NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
43RD CONSTITUTIONAL REGULAR SESSION, 2022

Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

CHILD RIGHTS PROTECTION (AMENDMENT) ACT 2022

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CHILD RIGHTS PROTECTION (AMENDMENT) ACT 2022

AN ACT to amend Title 26, Chapter 10 of the MIRC, to clarify the authority of Ministry staff and other authorised officers to investigate suspected child abuse or a need for case and protection, and to authorise the Ministry to appoint authorised officers and to license child protection service providers, thereby facilitating the effective implementation of the Act.

BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS

§101. Short title.

This Act may be cited as the Child Rights Protection (Amendment) Act 2022.

§102. Amendments.

(1) Section 1002 of the Child Rights Protection Act, 2015 is amended by inserting a new definition to read as follows:

§1002. Interpretation.

(r) "Authorised officer" shall mean a person appointed as such pursuant to section 1022A.

(2) Section 1019 (f) of the Child Rights Protection Act, 2015 is amended to read as follows as well as inserting subsection 3 as new.

§1019. Ministry's Obligations.

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(2) The Ministry shall have responsibilities including but not limited to:

(f) issuing licenses to child protection service providers and appointing authorised officers;

(3) To ensure efficient implementation of the Ministry's responsibility under subsection (2), the Secretary may delegate any of his or her powers and functions under this Act to an appropriately qualified employee of the Ministry.

(3) Section 1020 of the Child Rights Protection Act, 2015 is amended by deleting paragraph (d).

§1020. Human Rights Committee.

(1) Further to its functions under the Human Rights Committee Act 2015, the additional functions of the Committee in relation to the rights of the child shall be to:

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(d) Advise the Ministry to file for care orders or supervision orders with the High Court;

(e) Form a sub-committee to hear complaints related to child rights and child welfare;

(f) Refer instances of child abuse and neglect to the Office of the Attorney-General for prosecution;

(g) Report annually to the Cabinet on its activities in respect of the rights of the child;

(h) Prepare and finalize periodic reports to the International Committee on the Rights of the Child as required by the Convention;

(i) Perform any other functions conferred on the Committee by the Cabinet or the Minister.

(4) Section 1021 of the Child Rights Protection Act, 2015 is amended by deleting paragraph (a) and amending paragraph (c) to read as follows:

§1021. Role of Non-Governmental Organizations.

(1) The role of non-governmental organization (NGOs) is as follows:

(a) NGOs may advise the Ministry or Committee on the efficiency and effectiveness of human rights measures taken by the Government.

(b) NGOs licensed under this Act may provide child protection services.

(c) NGOs may undertake other tasks they so choose with respect to the Convention, including raising awareness on child rights and child welfare.

(5) The Child Rights Protection Act, 2015 is amended by adding the following new sections after section 1022.

§1022A. Authorised officers.

(1) All persons employed in the Ministry in positions designated as a child rights social worker or child protection officer are authorised to exercise the powers of an authorised officer under this Act.

(2) The Ministry may appoint any person to be an authorised officer for the purpose of this Act, provided that person meets the requirements stipulated by regulation.

(3) The power to appoint under this section includes the power to vary, suspend or revoke the appointment or to impose conditions of appointment.

(4) An authorised officer appointed under this section, whether staff of the Ministry or not, must act in accordance with directions given by the Secretary.

§1022B. Duties of authorised officers Authorised officers are responsible for:

(1) Investigating reported or suspected cases of child abuse or a need for care and protection as directed by the Secretary;

(2) Leading the case management process, including:

(a) Assessing the child and family's needs;

(b) Developing a plan for the care and protection of the child;

(c) Providing, or arranging for the provision of, child protection services for the child and his or her family; and

(d) Monitoring the child and family's progress;

(3) Taking action, as directed by the Secretary, to ensure the care and protection of a child who has been abused or is in need of immediate care and protection;

(4) Monitoring and supervising children in formal care; and

(5) Carrying out other duties and responsibilities under this Act as directed by the Ministry.

(6) Section 1023 of the Child Rights Protection Act, 2015 is amended by modifying its title and to making changes to the wording of subsection (1) to read as follows:

§1023. Licensing and Training for Non-Governmental Child Protection Service Providers.

(1) Individuals who are members of non-governmental organisations and institutions who provides child protection services must obtain a license from the Ministry. The requirements for the application of and the granting of licenses shall be specified by regulations.

(7) Section 1028 of the Child Rights Protection Act, 2015 is amended by deleting subsection (4) and replacing it with the following.

§1028. Reporting Obligations.

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(4) The name of a person who makes a report or provides information in accordance with subsections (1) and (2) shall be kept confidential and must not be disclosed unless:

(a) the person who made the report or provided the information consents to the disclosure; or

(b) the disclosure is necessary, in the best interest of the child, to enable the investigation or to ensure the safety and well-being of the child; or

(c) the report results in a person being charged with a criminal office and the disclosure is required to ensure the accuser's Constitutional right to due process and to be confronted with the witnesses against him or her.

(8) Section 1029(1) and 1029(2) of the Child Rights Protection Act, 2015 are amended by deleting the words "the appropriate staff" and replacing it with the words "an authorised officer" and deleting the words "accompanied by the police" and insert new paragraphs as new as follows:

§1029. Investigation and Intervention Obligations.

(1) If the Ministry has reasonable grounds to suspect child abuse or a need for care and protection, the Secretary shall instruct the national or local, to enter and search the premises where the child is kept to investigate:

(a) Every government department, agency or statutory body must, when requested by the Secretary or any authorised officer, supply such information as it has in its possession relating to any child, where that information is required for the purposes of determining if that child is in need of care and protection.

(b) paragraph (a) applies despite any law that obliges the person to maintain secrecy in relation to, or not to disclose, any matter, and any compliance with this section is not a breach of the relevant obligation of secrecy or non-disclosure.

(2) If it is determined that the child has been abused or is in need of immediate care and protection, the Secretary shall instruct the appropriate staff, accompanied by the national or local police, to remove the child to a place of safety for a period of not more than 14 days.

(a) The Secretary or any authorised officer may call for the assistance of a police officer in carrying out his or her duties under this section.

(9) Section 1031(1) of the Child Rights Protection Act, 2015 is amended to read as follows:

§1031. Administration and Monitoring of Alternative Care.

(1) All agencies, organisations or individuals providing alternative care to children shall be authorised by the Ministry.

§103. Effective Date.

This Act shall come into effect on the date of certification in accordance with the relevant provisions of the Constitution of the Republic of the Marshall Islands and the Rules of Procedures of the Nitijela.

CERTIFICATE

I hereby certify:

1. That Nitijela Bill No: **64ND1** was passed by the Nitijela of the Republic of the Marshall Islands on the **25th** day of **November** 2022; and

2. That I am satisfied that Nitijela Bill No: **64ND1** was passed in accordance with the relevant provisions of the Constitution of the Republic of the Marshall Islands and the Rules of Procedures of the Nitijela.

I hereby place my signature before the Clerk this **7th** day of **December** 2022.

Hon. Kenneth A. Kedi
Speaker
Nitijela of the Marshall Islands

Attest:

Morean S. Watak
Clerk
Nitijela of the Marshall Islands