

Children's Protection (Implementation of Report Recommendations) Amendment Bill 2009

ADDITIONAL INFORMATION FOR THE HEALTH SECTOR

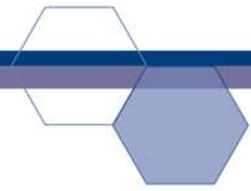
This information sheet should be read in conjunction with Fact Sheet 1: "Frequently asked questions", which is available at www.sa.gov.au/mullighaninquiry.

What has changed for organisations providing health services to children?

Previously, organisations providing health services wholly or partly for children were required to develop and implement child-safe-environment policies and procedures for their organisation. As part of these policies and procedures, government organisations were required to conduct a screening process, including a criminal history assessment, for staff and volunteers working with children. Non-government organisations providing health services for children were required to conduct a screening process, but not a criminal history assessment, although they did have the option to do so.

Under the amendments to the *Children's Protection Act 1993*, non-government organisations providing health services to children will be required to conduct criminal history assessments on staff and volunteers working with children in some situations.

Government organisations providing health services to children are already required by law to conduct criminal history assessments on staff and volunteers working with children. The amendments will not place any additional obligations on these organisations.



Why are health organisations required to conduct assessments on staff and volunteers?

The Bill establishes stronger protections for children and young people when accessing services in the South Australian community. The requirement to conduct criminal history assessments on people working with children will help organisations to manage the risks involved in engaging people to work with children and assist organisations with their responsibility to establish and maintain safe environments for children.

The changes will further align South Australia with the working with children screening legislation and procedures that exist in other Australian States and Territories.

Who will these changes affect?

Organisations that provide health services wholly or partly for children will need to conduct criminal history assessments on employees, contractors or volunteers who are working with children.

People working in the health sector should consider whether the amendments apply to them. The amendments may apply to:

- Psychologists
- Optometrists
- Dentists and related specialists
- Midwives and nurses
- Ambulance services
- Speech pathologists
- Physiotherapists
- Chiropractors
- Podiatrists
- Nutritionists
- Radiologists
- Naturopaths
- Counsellors
- Audiologists
- Occupational therapists
- Children's health centres
- Massage therapists
- General Practitioners.

For detailed information about who must undergo an assessment, refer to Fact Sheet 1: "Frequently Asked Questions" (available at www.sa.gov.au/mullighaninquiry.)





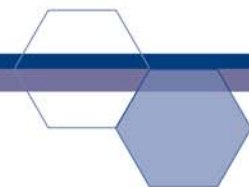
Who is exempt?

In some cases, the law will exempt a person from the requirement to undergo a criminal history assessment. Organisations will need to examine the exemptions to see if any apply to people working or volunteering in their organisation.

The following organisations, persons and positions are exempt from the requirement to conduct a criminal history assessment:

- A person volunteering for a service or activity in which their child ordinarily participates;
- A person who volunteers and is less than 18 years of age;
- A person working or volunteering for a short-term event or activity of less than 10 days duration or for no more than 1 day in any month;
- A person occupying a position in which all work involving children is undertaken in the physical presence of the child's parents or guardians and in which there is ordinarily no physical contact with the children;
- A person who undertakes, or a position that only involves, work that is primarily provided to adults or to the public generally and is not provided to any child on an individual basis;
- An organisation that provides equipment, food or venues for children's parties or events but does not provide any other services;
- A person who has regular contact with a child as part of an employment relationship with the child (for example, a person working alongside a child or supervising an employee who is a child);
- A person who is appointed as a police officer or is a registered teacher.

No exemption is available to people who work in positions involving commercial child care; family day care; the administration of the juvenile justice system; child protection; disability services; or residential care and other overnight accommodation specifically for children (unless the overnight accommodation is provided by a visiting interstate worker who does not ordinarily live or perform work in South Australia).



It is important to note that organisations may still require exempted persons to undergo a criminal history assessment as a matter of good organisational practice.

Further information about the proposed exemptions is available in the discussion paper available at www.sa.gov.au/mullighaninquiry.

Is an organisation required to conduct criminal history assessments on administrative staff that have access to children’s records but have no other contact with children?

Organisations are not required to conduct criminal history assessments on employees or volunteers that have access to general records about children (such as their name, address and date of birth) and have no other contact with children.

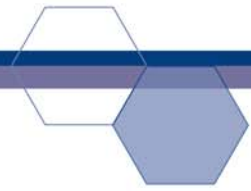
Employees or volunteers that have access to ‘sensitive’ records about children must be checked unless an exemption applies. Sensitive records include any records in connection with child protection services, education services, **health services**, disability services and court orders and proceedings.

Is an organisation required to conduct criminal history assessments on employees and volunteers, even if they have already signed a statutory declaration about their criminal history as part of their professional registration requirements?

Yes. The amendments to the *Children’s Protection Act 1993* are intended to help organisations to manage the risks involved in engaging people to work with children and assist organisations with their responsibility to establish and maintain safe environments for children.

Statutory declarations rely on the truthfulness of the applicant, employee or volunteer. In order to make an informed decision about a person’s suitability to work with children, organisations are required to obtain information about the person’s criminal history from the South Australia Police or from another CrimTrac accredited agency.





If parents are always present, is an organisation still required to conduct criminal history assessments on employees and volunteers?

Organisations are not required to conduct criminal history assessments on employees or volunteers that provide a health service to children if:

- The child's parents or guardians remain present at all times; **and**
- There is ordinarily no physical contact.

How much will a criminal history report cost?

The cost of obtaining a criminal history report (or a 'police check') from South Australia Police varies depending on whether the report is for a paid employee, a concession holder, or a volunteer.

The South Australian Government is meeting the cost of obtaining criminal history reports for some volunteers who work with children in volunteer organisations through the Volunteer Organisation Authorisation Number (VOAN) system.

Organisations may also apply to the Department for Families and Communities' Screening and Licensing Unit for a full criminal history assessment.

This service includes an independent assessment of a person's suitability to work with children, conducted by trained and experienced staff in strict confidence and in accordance with legislative requirements and standards. Once the assessment is complete, a letter of clearance is provided to the applicant.

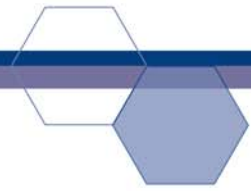
The fees and charges for obtaining a report are as follows:

Applicant	SAPOL	DFC
Individual	\$50.00	\$50 (plus GST if applicable)
Concession	\$36.00	N/A
Volunteer	\$32.25	\$33 (plus GST if applicable)
VOAN volunteer	Free	N/A

Information about the fees and charges that apply is available at:

- http://www.sapolice.sa.gov.au/sapol/services/information_requests/national_police_certificate.jsp
- <http://www.dfc.sa.gov.au/pub/tabid/238/itemid/1613/Screening-and-licensing.aspx>.





Can an organisation accept a criminal history report from an employee or volunteer who has obtained it for another purpose, such as for paid employment or as a volunteer for another organisation?

The *Child Safe Environments: Standards for dealing with information obtained about the criminal history of employees and volunteers who work with children* issued by the Department for Families and Communities establish a maximum validity period of three years for criminal history reports.

It is up to the individual organisation to decide if they will accept a criminal history report that has been obtained during this time period, or if they will require a volunteer to obtain a new report prior to commencing work in their organisation.

Why do organisations have to lodge a statement of their child safe environment policies and procedures with the Department for Families and Communities?

Under the *Children's Protection Act 1993* organisations providing health services wholly or partly for children are required to establish child safe environment policies and practices.

The *Children's Protection Bill 2009* includes a once-off requirement for these organisations to lodge a statement outlining their child safe environment policies and procedures with the Department for Families and Communities.

This requirement will assist the Department for Families and Communities to monitor progress towards child safe environments, as required under section 8A (i) of the *Children's Protection Act 1993*.

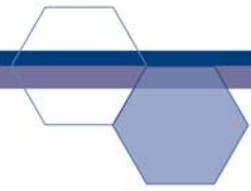
It is expected that this requirement will commence in 2010.

How will the Bill affect mandatory notifiers?

Under section 11 of the *Children's Protection Act 1993*, employees and volunteers in health organisations are required to report to Families SA if they suspect on reasonable grounds that a child is being abused or neglected, and this suspicion is formed in the course of their work. This is a legal obligation that carries a penalty if the individual fails to comply.

The Bill will create a new offence of preventing a person from discharging the obligation of mandatory reporting through threat, intimidation or unfavourable treatment.





How will organisations be supported to comply with these changes?

The South Australian Government recognises that organisations will require time and assistance in order to implement these changes. Therefore, implementation of the new obligations relating to criminal history assessments will be delayed for one year. The obligation will then be phased-in over a three year period.

The phasing-in of health services will commence during the second year of implementation, in January 2012. A complete phasing-in schedule is available at www.sa.gov.au/mullighaninquiry.

The Department for Families and Communities will review the *Child Safe Environments: Standards for dealing with information obtained about the criminal history of employees and volunteers who work with children* to ensure that the standards provide a useful and relevant resource for a wide range of non-government organisations.

Information relating to the changes and how organisations may comply will also be available from the Department for Families and Communities.

Where to from here?

The *Children's Protection Bill 2009* is now available for comment as part of the public consultation process. Further information, including a copy of the Bill, second reading report and summary of key features can be found on the Service SA website at www.sa.gov.au/mullighaninquiry.

