

DRAFT SECOND READING SPEECH

HON JACQUIE PETRUSMA MP

Disability Services Amendment Bill 2019

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Madam Speaker, I move that the Bill now be read a second time.

Madam Speaker, in July 2017, the Hodgman Liberal Government endorsed a recommendation for an independent review of the *Disability Services Act 2011* (the Act) be undertaken, with a focus on the Act's operational effectiveness since implementation.

The Government convened an independent Review Committee (the Committee) with an independent Chair, and a broad membership including consumer, advocacy and provider representatives.

Specifically, the Review was tasked with considering:

- the operational effectiveness of the Act since implementation;
- interoperability of the Act with other legislation; and
- issues with the Act that have arisen as a result of the Tasmanian Bilateral Agreement for transition to the National Disability Insurance Scheme (NDIS).

During the transition to the NDIS, the policy framework is complex and evolving. For this reason, the Review was intentionally limited to an initial review of the current operations of the Act, and the Government will undertake a broader review of the Act once the transition to the NDIS is complete.

The Committee was supported by an independent consultant, Fae Robinson Futures, to undertake public and stakeholder consultations, analyse feedback, and assist the Committee to prepare the final Review Report. The *Review of the Disability Services Act 2011 – Report of the Review Committee 29 June 2018* was tabled in Parliament on 5 July 2018.

The Committee's final Report identified a number of recommendations requiring legislative change. The Tasmanian Government has accepted the recommendations from the Review and has proceeded to act on all. Several recommendations are the subject of this Bill.

Some recommendations need to be deferred until the NDIS operational landscape is more clearly defined, at which stage a further review of the Act will be undertaken, while other recommendations will be actioned at a policy level by the Department of Communities Tasmania.

Madam Speaker, in regards to this Bill, the Committee found that the Principles in Section 5 of the Act were high level 'directional statements' that did not align well with the general Principles in the *National Disability Insurance Scheme Act 2013* (NDIS Act), or the declaration of rights affirmed in the Convention on the Rights of Persons with Disabilities.

The Committee therefore recommended better harmonisation of the Act with the NDIS Act and the Convention, and the Bill for that reason, substitutes a new Section 5 that adapts the Principles espoused in the NDIS Act.

The Review also identified that the Act does not explicitly identify the rights of children. The new Principles inserted by the Bill address this issue, making it clear that the best interests of the child are paramount, and that full consideration needs to be given to protecting the child from harm, promoting the child's development, and strengthening and preserving positive relationships between the child, their family members and other significant persons in their life.

The Committee also found that the administration and enforcement of restrictive interventions under the Act was inadequate and poorly understood, and recommended that the Act be amended to allow the granting of interim authorisations of restrictive interventions.

The Bill therefore introduces an amendment that inserts a new Section 41A, which permits the Guardianship and Administration Board to grant a provisional approval of a restrictive intervention. Provisional approvals under the new Section 41A remain in effect for up to 90 days, covering the interim period before an application is heard and determined.

The insertion of an amendment allowing for interim orders also provides additional protection to people with disability by ensuring that formalised processes are in place and providers of supports to people with disability are regulated.

The amendment will also lead to more national consistency and will ensure that providers with interim orders in place, also have in place a behaviour support plan and are reporting to the NDIS Commissioner every two weeks on the use of the Restricted Practice.

The Committee also recommended improving the scope and effectiveness of information sharing provisions to better align the Act with the NDIS Act to assist with the transition of clients to the NDIS. In particular, the Bill amends the definition of "information sharing entity" in Section 50(1) of the Act to include the National Quality and Safeguards Commission.

The Committee also recommended the consideration and implementation of a number of more specific stakeholder requests for change. While some of these actions have been deferred until the NDIS operational landscape is more clearly defined and the transition to the NDIS is complete, the following proposed changes can be implemented in this Bill:

- removal of references to the purchase of strategic and operational plans, as these documents are now available via the Department of Communities Tasmania website;
- amending Section 28(3)(a) of the Act to clarify that a person with a disability has the right to have another person present when interviewed under Section 28(2);
- replacing obsolete references to the *Mental Health Act 1996* with references to the *Mental Health Act 2013*, and
- including references to the Chief Civil Psychiatrist where appropriate.

Madam Speaker, I thank the Chair and the Members of the Review Committee for their passion and commitment to improving the disability services framework in Tasmania. The changes to the Act included in this Amendment Bill will improve the administration of the Act and will ensure that Tasmania's disability services framework is better aligned with the NDIS Act while we transition to the NDIS.

I commend the Bill to the House.