

HOUSE OF ASSEMBLY

THURSDAY 03RD DECEMBER 2015

**STATUTES AMENDMENT (RIGHTS OF FOSTER PARENTS AND
GUARDIANS) BILL**

Second Reading

Adjourned debate on second reading.

(Continued from 10 September 2015.)

Mr PEDERICK (Hammond) (10:37): It is with much pride that I rise today to speak to the Statutes Amendment (Rights of Foster Parents and Guardians) Bill 2015. First, I would like to thank the Labor Party for coming on side because I knew that without the Labor Party coming on side we would not get this important legislation through this house.

There are a lot of people I need to thank, namely, the former minister for education and the current Minister for Education (the member for Port Adelaide). I need to thank the Attorney-General for his support; and, particularly, staffers Josh Vines, from the Minister for Education's office, and Alexandra Keen, from the Attorney-General's office. Their contact with me was vital through the negotiations in where to go with amendments to the bill. I think about nine different rounds of amendments were passed around between us because, at the end of the day—and the minister has already mentioned this—I had to be persistent.

Mr Gardner: Not to get the Liberal Party on side.

Mr PEDERICK: Yes, I was not very persistent to get the Liberal Party on side: they came on side as soon as I presented my briefing paper, which was great. I do understand the many complexities that were outlined to me in getting a foster-parent's name on a death certificate, and we went through the legal processes of the other person guardianship process. That also means it is a two-way street: foster-parents themselves make that lifetime commitment to the child. It is a stage between foster care and adoption—because there is still a link to birth parents during the period of other person guardianship—and I think it is a very important stage.

Through the negotiations, we were trying to work out a way for a foster-parent to get their name on the death certificate if a child died in their care. I think we came to a very successful result: the other person guardian can get their name on the death certificate. If the registrar is directed to do so—in accordance with the amendments that we will deal with en bloc in a minute—the registrar must include the name or names on the death certificate. It is not to take away from the birth parents, but it is an addition—and a welcome addition, I think—so that the care that the many foster-parents, guardianship carers and kinship carers give in this state will be acknowledged in the act when this bill passes through both houses.

I would like to acknowledge the members for Schubert, Adelaide, Mitchell, Bragg and Hartley who have spoken on this previously. I acknowledge the member for Fisher and the member for Port Adelaide (Minister for Education) for speaking today. I acknowledge the work that Families SA did in the background assisting us all in getting this through and I also acknowledge parliamentary counsel. I almost had them on speed dial too, dealing with the amendments, and they did a great job. I certainly appreciate the support of my colleagues in this vital legislation and I thank my staff as well.

Sadly, sometimes these things come about because of great tragedy and I would just like to thank Monica Perrett and Nathan and their family for their persistence in getting this legislation to where we are today—moving this bill through this place. The loss of Finn was very sad. It was three months after his untimely death that we introduced this legislation in August last year, so it has been quite a time. It is 19 months since young Finn died, but let's hope that we have made the world a better place for foster-parents and foster-children into the future. There is a lot of antagonism in this house: I would just like to think that we have found a little love in the world today.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

Mr PEDERICK: I move:

Amendment No 1 [Pederick -1]—

Page 2, lines 4 and 5—Delete ' *and Guardians* ' and substitute:

, Guardians and Kinship carers

Amendment carried; clause as amended passed.

Clauses 2 and 3 passed.

Clause 4.

Mr PEDERICK: I move my amendments en bloc:

Amendment No 2 [Pederick -1]—

Page 3, lines 5 and 6 [clause 4, heading to inserted Division 3A]—Delete 'foster parents and legal' and substitute:

court appointed

Amendment No 3 [Pederick -1]—

Page 3, line 7 [clause 4, heading to inserted section 38A]— Delete 'foster parents and legal' and substitute:

court appointed

Amendment No 4 [Pederick -1]—

Page 3, lines 8 to 11 [clause 4, inserted section 38A(1)]—Delete subsection (1) and substitute:

(1) A person may give notice to the Registrar that a person named in the notice was a court appointed guardian (other than a parent) of a person who has died at the time of the death.

Amendment No 5 [Pederick -1]—

Page 3, after line 15 [clause 4 inserted section 38A(2)]—After paragraph (b) insert:

(ba) include a copy of the order of the Youth Court of South Australia placing the child under the guardianship of the person named in the notice; and

Amendment No 6 [Pederick -1]—

Page 3, lines 24 and 25 [clause 4, inserted section 38A(4)]—Delete the definition of *foster parent* and substitute:

court appointed guardian means a person (other than a Minister) to whom guardianship of another person is given by the Youth Court of South Australia under section 38(1)(d) of the *Children's Protection Act 1993* .

Amendments carried; clause as amended passed.

Clause 5.

Mr PEDERICK: I move:

Amendment No 7 [Pederick-1]—

Page 3, lines 28 to 36 [clause 5, inserted subsections (3) and (4)]—

Delete subsections (3) and (4) and substitute:

(3) If the Registrar has received a notice under section 38A, the Registrar must include the name of the guardian of the deceased named in the notice in the entry of the Register relating to the death of the deceased.

Amendment carried; clause as amended passed.

Clause 6.

Mr PEDERICK: I move:

Amendment No 8 [Pederick-1]—

Page 4, lines 3 to 13—Delete the clause and substitute:

6—Insertion of section 85

After section 84 insert:

85—Agreement for funeral arrangements of child under care

(1) If—

(a) a child who is under the guardianship of a court appointed guardian or the Minister, or of whom the Minister has custody, dies while in the care of an approved carer; and

(b) the approved carer and the person who is responsible for arranging the deceased's funeral and for the disposal of the deceased's remains disagree about those arrangements,

the Chief Executive Officer may, at the request of 1 or both of the parties, endeavour to assist the parties to reach an agreement about those arrangements.

(2) In this section—

approved carer means—

(a) an approved foster parent; or

(b) a court appointed guardian; or

(c) a person who, under a scheme established by the Department, maintains and cares for a child in the person's home for the purposes of this Act or the *Children's Protection Act 1993* ;

court appointed guardian means a person (other than a Minister) to whom guardianship of another person is given by the Youth Court of South Australia under section 38(1)(d) of the *Children's Protection Act 1993*.

Amendment carried; clause as amended passed.

Title passed.

Bill reported with amendment.

Third Reading

Mr PEDERICK (Hammond) (10:46): I move:

That this bill be now read a third time.

Once again, I would like to thank everyone who has been involved with this. It has taken some dogged persistence, but it goes to show that from opposition, when you have good legislation and you keep putting your case, you can get it through. My thanks go to everyone on my side of the house and to the Labor Party as a whole because, as I said earlier, it had to go past the Labor Party to get this up.

I sincerely thank everyone who has been involved, but I did not mention in my previous commentary what can happen in the funeral arrangements of a child who may die under foster care, kinship care or under guardianship. If there is a dispute between the carers and the birth parents, the chief executive of the department may get involved to mediate in that very sad time of a child's passing in the care of a foster parent. We had to do some work on getting that wording right. It does allow a little bit of flexibility still, but it is huge.

As I said earlier, if it were not for the persistence of Monica, her husband, Nathan, and their family, we would not be here today, and I certainly thank them for their doggedness in getting here today. I thank minister Rau, minister Close, their staff and families once again that we have got here and that we have seen some good—which sometimes people do not see come out of this place; they see a lot of antagonism, which is our Westminster system, and that is how it works. I think we have achieved something that does show that you can find a little love in this place. I commend the bill to the house.

Bill read a third time and passed.