarding Committee, and children specific NGO's. To remain with our focus with children in care as set out in the November 2020 Throne Speech.

Mr. Speaker, the Bill sets out for the establishment of a Children In-Care Advisory Council whose aim similarly to a Children's Commission is for children in care to have a better understanding of their rights and to create opportunities for children to have a voice on matters. The Bill guarantees this aim is achieved and conveyed in law ensuring the Advisory Council Committee will have the remit to advocate for children in-care, and the Children In-Care Advisory Council will promote best practice policy, programmes, and service responses to meet the needs of children in-care.

Mr. Speaker, it is proposed that the Board's existing responsibilities will be transferred to the proposed Council. In addition, the Council will have new responsibilities, which broadens the Council's scope and allow it to operate under the guidance of the UN Convention on the Rights of Child to ultimately promote and protect the rights of children in-care. The proposed new responsibilities are:

- advising the Minister on matters relating to the social development and well-being of children in-care;
- enquiring into, and reporting upon any matter referred to it by the Minister;
- informing the Minister of, and making recommendations on, matters relating to the social development and well-being of children in-care;
- promoting and protecting the rights of children in-care;
- considering the effect any legislation, Government policy, programme or standard may have on children in-care and making recommendations to the Minister; and
- raising public awareness of issues affecting children in-care.

The Council will work collaboratively with the Department of Child and Family Services to provide an opportunity for children in-care to participate in dialogue when decisions are being made about their lives and to find out what children think.

Mr. Speaker, the purpose of the Standing Committee namely the Advisory Council Committee is to provide a smaller non-intimidating environment so children in-care through a non-statutory youth panel are able to express their views on matters affecting them do not feel intimidated. To ensure best practice standards are upheld when it comes to the composition of the Committee, two or more members should

never hold a forum with less than two children. This proposed application of the law would allow for Articles 12 and 13 of the UN Convention on the Rights of the Child to be to be enshrined in the Children Act 1998.

Article 12 of the Convention says,

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For the purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13 of the UN Convention on the Rights of the Child states,

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others; or
 - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

I am pleased to inform Honourable Members and the public that the proposed amendments ensures the Government continues to improve legislation concerning children in-care.

In closing, **Mr. Speaker**, the Government has listened to the concerns of child advocacy organizations, independent child advocates, and members of the general public. The Government continues to ensure that children in-care of the Director of Child and Family Services best interest and well-being is paramount and protected in law. As a result the Government is committed to introducing the proposed legislation that will enrich and enhance the Children Act 1998, and ensure Bermuda is compliant with international convention. I am confident the provisions in the Bill will be beneficial Bermuda's vulnerable population – children in-care by empowering them to exercise their right to have a voice on matters impacting them.

Thank you, Mr. Speaker.