

## Children (Care and Justice) (Scotland) Bill — Stage 2

### Before section 1

**Martin Whitfield**

164 Before section 1, insert—

#### <PART

#### PURPOSE OF THIS ACT

##### **Purpose of this Act**

The purpose of this Act is to promote the wellbeing and rights of children in the children's hearings system and criminal justice system.>

### After section 1

**Martin Whitfield**

165 After section 1, insert—

#### <Welfare of the child

- (1) The 2011 Act is amended as follows.
- (2) In section 25 (welfare of the child), in subsection (2), after “welfare” insert “and rights”.>

**Martin Whitfield**

166 After section 1, insert—

#### <Views of the child: commencement of section 3 of the Children (Scotland) Act 2020

The Scottish Ministers must make regulations under section 34 of the Children (Scotland) Act 2020 appointing a day for the coming into force of section 3 of that Act, which must be a day no later than 6 months after the day the Bill for this Act receives Royal Assent.>

**Martin Whitfield**

167 After section 1, insert—

#### <Non-discrimination

- (1) The 2011 Act is amended as follows.
- (2) After section 26 insert—

#### **“26A Non-discrimination**

- (1) This section applies where by virtue of this Act a children's hearing, pre-hearing panel or court is coming to a decision about a matter relating to a child.
- (2) The children's hearing, pre-hearing panel or court must not discriminate against the child on grounds of—
  - (a) age,
  - (b) disability,

- (c) gender reassignment,
- (d) race,
- (e) religion or belief,
- (f) sex,
- (g) sexual orientation,
- (h) socio-economic status.”.>

**Pam Duncan-Glancy**

**168** After section 1, insert—

**<Views of the person affected by child’s offence or behaviour**

- (1) The 2011 Act is amended as follows.
- (2) After section 27 insert—

**“27A Views of the person affected by child’s offence or behaviour**

- (1) This section applies where by virtue of this Act a children's hearing, pre-hearing panel or the sheriff is coming to a decision about a matter relating to a child.
- (2) The children's hearing, pre-hearing panel or the sheriff must, so far as practicable—
  - (a) give the person affected by the child’s offence or behaviour an opportunity to indicate whether the person affected wishes to express their views,
  - (b) if the person affected by the child’s offence or behaviour wishes to do so, give the person an opportunity to express them, and
  - (c) have regard to any views expressed by the person affected by the child’s offence or behaviour.
- (3) In this section “coming to a decision about a matter relating to a child” includes a decision to impose a movement restriction condition under a compulsory supervision order.”.>

**Pam Duncan-Glancy**

**169** After section 1, insert—

**<Principle of trauma-informed practice**

- (1) The 2011 Act is amended as follows.
- (2) After section 31 insert—

**“31A Principle of trauma-informed practice**

- (1) A children’s hearing must carry out its functions in a way that accords with trauma-informed practice.
- (2) In this section “trauma-informed practice” is a means of operating that—
  - (a) recognises that a person may have experienced trauma,
  - (b) understands the effects which trauma may have on the person, and

- (c) involves adapting processes and practices, based on that understanding of the effects of trauma, to seek to avoid, or minimise the risk of, exposing the person to—
  - (i) any recurrence of past trauma, or
  - (ii) further trauma.”.>

**Martin Whitfield**

**170** After section 1, insert—

**<Support for vulnerable children**

- (1) The 2011 Act is amended as follows.
- (2) After section 31 insert—

**“31A Support for vulnerable children**

- (1) This section applies where by virtue of this Act a children's hearing, pre-hearing panel or court is coming to a decision about a matter relating to a child.
- (2) The children's hearing, pre-hearing panel or court must provide enhanced support for vulnerable children.
- (3) For the purposes of subsection (2) enhanced support may include—
  - (a) educational support,
  - (b) communication support.
- (4) A child may be considered vulnerable for the purposes of subsection (2) where the child—
  - (a) has a physical or mental disability,
  - (b) is a victim of abuse,
  - (c) is from a marginalised community.”.>

**Martin Whitfield**

**171** After section 1, insert—

**<Transition to adulthood**

- (1) The 2011 Act is amended as follows.
- (1A) After section 31 insert—

**“31A Children’s hearing: support for child’s transition to adulthood**

- (1) This section applies where by virtue of this Act a children's hearing is coming to a decision about a matter relating to a child who has attained the age of 16 or 17 years.
- (2) The children’s hearing must—
  - (a) consider whether supervision or guidance is needed by the child to support the child’s transition to adulthood, and
  - (b) if so, make a statement to that effect.

- (3) If the children's hearing states that supervision or guidance is needed by the child, it is the duty of the relevant local authority for the child to give such supervision or guidance as the child will accept.”.>

**Pam Duncan-Glancy**

172 After section 1, insert—

**<Domestic abuse: referral of child to specialist support**

- (1) The 2011 Act is amended as follows.
- (2) After section 67 insert—

**“67A Principal Reporter’s duty to refer child to specialist domestic abuse support**

- (1) This section applies where, having made a determination under section 66(2) in relation to a child, the Principal Reporter considers that the ground in section 67(2)(f) applies.
- (2) The Principal Reporter must ensure that the child is referred to a provider that specialises in domestic abuse support.”.>

**After section 3**

**Pam Duncan-Glancy**

173 After section 3, insert—

**<Compulsory supervision orders: person affected by child’s offence or behaviour**

- (1) The 2011 Act is amended as follows.
- (2) In section 83 (meaning of “compulsory supervision order”)—
  - (a) after subsection (2) insert—

“(2A) A compulsory supervision order must—

- (a) be specific to the circumstances of the child’s offence or behaviour, and
- (b) consider the concerns and safety of the person affected by the child’s offence or behaviour.”.>

**Section 4**

**Martin Whitfield**

174 In section 4, page 2, line 31, after <person> insert < (including the person affected by the child’s offence or behaviour)>

**After section 4**

**Pam Duncan-Glancy**

175 After section 4, insert—

**<Movement restriction conditions: duty to inform person affected by child’s offence or behaviour**

- (1) The 2011 Act is amended as follows.
- (2) After section 179C insert—

**“179D Movement restriction conditions: duty to inform person affected by child’s offence or behaviour**

- (1) This section applies where by virtue of this Act a compulsory supervision order in respect of the child has been made, varied or continued which includes a movement restriction condition.
- (2) Subject to subsection (3), the Principal Reporter must inform the person affected by the child’s offence or behaviour of—
  - (a) the restriction on the child’s movements specified in the movement restriction condition,
  - (b) the arrangements specified in the movement restriction condition for monitoring compliance with the restriction.
- (3) The Principal Reporter may not provide information under subsection (2) if satisfied that it would be detrimental to the best interests of the child who is subject to the movement restriction condition.
- (4) The Principal Reporter must not, in providing information under subsection (2), provide any more information than is necessary to inform the person of the matters specified in subsection (2).”>

**Section 5**

**Martin Whitfield**

- 176** In section 5, page 3, line 24, after <person> insert< (including the person affected by the child’s offence or behaviour)>

**After section 5**

**Martin Whitfield**

- 177** After section 5, insert—

**<Cases where a compulsory supervision order has not been made**

- (1) The 2011 Act is amended as follows.
- (2) After section 124 insert—

**“124A Cases where a compulsory supervision order has not been made**

- (1) This section applies where the children’s hearing is not satisfied that it is necessary for the protection, guidance, treatment or control of the child to make a compulsory supervision order.
- (2) The children’s hearing must consider, despite this determination—
  - (a) whether any of the conditions in subsection (3) applies, and

- (b) if so, whether the child should be the subject of monitoring and review.
- (3) The conditions are that the child—
  - (a) has experienced trauma,
  - (b) has been subject to or witnessed domestic abuse,
  - (c) has been exposed to violence,
  - (d) has been a victim of crime, abuse or harm,
  - (e) has mental health issues,
  - (f) has a learning disability,
  - (g) is at risk due to the child’s history or particular vulnerability.
- (4) The children’s hearing must determine—
  - (a) whether the child should be subject to monitoring and review, and
  - (b) if so, determine the frequency of that monitoring and review.
- (5) In making a decision under subsection (4), the Principal Reporter may obtain any report, from any person, which the children’s hearing considers necessary.”.>

## **Section 6**

### **Pam Duncan-Glancy**

**178** In section 6, page 5, line 8, at end insert—

<( ) In section 179B (information to which section 179A applies)—

(a) after subsection (2) insert—

“(c) Where a compulsory supervision order in respect of the child has been made, varied or continued, information to support safety planning for the person requesting information under section 179A(3) including information as to—

- (i) the conditions of the compulsory supervision order,
- (ii) how the conditions are to be enforced.”.>

## **After section 6**

### **Russell Findlay**

**179** After section 6, insert—

#### **<Attendance at children’s hearing**

- (1) The 2011 Act is amended as follows.
- (2) In section 78 (rights of certain persons to attend children’s hearing),
  - (a) for subsection (2) substitute—

“(2) Any other person may attend a children’s hearing unless the chairing member of the children’s hearing is satisfied that the presence of that person is causing, or is likely to cause, significant distress to the child.”

(b) subsection (4) is repealed.>

**Pam Duncan-Glancy**

**180** After section 6, insert—

**<Duty to inform person affected by child’s offence or behaviour where compulsory supervision order not complied with**

- (1) The 2011 Act is amended as follows.
- (2) After section 179C insert—

**“179D Duty to inform person affected by child’s offence or behaviour where compulsory supervision order not complied with**

- (1) This section applies where the implementation authority has required a review of a compulsory supervision order under section 133 because it is satisfied that the compulsory supervision order is not being complied with.
- (2) Subject to subsection (3), the Principal Reporter must inform the person affected by the child’s offence or behaviour of—
  - (a) the fact that the implementation authority has required a review of the compulsory supervision order under section 133,
  - (b) the outcome of that review.
- (3) The Principal Reporter may not provide information under subsection (2) if satisfied that it would be detrimental to the best interests of the child who is subject to the compulsory supervision order.
- (4) The Principal Reporter must not, in providing information under subsection (2), provide any more information than is necessary to inform the person of the matters specified in subsection (2).”>

**Pam Duncan-Glancy**

**181** After section 6, insert—

**<Single point of contact for victims in the children’s hearings system**

- (1) The Scottish Ministers must by regulations establish a single point of contact service to provide information from the children’s hearings system to the person affected by the child’s offence or behaviour.
- (2) Regulations under subsection (1) are subject to the affirmative procedure. >

**Willie Rennie**

**182** After section 6, insert—

**<Report on referrals to children’s hearings system**

- (1) The Scottish Ministers must, as soon as reasonably practicable after the end of each reporting period, prepare and publish a report on the referral of children who have committed an offence to the children’s hearings system.

- (2) A report under subsection (1) must, in particular, include information for each reporting period on—
  - (a) the total number of referrals to the children’s hearings system where a child has committed an offence,
  - (b) the number of children referred to the children’s hearing system who have committed an offence, by reference to each of the following characteristics—
    - (i) the offence (or type of offence) committed,
    - (ii) the child’s age,
    - (iii) the child’s gender,
    - (iv) the local authority area in which the child lives,
  - (c) the outcome of referrals to the children’s hearing system of children who have committed an offence, by reference to the offence (or type of offence).
- (3) For the purposes of subsection (1), a reporting period is—
  - (a) the period of one year beginning with the day of Royal Assent,
  - (b) each subsequent period of one year.>

**Willie Rennie**

**183** After section 6, insert—

**<Report on movement restriction conditions**

- (1) The Scottish Ministers must, as soon as reasonably practicable after the end of each reporting period, prepare and publish a report on the experience of victims of compulsory supervision orders which include a movement restriction condition.
- (2) A report under subsection (1) must, in particular, include information for each reporting period on—
  - (a) the total number of compulsory supervision orders which include a movement restriction condition,
  - (b) the total number of occasions where a movement restriction condition is not complied with,
  - (c) the number of children who are subject to a movement restriction condition, by reference to each of the following characteristics—
    - (i) the offence (or type of offence) committed,
    - (ii) the child’s age,
    - (iii) the child’s gender,
    - (iv) the local authority area in which the child lives,
  - (d) the number of individuals identified as being a victim in relation to the child’s offence or behaviour, by reference to each of the following characteristics—
    - (i) the victim’s age,
    - (ii) the victim’s gender,
    - (iii) the local authority area in which the victim lives,
  - (e) the experience of the victim of the movement restriction condition.



- (3) In preparing the report, the Scottish Ministers must consult victims and victim support organisations.
- (4) For the purposes of section (1) a reporting period is—
  - (a) the period of one year beginning with the day of Royal Assent,
  - (b) each subsequent period of one year. >

#### **After section 7**

##### **Martin Whitfield**

**184** After section 7, insert—

##### **<Children's hearings: procedural rules**

- (1) The 2011 Act is amended as follows.
- (2) In section 177 (children's hearings: procedural rules)—
  - (a) in subsection (2) after paragraph (h) insert—

“(ha) obtaining the views of the person affected by the offence or behaviour of the child to whom a children’s hearing relates,”.>

##### **Pam Duncan-Glancy**

**185** After section 7, insert—

##### **<Legal aid and advice**

- (1) The Legal Aid (Scotland) Act 1986 is amended as follows.
- (2) In section 28C (circumstances where children’s legal aid automatically available)—
  - (a) after subsection (1)(d) insert—

“(da) a children’s hearing is arranged in relation to a child on the basis of the ground mentioned in section 67(2)(j) of the 2011 Act,”
  - (b) in subsection (2), in paragraph (b) for “or (d)” substitute “, (d) or (da)”.>

##### **Pam Duncan-Glancy**

**186** After section 7, insert—

##### **<Legal aid and advice**

- (1) The Legal Aid (Scotland) Act 1986 is amended as follows.
- (2) In section 28C (circumstances where children’s legal aid automatically available)—
  - (a) in subsection (1), for paragraphs (b) to (d) substitute—

“(b) a children’s hearing is arranged in relation to a child by virtue of the 2011 Act,”
  - (b) in subsection (2), in paragraph (b) the words “or, as the case may be, (c) or (d)” are repealed.>

**Pam Duncan-Glancy**

**187** After section 7, insert—

**<The Children’s Panel: training**

- (1) The 2011 Act is amended as follows.
- (2) In schedule 2 (the Children’s Panel), in paragraph 3(3)—
  - (a) the words from “how panel members” to end become paragraph (a),
  - (b) after that paragraph insert “,
    - “(b) child development,
    - (c) children’s rights,
    - (d) domestic abuse.”.>

**Martin Whitfield**

**188** After section 7, insert—

**<Duty of Scottish Ministers to promote multi-agency approach**

- (1) The Scottish Ministers must promote a multi-agency approach to supporting children who are referred to the children’s hearings system.
- (2) The Scottish Ministers must, as soon as reasonably practicable after the end of each reporting period, prepare and publish a report setting out the steps taken under subsection (1) in the reporting period.
- (3) For the purposes of subsection (2), a reporting period is—
  - (a) the period of one year beginning with the day of Royal Assent,
  - (b) each subsequent period of one year.>

**After section 10**

**Russell Findlay**

**189** After section 10, insert—

**<Decision not to prosecute a child: victim’s right to be informed**

- (1) The 1995 Act is amended as follows.
- (2) After section 42 insert—

**“42A Decision not to prosecute a child: victim’s right to be informed**

Where the Lord Advocate decides not to instruct the prosecution of a child under section 42 but instead refers the child to the Principal Reporter, the Lord Advocate must inform any person who is or appears to be a victim in relation to the offence or alleged offence of that decision.”.>

**Russell Findlay**

**190** After section 10, insert—

**<Decision not to prosecute a child: victim’s right to request review**

- (1) The 1995 Act is amended as follows.
- (2) After section 42 insert—

**“42A Decision not to prosecute a child: victim’s right to request review**

Where the Lord Advocate decides not to instruct the prosecution of a child under section 42 but instead refers the child to the Principal Reporter, any person who is or appears to be a victim in relation to the offence or alleged offence may request that the Lord Advocate undertake a review of that decision.”>

**Section 12**

**Martin Whitfield**

- 191** In section 12, page 9, line 6, leave out from beginning to end of line 4 on page 10

**Section 13**

**Ruth Maguire**

- 192** In section 13, page 13, line 28, after <47B(1)> insert <or 47BA(1)>

**Section 14**

**Martin Whitfield**

- 193** In section 14, page 15, line 16, after <proceedings),> insert—  
<( ) in subsection (6), after “welfare” insert “and rights”,>

**Martin Whitfield**

- 194** In section 14, page 15, line 16, after <proceedings),> insert—  
<( ) in subsection (6), after second “child” insert “as the paramount consideration”,>

**Martin Whitfield**

- 195** In section 14, page 15, line 17, after <particular,> insert <(a)>

**Martin Whitfield**

- 196** In section 14, page 15, line 20, after <steps> insert <,  
<(b) give the child an opportunity to express the child's views in—  
(i) the manner that the child prefers, or  
(ii) a manner that is suitable to the child if the child has not indicated a preference or it would not be reasonable in the circumstances to accommodate the child's preference, and  
(c) have regard to any views expressed by the child, taking into account the child's age and maturity.>

**Martin Whitfield**

197 In section 14, page 15, line 20, at end insert—

<(7A) But the court is not required to comply with subsection (7)(b) or (c) if the court is satisfied that the child is not capable of forming a view.

(7B) The child is to be presumed to be capable of forming a view unless the contrary is shown.>

**Martin Whitfield**

198 In section 14, page 15, line 25, leave out <may> and insert <must>

**Martin Whitfield**

199 In section 14, page 15, line 29, leave out <may> and insert <must>

**Martin Whitfield**

200 In section 14, page 16, line 3, leave out from <must> to <regard to> and insert <may not take the steps mentioned in subsection (1) or make a direction as mentioned in subsection (2) if to do so would seriously interfere with>

**Martin Whitfield**

201 In section 14, page 16, line 13, leave out <may> and insert <must>

**Martin Whitfield**

202 In section 14, page 16, line 18, leave out <may> and insert <must>

**Martin Whitfield**

203 In section 14, page 16, line 35, leave out from <must> to <regard to> and insert <may not take the steps mentioned in subsection (1) or make a direction as mentioned in subsection (2) if to do so would seriously interfere with>

**After section 14**

**Martin Whitfield**

204 After section 14, insert—

**<Conduct of criminal proceedings involving children**

(1) The 1995 Act is amended as follows.

(2) In section 305 (Acts of Adjournal), after subsection (1A) insert—

“(1B) Subsection (1) above extends to making provision by Act of Adjournal for the purpose of ensuring that criminal proceedings involving a child are concluded in a way that accords with the needs of the child.”>

**Pam Duncan-Glancy**

205 After section 14, insert—

*<Domestic abuse offences involving children*

**Domestic abuse offences involving children: specialist support**

- (1) The Domestic Abuse (Scotland) Act 2018 is amended as follows.
- (2) After section 11 insert—

*“Domestic abuse offences involving children*

**11A Domestic abuse offences involving children: specialist support**

- (1) In proceedings for an offence under section 1(1), the court must ensure that a child mentioned in subsection (2) is referred to a provider that specialises in domestic abuse support.
- (2) The child is—
  - (a) a child usually residing with A or B,
  - (b) where the offence is aggravated within the meaning of section 5, a child to whom the aggravation relates.”.>

**Section 15**

**Russell Findlay**

**206** In section 15, page 17, line 38, at end insert—

- <(1EA) Where the court remits a case as mentioned in subsection (1)(a)(ii), (1A)(b), (1D)(b) or, as the case may be, (1E)(a)), the Principal Reporter must give any person who is a victim in relation to the offence, the opportunity to make a victim statement.
- (1EB) For the purposes of subsection (1EA), a victim statement means a statement as to the way in which, and degree to which, that offence (or apparent offence) has affected and, as the case may be, continues to affect, that person.>

**After section 21**

**Martin Whitfield**

**207** After section 21, insert—

*<Alternatives to detention of children*

**Duty of Scottish Ministers to promote alternatives to detention of children**

- (1) The Scottish Ministers must promote the use of alternatives to the detention of children who plead guilty to, or are found guilty of, an offence.
- (2) The Scottish Ministers must, as soon as reasonably practicable after the end of each reporting period, prepare and publish a report setting out the steps taken under subsection (1) in the reporting period.
- (3) For the purposes of subsection (2), a reporting period is—
  - (a) the period of one year beginning with the day of Royal Assent,
  - (b) each subsequent period of one year.>

**Martin Whitfield**

**208** After section 21, insert—

*<Restorative justice for children*

**Duty of Scottish Ministers to promote restorative justice for children**

- (1) The Scottish Ministers must promote the referral to restorative justice services of children who have, or are alleged to have, committed an offence.
- (2) The Scottish Ministers must, as soon as reasonably practicable after the end of each reporting period, prepare and publish a report setting out the steps taken under subsection (1) in the reporting period.
- (3) For the purposes of subsection (2), a reporting period is—
  - (a) the period of one year beginning with the day of Royal Assent,
  - (b) each subsequent period of one year.
- (4) In this section, “restorative justice services” has the same meaning as in section 5 of the Victims and Witnesses (Scotland) Act 2014.>

**Martin Whitfield**

**209** After section 21, insert—

*<Rehabilitation and reintegration of children guilty of offences*

**Duty on Scottish Ministers to promote rehabilitation and reintegration of children guilty of offences**

- (1) The Scottish Ministers must promote the rehabilitation and reintegration into the community of children who plead guilty to, or are found guilty of, an offence.
- (2) The Scottish Ministers must, as soon as reasonably practicable after the end of each reporting period, prepare and publish a report setting out the steps taken under subsection (1) in the reporting period.
- (3) For the purposes of subsection (2), a reporting period is—
  - (a) the period of one year beginning with the day of Royal Assent,
  - (b) each subsequent period of one year.
- (4) In this section, “rehabilitation” means the elimination or reduction of future offending.>

**Pam Duncan-Glancy**

**210** After section 21, insert—

*<Training for criminal justice agencies*

**Duty of Scottish Ministers to secure training for criminal justice agencies working with children**

- (1) The Scottish Ministers must secure the provision of appropriate training for members and employees of a criminal justice agency working with children.
- (2) Training under subsection (1) must include training on—
  - (a) child development,
  - (b) children’s rights,

- (c) domestic abuse.
- (3) In this section, “criminal justice agency” means—
  - (a) the Lord Advocate,
  - (b) the Scottish Ministers,
  - (c) the chief constable of the Police Service of Scotland,
  - (d) the Scottish Courts and Tribunals Service,
  - (e) the Parole Board for Scotland.>

**Pam Duncan-Glancy**

**211** After section 21, insert—

*<Multi-agency approach*

**Duty of Scottish Ministers to promote multi-agency approach**

- (1) The Scottish Ministers must promote a multi-agency approach to supporting children who are involved in criminal proceedings.
- (2) The Scottish Ministers must, as soon as reasonably practicable after the end of each reporting period, prepare and publish a report setting out the steps taken under subsection (1) in the reporting period.
- (3) For the purposes of subsection (2), a reporting period is—
  - (a) the period of one year beginning with the day of Royal Assent,
  - (b) each subsequent period of one year.>

**Ross Greer**

**212** After section 21, insert—

**<PART**

SECURE TRANSPORTATION

**Standards for provision of secure transportation**

- (1) The Children and Young People (Scotland) Act 2014 is amended as follows.
- (2) After section 90 insert—

**“PART 16A**

SECURE TRANSPORTATION

**90A Secure transportation: duty of Scottish Ministers to prepare and publish standards**

- (1) The Scottish Ministers must prepare and publish standards applicable to any service (a “secure transportation service”) which consists of or includes providing secure transportation—
  - (a) for persons—
    - (i) who have not attained the age of 19 years, and

- (ii) in relation to whom the taking to or the placing, keeping or detention in secure accommodation is authorised or required under or by virtue of a relevant enactment, and
  - (b) for the purpose of transporting those persons to or from secure accommodation.
- (2) The standards—
  - (a) must include the minimum standards to be met by a provider of a secure transportation service which may, in particular, relate to—
    - (i) the manner in which, and the extent to which, the service provider is to have regard to the rights of the persons mentioned in subsection (1)(a) who require to be transported to or from secure accommodation,
    - (ii) the establishment of measures and procedures to prevent or minimise a risk of a serious incident occurring,
    - (iii) the establishment of measures and procedures to deal with, and prevent the recurrence of, a serious incident,
    - (iv) the circumstances in which restraint or control of persons mentioned in subsection (1)(a) who require to be transported to or from secure accommodation may or may not be appropriate,
    - (v) the provision of training and support to staff to ensure the safe transportation of the persons mentioned in subsection (1)(a) to or from secure accommodation,
  - (b) may include such further provision in connection with the provision of a secure transportation service as the Scottish Ministers consider appropriate.
- (3) The Scottish Ministers may make different provision for different kinds of secure transportation service.
- (4) The Scottish Ministers—
  - (a) must publish the first standards under subsection (1) no later than one year after the day on which section (*standards for provision of secure transportation*) of the Children (Care and Justice) (Scotland) Act 2024 comes into force,
  - (b) must keep the standards published under subsection (1) under review,
  - (c) may, under subsection (1), publish revised standards whenever they consider it appropriate to do so, and
  - (d) must lay a copy of the first published standards, and any published revised standards, before the Scottish Parliament.
- (5) Before publishing the standards or any revised standards under subsection (1), the Scottish Ministers must consult such persons as they consider appropriate.
- (6) In this section—
  - “relevant enactment” means the following enactments—
    - (a) the Children (Scotland) Act 1995,
    - (b) the Criminal Procedure (Scotland) Act 1995,
    - (c) the Adoption and Children (Scotland) Act 2007,



(d) the Children’s Hearings (Scotland) Act 2011,

“secure accommodation” has the meaning given by section 202(1) of the Children’s Hearings (Scotland) Act 2011,

“secure transportation” means transportation which provides such additional security and support measures as are required to prevent or minimise a risk—

- (a) to the health, safety or welfare of a person mentioned in subsection (1)(a) who is being transported to or from secure accommodation,
- (b) which that person may pose to the safety of any other person.

“serious incident” includes an incident involving a person mentioned in subsection (1)(a)—

- (a) absconding or attempting to abscond,
- (b) suffering harm (including self-harm) or ill-health (whether physical or mental),
- (c) causing harm to another person, or
- (d) causing (whether directly or indirectly) damage to property,

whilst being transported to or from secure accommodation.

- (7) The Scottish Ministers may by regulations modify the definition of “relevant enactment” in subsection (6) by—
  - (a) adding an enactment,
  - (b) removing an enactment for the time being listed in it,
  - (c) varying a reference to an enactment for the time being listed in it.

## **90B Secure transportation: duty of providers to meet standards**

- (1) The provider of a secure transportation service must meet the applicable standards.
- (2) The persons mentioned in subsection (3) must, when making arrangements with another person for the provision of a secure transportation service, ensure that the service meets the applicable standards.
- (3) The persons are—
  - (a) a local authority,
  - (b) the Scottish Ministers.
- (4) The Scottish Ministers may by regulations modify subsection (3) by—
  - (a) adding a person or description of persons,
  - (b) removing a person or description of persons for the time being listed in it,
  - (c) varying a description of a person for the time being listed in it.
- (5) In this section and in section 90C—

“applicable standards” means the standards, or (as the case may be) any revised standards, published under section 90A(1) which apply to the secure transportation service being provided,

“secure transportation service” has the meaning given by section 90A(1).

## **90C Secure transportation: reports**

- (1) Subsection (2) applies where a relevant person has, during the reporting period—
  - (a) provided a secure transportation service,
  - (b) made arrangements with another person for the provision of a secure transportation service.
- (2) The relevant person must, as soon as reasonably practicable (and in any event no later than 3 months) after the end of the reporting period—
  - (a) prepare a report on—
    - (i) how the relevant person monitored the secure transportation service provided or arranged by the relevant person to ensure that the service met the applicable standards during the reporting period,
    - (ii) the extent to which the service met the applicable standards during the reporting period,
  - (b) publish the report, and
  - (c) send a copy of the report to the Scottish Ministers.
- (3) Reports prepared under subsection (2) are to be published in such manner as the relevant person considers appropriate (and, in particular, reports may be published together with, or as part of, any other report or document).
- (4) The Scottish Ministers must, as soon as reasonably practicable (and in any event no later than 6 months) after the end of the reporting period —
  - (a) prepare a report (“the consolidated report”) on—
    - (i) how the relevant persons to whom subsection (1) applies have ensured that the secure transportation services provided or arranged by those relevant persons have met the applicable standards during the reporting period,
    - (ii) the extent to which those services met the applicable standards during the reporting period,
  - (b) publish the consolidated report in such manner as the Scottish Ministers consider appropriate, and
  - (c) lay a copy of the consolidated report before the Scottish Parliament.
- (5) Where the Scottish Ministers have provided or made arrangements for the provision of a secure transportation service during the reporting period, the consolidated report must include a report on—
  - (a) how the Scottish Ministers monitored the service to ensure it met the applicable standards during the reporting period,
  - (b) the extent to which the service met the applicable standards during the reporting period.
- (6) The consolidated report may include such other information as the Scottish Ministers consider appropriate.
- (7) The Scottish Ministers may by regulations prescribe information that reports prepared under subsection (2) must contain.

- (8) In this section—
- “relevant person” means a local authority,
- “reporting period” means—
- (a) the period of 3 years beginning with the day on which section (*standards for provision of secure transportation*) of the Children (Care and Justice) (Scotland) Act 2024 comes into force, and
  - (b) each subsequent period of 3 years until a date specified in regulations made by the Scottish Ministers.
- (9) The Scottish Ministers may by regulations modify the definition of “relevant person” in subsection (8) by—
- (a) adding a person or description of persons,
  - (b) removing a person or description of persons for the time being mentioned in it,
  - (c) varying a description of a person for the time being mentioned in it.”.
- (3) In section 99 (subordinate legislation)—
- (a) in subsection (1), after “order” insert “or regulations”,
  - (b) in subsection (2)—
    - (i) after “order” insert “or (as the case may be) regulations”,
    - (ii) after “section 71(5)(b)” insert—
 

“section 90A(7)  
section 90B(4)  
section 90C(9)”,
  - (c) in subsection (4), after “order” insert “or regulations”.>

### **After section 23**

#### **Martin Whitfield**

**213** After section 23, insert—

#### **<Provision of services to children in secure accommodation**

- (1) A secure accommodation service must ensure that any child detained in its establishment is provided with appropriate—
  - (a) advocacy services,
  - (b) education,
  - (c) emotional and mental health support,
  - (d) health care,
  - (e) support to maintain contact with the child’s family,
  - (f) transition and aftercare support.
- (2) In this section, “secure accommodation service” has the meaning given in section 202(1) of the 2011 Act.>

## Section 25

### Michael Marra

214 In section 25, page 26, line 3, at end insert—

<( ) after paragraph (a) insert—

“(aa) may provide that a non-Scottish order may only have effect if it is in the best interests of the child.”.>

## After section 25

### Michael Marra

215 After section 25, insert—

#### <Cross-border placements: provision of services for children

(1) The 2011 Act is amended as follows.

(2) After section 190 insert—

#### “190A Provision of services for children subject to orders made outwith Scotland

Where a child is subject to a non-Scottish order, the Scottish Ministers must ensure that the child has access to appropriate support in relation to—

(a) education,

(b) health,

(c) trauma-recovery,

(d) maintaining contact with the child’s family.”.>

### Michael Marra

216 After section 25, insert—

#### <Cross-border placements: duty to produce a cross-border placement plan

(1) The 2011 Act is amended as follows.

(2) After section 190 insert—

#### “190A Duty to produce a cross-border placement plan

(1) The Scottish Ministers must, no later than one year after Royal Assent, prepare and publish a plan on cross-border placements.

(2) A plan under subsection (1) must, in particular, include information on—

(a) the arrangements for the sharing of information about the support needs of children subject to cross-border placements,

(b) the measures that secure accommodation services will take to support the specific needs of children subject to cross-border placements.

(3) In preparing a plan under subsection (1), the Scottish Minister must consult—

(a) UK Ministers,

(b) any other persons they consider to be appropriate.

- (4) For the purposes of this section, “cross-border placement” means the placement of a child in secure accommodation where—
  - (a) the child was, immediately before the placement, resident in England, Wales or Northern Ireland, and
  - (b) the placement is authorised by an order made by a court in England and Wales or in Northern Ireland.”.>

**Michael Marra**

**217** After section 25, insert—

**<Placement of children outwith Scotland**

- (1) The 2011 Act is amendment as follows.
- (2) After section 190A, insert—

**“190A Placement of children outwith Scotland: duty to ensure equivalent provision and support**

- (1) This section applies where—
  - (a) a child subject to a secure accommodation authorisation is to be placed in secure accommodation in England, Wales or Northern Ireland, and
  - (b) the child is currently resident in Scotland.
- (2) Before the child is placed in the secure accommodation, the Scottish Ministers must take all reasonable steps to ensure that the child will receive equivalent provision and support to that which they would have received had they been placed in secure accommodation in Scotland.”.>

**After section 27**

**Martin Whitfield**

**218** After section 27, insert—

**<PART**

**DATA COLLECTION**

**Duty on Scottish Ministers to collect data**

- (1) The Scottish Ministers must by regulations set out the data that is required to be collected in order to monitor the operation and impact of this Act.
- (2) Regulations under subsection (1) must provide for the collection of data on the characteristics of children—
  - (a) referred to a children’s hearing,
  - (b) who plead guilty to, or are found guilty of, an offence.
- (3) For the purposes of subsection (2), the characteristics are—
  - (a) age,
  - (b) disability,
  - (c) gender reassignment

- (d) race,
  - (e) religion or belief,
  - (f) sex,
  - (g) sexual orientation.
- (4) Regulations under subsection (1) must provide for the collection of data on—
- (a) the number of children referred to a children’s hearing on the ground that they have committed an offence who go on to commit further offences,
  - (b) the number of children who plead guilty to, or are found guilty of, an offence who go on to commit further offences.
- (5) The Scottish Ministers must publish the data in a manner they consider appropriate.
- (6) Regulations under subsection (1) are subject to the affirmative procedure.>

**Martin Whitfield**

**219** After section 27, insert—

**<PART**

REPORTING REQUIREMENTS

**Report on outcomes for children**

- (1) The Scottish Ministers must, as soon as reasonably practicable after the end of each reporting period, prepare and publish a report on the outcomes for children—
- (a) referred to a children’s hearing,
  - (b) who plead guilty to, or are found guilty of, an offence.
- (2) A report under subsection (1) must, in particular, include information on—
- (a) the characteristics of the children mentioned in subsection (1)(a) or (b),
  - (b) the provision of social work services to children mentioned in subsection 1(a) or (b),
  - (c) the outcomes for children subject to a compulsory supervision order with a movement restriction condition,
  - (d) the outcomes for children subject to a compulsory supervision order with a secure accommodation authorisation,
  - (e) the outcomes for children detained in secure accommodation after pleading guilty to, or being found guilty of, an offence.
- (3) For the purposes of subsection (2)(a), the characteristics are—
- (a) age,
  - (b) disability,
  - (c) gender reassignment,
  - (d) race,
  - (e) religion or belief,
  - (f) sex,
  - (g) sexual orientation,

- (4) For the purposes of subsection (1), a reporting period is—
- (a) the period of one year beginning with the day of Royal Assent,
  - (b) each subsequent period of one year.
- (5) In this section—
- “compulsory supervision order” has the meaning given by section 83 of the 2011 Act,
  - “movement restriction condition” has the meaning given by section 84 of the 2011 Act,
  - “secure accommodation” has the meaning given by section 202(1) of the 2011 Act,
  - “secure accommodation authorisation” has the meaning given by section 85 of the 2011 Act,
  - “social work services” has the meaning given by section 48 of the 2010 Act.>

### **Section 31**

#### **Pam Duncan-Glancy**

**220** In section 31, page 27, line 29, at end insert—

- <(2A) The Scottish Ministers may not lay before the Parliament regulations under subsection (2) until the end of the period of one month beginning with the day on which they comply with subsection (2B).
- (2B) The Scottish Ministers must lay before the Parliament a report setting out why they consider that there are a sufficient number of members of the Children’s Panel for the other provisions of this Act to come into force.>