

2 June 2016

Ms L Blandthorn MLA

Chair, Scrutiny of Acts and Regulations Committee

Parliament of Victoria, Spring Street, East Melbourne VIC 3002

via email: sarc@parliament.vic.gov.au

Dear Ms Blandthorn

Submission regarding Justice Legislation Amendment (Protective Services Officers and Other Matters) Bill 2017

The Centre for Excellence in Child and Family Welfare writes in regards to the abovementioned Bill introduced into Parliament by the Hon Lisa Neville MP, Minister for Police, on Wednesday 24 May 2017.

The Centre is the peak body for child and family services in Victoria. For over 100 years we have advocated for the rights of children and young people to be heard, to be safe, to access education and to remain connected to family, community and culture. We represent over 150 community service organisations, students and individuals throughout Victoria working across the continuum of child and family services, from prevention and early intervention to the provision of out-of-home care.

The Centre is deeply concerned with a section of the Bill that is incompatible with Victoria's Charter of Human Rights and Responsibilities (the Charter).

Specifically – giving Protective Service Officers (PSOs) the power to randomly search children in public places within designated areas, even if the PSOs have not formed a reasonable suspicion that the child is carrying a weapon.

By the Minister's own admission – in the tabled statement of compatibility in accordance with the Charter of Human Rights and Responsibilities Act 2006 – these powers are incompatible with the Charter to the extent that they limit the right to privacy and reputation, and the right of every child, without discrimination, to such protection as is in his or her best interests.

The Centre has concerns with the government's conclusion that community concern about safety in relation to patterns of weapons-related offending justifies the government proceeding with the legislation in its current form.

Article 16 of the United Nations Convention on the Rights of the Child states:

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

The proposed Bill does not adequately protect children and young people from arbitrary interference with his or her privacy. The Centre is concerned that providing PSOs with extensive powers to conduct physical searches on children and young people may result in adverse incidents that may impact on the physical and psychological safety of the child or young person.

In December 2016 the Independent Broad-Based Anti-Corruption Commission (IBAC) report into transit PSOs found a significant increase in the number of complaints against PSOs between 2012 and 2015.

The Centre is concerned about the extension of protective apprehension powers of PSOs under which a PSO may apprehend a child in respect of whom the Children's Court has issued a search warrant for the purpose of having the child placed in emergency care.

The children and young people who are the subject of these search warrants are some of the most vulnerable members of our society.

PSOs are not trained to manage highly traumatised children and young people who are engaging in high risk behaviours.

The Centre is concerned that efforts by PSOs to apprehend the child or young person will further traumatise our most vulnerable children.

The Centre urges the Committee to consider the issues raised by the Centre when considering this proposed legislation.

Deb Tsorbaris
CEO, Centre for Excellence in Child and Family Welfare

