



Western Australia

Child Medical Neglect Bill 2021

Explanatory Memorandum

Children are some of the most vulnerable people within our communities. Medical treatment is one of the many necessities that children are entitled to. Regrettably, not all children receive this, in many cases because their carers have failed to carry out their duty to care for them. The Journal of the American Academy of Paediatrics discovered that 9.7% of child neglect related deaths were directly accounted to medical neglect. Alarming statistics such as this indicates that medical neglect is a prominent issue facing the safety of children. Child Protective Services has received an increase of 100,000 yearly claims of child neglect within 10 years, demonstrating how our current child protection system is overcrowded. With our current child protection system being over exhausted, action is necessary.

Medical neglect is one of the many forms of child abuse, which can often go undetected due to the lack of education surrounding the issue. It can include failure to provide proper medical treatment or medication necessary for the child's wellbeing. Symptoms of type one diabetes, bowel disease, seizure disorder, asthma, and nephrotic syndrome are most commonly exacerbated by medical neglect. The intent behind medical neglect may not be malicious. It can often be caused by financial status or misinformation.

This Child Medical Neglect Bill aims to address when carers are either incapable of providing adequate medical treatment for their child or are refusing to seek said treatment. This bill aims to create various consequences for committing medical neglect. These include mandatory sentencing, rehabilitation, and specified informative training. The Child Medical Neglect Bill provides well rounded support for both the victims and perpetrators of medical neglect. Medical neglect Support Centres are situated in both urban and regional areas, allowing for adequate coverage of support across Western Australia. These centres will provide victim support and assist Child Protective Services in processing claims. The Medical Neglect Support Centres will provide mandatory training for both perpetrators and carers of children, alongside advocacy programs and resource centres. This compilation of support will assist in the prevention and detection of medical neglect of children. The bill will create a training program, to increase awareness on how to detect and report medical neglect.



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Western Australia

A Bill for —

An Act to make provisions of the protection and care of children who experience medical neglect and provide support to both victims and perpetrators.

Part 1 — Preliminary

1. Short title

This Bill may be cited as the *Child Medical Neglect Bill 2021*.

2. Short title

This Bill commences on the day on which this Act receives Royal Assent.

3. Short title

In this Bill, unless the contrary intention appears —

“**Carers**” means a person, which may include family or an external third party who provides health, welfare and sustenance to another person, in this case, child;

“**Child**” means anyone under the age of eighteen (18);

“**Community Centres**” means any public locations within a certain community region whereby meetings are held for social, educational, and recreational needs;

“**DCP**” means the Department of Child Protection;

“**External Accommodation**” means housing located on the Medical Neglect Advocacy Service premises;

“**Junior sports personnel**” means any in game regulators which may include coaches, managers, presidents, umpires/referees, first aiders (in-game nurse);

“**Medical centres**” means premises that are legally able to provide healthcare needs to various demographics;

“**Medical treatment**” means short- or long-term treatment for medical issues including the management of chronic and continuous health conditions and the prescription of medication;

“**MNAS**” means the Medical Neglect Advocacy Services;

“**MNSC**” means the Medical Neglect Support Centre/s;

“**MNT**” means Medical Neglect Training;

“**MRC**” means Medical Resource Centre/s;

“**Regional**” means any area defined as a West Australian region under the *Regional Development Commission’s Act 1993*;

“**Resources**” means any tangible or intangible help provided to relevant stakeholders of medical neglect which is outlined in various circumstances below;

“**WWCC**” means a Working with Children’s Check;

Part 2 – Medical Neglect

4. Medical neglect

Medical neglect includes failure by a child’s carers to provide, arrange, or allow the adequate provisional care of medical needs that –

- (a) Acknowledge the seriousness of an illness or condition when a reasonable parental response would be to seek care; or
- (b) Does not deliberately withhold appropriate care; or
- (c) Would improve the condition of the child.

5. Consequence of medical neglect

If a person who has the control or care of a child is found guilty of medical neglect, they are guilty of a crime, and must;

- (a) Report to DCP for review; and
- (b) Complete MNT outlined in clauses 13 and 14(2); and
- (c) Make a genuine attempt to make amends with the child under their care

6. Imprisonment

A person who has control or care of a child who is found guilty of medical neglect is guilty of a crime and is liable for imprisonment for up to 10 years

Part 3 – Additions to Mandatory Reporting

7. Persons mandated to report

The following individuals that have completed Medical Neglect Training (MNT) are required to report medical neglect, including but not limited to –

- (a) Educators
- (b) Counsellors
- (c) Mental health professionals
- (d) Medical Professionals
- (e) Family Consultants
- (f) Legal Practitioners representing the child
- (g) Extracurricular instructors i.e., Junior sports personnel
- (h) Any individual that holds employment that requires a working with children's check
- (i) Carers of a child

8. What must be reported

Persons outlined in clause 7 must report any action by a carer that –

- (a) Ignores the medical needs of a minor in their care.
- (b) Ignores the seriousness of a medical condition.
- (c) Deliberately withholds care that seeks to improve a medical condition.
- (d) Denies a minor the treatment recommended by medical professionals

Part 4 – Medical Neglect Support

Division 1 – Medical Neglect Support Centres (MNSC)

9. Duties of the MNSC

- (1) The MNSC will provide both children and carers educational resources on —
 - (a) Relevant medical conditions including but not limited to —
 - (i) Autoimmune diseases;
 - (ii) Chronic illnesses;
 - (iii) Psychological disorders;
 - (iv) Intellectual disabilities;
 - (v) Physical disabilities;
 - (vi) Acute medical issues;
 - (vii) Organ transplants;
 - (viii) Respiratory Issues;
 - (ix) Cardio vascular diseases; and
 - (x) Cancers and mutations.
- (2) The MNSC will process medical neglect reporting on behalf of the Department of Child Protection (DCP) and present a case to police for investigation.
- (3) The MNSC will provide immediate support to victims of medical neglect, including —
 - (a) 24-hour crisis phone lines that provide advice and resources to victims;
 - (b) Live online chat made available on the DCP website that provides advice and resources to victims.

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- (4) The MNSC will provide continued support of carers for the purpose of preventing medical neglect, including —
 - (a) The opening of community centres to offer confidential individual counselling services;
 - (b) Weekly confidential group counselling sessions at local community centres;
 - (c) Weekly confidential family counselling sessions at local community centres; and
 - (d) Continued check-up sessions for carers subject to previous child protection orders or reports.

10. Implementation of the MNSC

- (1) At least one MNSC must be implemented in one of the nine Western Australian regions, according to the Regional Development Commission's Act 1993.
- (2) There must be at least one MNSC in each local government area in the Perth Metropolitan region.

11. Number of staff per MNSC

The MNSC must be equipped with a minimum number of staff members, accounting for population density. These requirements include-

- (a) There must be a minimum of seven staff in an area with a population under 20,000;
- (b) There must be a minimum of ten staff in an area with 20,000 people or more; and
- (c) For every additional 50,000 people in the population, the minimum staff raises by three.

12. Qualifications of the MNSC

- (1) MNSC staff must possess all of the following qualifications:
 - (a) WWCC;
 - (b) Police clearance;
 - (c) HLTAID001 or HLTAID003; and
 - (d) CPR Training.

- (2) MNSC facilities must require staff to hold at least one of the following qualifications or their equivalent:
 - (a) Bachelor of psychology; or
 - (b) Bachelor of social work; or
 - (c) Bachelor of nursing; or
 - (d) Bachelor of medicine; or
 - (e) Postgraduate of medicine; or
 - (f) Certificate III in individual support; or
 - (g) Certificate IV in disability support; or
 - (h) Relevant qualification specified by the minister for child protection and community services as equivalent.

Division 2 – Medical Neglect Training (MNT)

13. Creation and availability of the MNT course

- (1) The MNSC, advised by child protection services and the health department, will create an online course to provide education and prevent medical neglect.
- (2) The online training will be offered on the MNSC website and will be accessible through the DoH and DCP government websites.

14. Who the MNT applies to

- (1) Compulsory MNT applies to paid employees who are required to obtain a valid WWCC, including, but not limited to;
 - (a) Teaching staff;
 - (b) Medical personnel; and
 - (c) Junior Sports personnel;
- (2) Carers found guilty of Child Medical Neglect will have to undertake MNT.
- (3) Volunteer workers required to obtain a valid WWCC will be highly recommended to complete the MNT modules.
- (4) Training will be available to complete voluntarily by all Australian residents aged 18 years and over.

15. Implementation of the MNT

- (1) Persons referenced in clause 14(1) will be required to complete the MNT within six months of its roll out or obtaining their WWCC.
- (2) Persons referenced in clause 14(2) will be required to complete MNT within six months of their conviction.

Division 3 – Medical Resource Centres (MRC)

16. Duties of the MRC

- (1) The MRC will provide carers that are suffering from financial hardship or that are under the taxable threshold with access to required medical help, including –
 - (a) Access to medical appointments and check-ups at a reduced fee; and
 - (b) Continued financial support for medical treatment.
- (2) The MRC will provide carers that live in regional locations with access to required medical help, including –
 - (a) Video appointments and check-ups;
 - (b) Monthly Pop-up medical centres in remote locations for appointments, check-ups or medication distribution; and
 - (c) Financial support for transportation and alternative care arrangements whilst visiting medical centres.
- (3) The MRC will provide support for carers to prevent medical neglect by –
 - (a) Providing access to medical treatment and diagnosis for carers suffering from physiological or psychological disorders; and
 - (b) Continued support for carers as specified in clause 9.

17. Implementation of the MRC

- (1) MRC's must be implemented in all MNSC's.
- (2) In regional locations, MRC's must be implemented via pop-up medical centres outlined in clause 16 (2)(b).

18. Required MRC Personnel

MRCs will be staffed with at least one (1) General Practitioner registered with the Medical Board of Australia.

Division 4 – Medical Neglect Advocacy Services (MNAS)

19. Duties of MNAS

- (1) The MNAS will provide children who are suffering from medical neglect with government funded legal representation.
- (2) The MNAS will provide children who have suffered from or are alleged to have suffered from medical neglect with government funded external accommodation under the MNSC whilst investigation and legal proceedings are in continuation, if no family or foster carer can be found.
- (3) The MNAS will provide children whose carers are incarcerated as a result of medical neglect with—
 - (a) Medical treatment;
 - (b) Access to free counselling services; and
 - (c) A safe and secure location to reside.

20. Implementation of the MNAS

- (1) MNAS must be implemented in all MNSC.
- (2) MNAS must be accessible through the MNSC website.

21. Required MNAS Personnel

In accordance with section 19(1) practising lawyers who have been admitted under the Legal Practise Board of Western Australia may provide

—

- (a) Legal representation for children in relation to medical neglect; and
- (b) Legal advice for children and carers in relation to medical neglect.

22. Accommodation of MNAS

- (1) In accordance with section 19(2), ‘external accommodation’ will be rooms located at the MNSC and will include, but not be limited to—
 - (a) A bed;
 - (b) Kitchen facilities;
 - (c) A toilet;
 - (d) Showering facilities;
 - (e) Sanitary items;
 - (f) Food;
 - (g) Necessary medical equipment;
 - (h) Bedding; and
 - (i) Any other material deemed necessary by the Minister for Child Protection and Community Services.
- (2) In accordance with section 19(2) the external accommodation will be facilitated under the MNSC staff and MNSC staff will provide ongoing supervision.
- (3) In accordance with section 19(3)(c) the MNSC will work with the department of child protection to find children under clause 19(2) a permanent residence.