

Serial 49
Care and Protection of Children Amendment Bill 2009
Ms McCarthy

A Bill for an Act to amend the *Care and Protection of Children Act*

NORTHERN TERRITORY OF AUSTRALIA

CARE AND PROTECTION OF CHILDREN AMENDMENT ACT 2009

Act No. [] of 2009

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2009

An Act to amend the *Care and Protection of Children Act*

[Assented to [] 2009]
[Second reading [] 2009]

The Legislative Assembly of the Northern Territory enacts as follows:

1 Short title

This Act may be cited as the *Care and Protection of Children Amendment Act 2009*.

2 Act amended

This Act amends the *Care and Protection of Children Act*.

3 Repeal and substitution of section 26

Section 26

repeal, substitute

26 Reporting obligations

(1) A person is guilty of an offence if the person:

(a) believes, on reasonable grounds, any of the following:

(i) a child has suffered or is likely to suffer harm or exploitation;

(ii) a child aged less than 14 years has been or is likely to be a victim of a sexual offence;

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- (iii) a child has been or is likely to be a victim of an offence against section 128 of the Criminal Code; and
 - (b) does not, as soon as possible after forming that belief, report (orally or in writing) to the CEO or a police officer:
 - (i) that belief; and
 - (ii) any knowledge of the person forming the grounds for that belief; and
 - (iii) any factual circumstances on which that knowledge is based.

Maximum penalty: 200 penalty units.

Note for subsection (1)(a)(iii)

The victim of an offence against section 128 of the Criminal Code is a child who is of or over the age of 16 years and under the offender's special care as mentioned in that section (for example, because the offender is a step-parent or teacher of the victim).

- (2) A person is guilty of an offence if the person:
 - (a) is a health practitioner or someone who performs work of a kind that is prescribed by regulation; and
 - (b) believes, on reasonable grounds:
 - (i) that a child aged at least 14 years (but less than 16 years) has been or is likely to be a victim of a sexual offence; and
 - (ii) that the difference in age between the child and alleged sexual offender is more than 2 years; and
 - (c) does not, as soon as possible after forming that belief, report (orally or in writing) to the CEO or a police officer:
 - (i) that belief; and
 - (ii) any knowledge of the person forming the grounds for that belief; and
 - (iii) any factual circumstances on which that knowledge is based.

Maximum penalty: 200 penalty units.

Example for subsection (2)(b)(ii)

A health practitioner believes, on reasonable grounds, that a child who has just turned 14 is likely to be a victim of a sexual offence committed by someone aged 16 and a half.

- (3) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant has a reasonable excuse.
- (4) This section has effect despite any other provision in this Act or another law of the Territory.

4 Amendment of section 30 (Duties of other persons)

- (1) After section 30(2)

insert

- (2A) Each person who engages another person to perform work as a health practitioner or work of a kind prescribed under section 26(2)(a) must ensure the other person is aware of the obligations under section 26(1) and (2).

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) Section 30(3)

omit

subsection (1) or (2)

substitute

subsection (1), (2) or (2A)

5 New Part 5.6

After section 333

insert

Part 5.6 Transitional matters for Care and Protection of Children Amendment Act 2009

334 Application

- (1) Section 26 as amended by the amending Act applies in relation to an obligation to make a report under that section on or after the commencement, whether the circumstances giving rise to that obligation occurred before, on or after the commencement.

(2) In this section:

amending Act means the *Care and Protection of Children Amendment Act 2009*.

commencement means the commencement of the amending Act.

6 Further amendments

The Schedule has effect.

Schedule

section 6

Provision	Amendment	
	<i>omit</i>	<i>substitute</i>
sections 27(1), 28(1), 29(1) and 32(1), note	section 26(1)	section 26
