

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

28th September 2022

Proposition No. P.2022/74

Committee for Health & Social Care

Review of the Children Law and Outcomes

AMENDMENT

Proposed by: Deputy P J Roffey

Seconded by: Deputy Y Burford

1. To delete Proposition 12 and substitute therefor:

“12. To approve the changes set out in paragraphs 6.48 - 6.84 of the Policy Letter, in relation to the legal orders and order thresholds, and, for the purpose of giving effect to those changes, to direct that the Law should be amended to:

- a. Provide for separate legal thresholds for referrals to the Children’s Convenor and legal orders made by the Child, Youth and Community Tribunal, and the court;
- b. Confer power on the court to make a ‘Child Assessment Order’, including providing for the court having the power to treat the application as one for an Emergency Child Protection Order if the application for the order is not complied with by those with parental responsibility for the child concerned;
- c. “To change the threshold test for a Community Parenting Order so that it;
 - is suitably adapted to our context;
 - is distinct and separate from the criteria for referral to the Convenor or the making of a care requirement;
 - it removes the requirement for at least one of the conditions in the current Section 35 to be made out;
 - is in line with the 2004 Policy Letter that there is no foreseeable prospect of the child being cared for safely within the family; and
 - is consistent with the principles that there is no reasonable prospect of the child’s parents or any other member of the child’s family being able to care for the child within a timescale suitable to the needs and interests of the child. [This will in practice mean that the family assessments will have to be completed prior to the final order being met

- d. Make such further amendments to the provisions in respect of CPOs to ensure they are consistent with the revised threshold criteria and the purpose of the order as envisaged in the 2004 States Report;
- e. Introduce statutory criteria for the making of an interim Community Parenting Order in line with the amended test for the CPO;
- f. Remove the provision that a Parental Responsibility Order is automatically discharged by the making of a CPO; and
- g. Remove the provision that an Emergency Child Protection Order is automatically discharged when the Child, Youth and Community Tribunal first sits to consider the child's case."

Rule 4(1) Information

- a) The proposition contributes to the States objectives and policy plans set out in the GWP 2021-2025 relating to young people and improvements to the Children Law and the family justice system.
- b) Consultation has been undertaken with the Committee for Health and Social Care and the Children and Young People's Board.
- c) The proposition has been submitted to His Majesty's Procureur for advice on any legal or constitutional implications.
- d) It is not considered that there will be any significant financial implications of carrying this proposal into effect.

Explanatory Note

This amendment replaces Amendment 4 which will not be laid.

This Amendment removes (b) from the list of sub clauses and re-orders the list accordingly.

Supervision Orders are court orders that place a child under the supervision of a public authority. They are temporary in nature.

The introduction of supervision orders is unnecessary and inconsistent with the scheme of the 2008 Law. The distinction between permanent intervention and short-term intervention is central to the 2008 Law with short-term decisions made by the Tribunal and permanent decisions made by the court. Creating an additional order for temporary intervention made by the court runs the risk of duplication and confusion.

Other measures in the Policy Letter will improve the interface between the court and Tribunal. Proposition 6 will introduce a power to enable the court to remit cases directly to the Tribunal at the end of court proceedings if it appears that a temporary order may be appropriate. The option of remit to the Tribunal will enable the specialist decision-making body on short-term intervention to discuss the situation with the child, family and

professionals, and to make an order specific to the child's circumstances the effectiveness and impact of which can then be reviewed within 12 months and continued or amended if necessary in the interests of the child.

The threshold proposed for the Community Parenting Order will lower the entry point to court proceedings to enable applications to be made earlier. The ability of the court to make a temporary order as a disposal may have the unintended consequence of drawing cases that fall short of permanence into the court arena.