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Child Protection Act

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RT I, 06.12.2014, 1

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Amended by the following acts

Passed	Published	Entry into force
07.12.2016	RT I, 21.12.2016, 2	01.01.2017
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21.11.2018	RT I, 12.12.2018, 3	01.01.2019
13.04.2022	RT I, 28.04.2022, 1	08.05.2022, in part 01.01.2023
19.08.2022	RT I, 06.08.2022, 6	16.08.2022
19.08.2022	RT I, 06.08.2022, 4	01.10.2022
26.10.2022	RT I, 10.11.2022, 1	20.11.2022
22.11.2022	RT I, 25.11.2022, 4	22.11.2022 – judgment of Constitutional Review Chamber as of 22.11.2022 – 1. To declare that subsection 1 ¹ of § 20 of the Child Protection Act was unconstitutional in the wording in force until 30 September 2022 concerning the part whereby a permanent prohibition on working with children was established for a person who had been punished for an act provided for in the first alternative of § 202 of the Criminal Code, without accounting for the circumstances of commission of the act.
14.12.2022	RT I, 06.01.2023, 1	01.04.2023

Chapter 1 General Provisions

§ 1. Scope of regulation of Act

(1) This Act provides for the obligations and functions of state and local government agencies and the officials thereof, legal persons in public and private law and natural persons upon ensuring the rights and well-being of children, the organisation of child protection, the prohibitions and restrictions established for persons working with children, the principles of treatment of children, the principles of treatment of children in need of assistance, children in danger and children separated from family, the state supervision over compliance with this Act and the liability for violation of the Act.

(2) The application of the principles for ensuring the rights and well-being of children and the application of child protection measures on the basis of a specific Act shall be based on the requirements provided for in the specific Act, complying with the provisions of Chapter 2 of this Act. In case of issues unregulated by a specific Act, the provisions of this Act shall apply.

(3) The provisions of the Administrative Procedure Act apply to administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.

§ 2. Purpose of Act

This Act shall be established in order to form behaviour and way of life which value and promote the development of children in the society, to create a supporting environment for children, to set the best interests of children as primary consideration, to improve the quality of life of children, to support the comprehensive development of children and to ensure the necessary assistance and care in a timely manner for children whose health and well-being is in danger in conformity with the United Nations Convention on the Rights of the Child and the optional protocols thereto (hereinafter the convention) and the EU Charter of Fundamental Rights and other relevant legislation.

§ 3. Scope of application of Act

(1) The provisions of this Act shall be applied to state and local government agencies and the officials thereof, legal persons in public and private law and natural persons who are in contact with children and child protection in their activities.

(2) For the purposes of this Act, a child means every human being below the age of eighteen years. If the age of a person is unknown and there is reason to believe that the person is below the age of eighteen years, the person shall be deemed to be a child until proven otherwise.

Chapter 2 Ensuring Rights and Well-being of Child

§ 4. Well-being of child

Child's well-being means the condition supporting the development of the child in which the physical, medical, psychological, emotional, social, cognitive, educational and economic needs of the child are satisfied.

§ 5. Principles of ensuring rights and well-being of children

Upon ensuring the rights and well-being of children, the following principles provided for in the convention shall be based on:

- 1) every child has the inherent right to life, survival and development;
- 2) every child has the right to equal treatment without any discrimination;
- 3) in all action concerning children, the best interests of the child shall be a primary consideration;
- 4) every child has the right to independent opinion in all matters affecting the child and the right to express his or her views.

§ 6. Prevention

(1) In order to ensure the rights and well-being of the child, the risks threatening the well-being and development of the child must be prevented. Prevention includes the perception of situations and events which threaten the child as early as possible and the reaction thereto, including the identification of the child's development and behaviour problems, problems occurring in the family environment, identification of abuse and the increase of protective measures promoting the child's well-being and development.

(2) State and local government agencies shall, according to their possibilities, develop measures in order to prevent the child's need for assistance and to decrease the existing problems. The measures must be based on the child's needs, support the relations between the child and the persons raising the child, support the social performance skills and they must be accessible, timely, effective and have a long-term positive effect.

§ 7. Liability of parents and persons raising children

(1) The natural environment for the development and growth of the child is the family. The primary liability for ensuring the child's rights and well-being lies with the parent or with the person raising the child.

(2) State and local government agencies and the officials thereof, legal persons in public and private law shall, according to their competence, support the parent or the person raising the child upon ensuring the child's rights and well-being.

§ 8. Cooperation

(1) In order to ensure the child's rights and well-being, state and local government agencies and the officials thereof, legal persons in public and private law shall cooperate with each other upon the planning, financing and application of all measures targeted to children by involving the children, parents, persons raising children, interest groups and the public therein.

(2) Based on an international agreement, EU legislation or other legislation, state and local government agencies and the officials thereof, legal persons in public and private law shall cooperate with each other in

order to ensure the rights and well-being of children and involve a competent authority of another state or a person authorised therefor, if necessary.

§ 9. Notification

State and local government agencies and the officials thereof, legal persons in public and private law shall ensure the notification of the public of child protection measures, paying special attention to the disclosure of information necessary for assisting children in need or in danger.

Chapter 3 Organisation of Child Protection

§ 10. Child protection

Child protection means the aggregate of activities, supports, services and other assistance following the principles provided for in this Act to ensure the rights and well-being of children (hereinafter the measures).

§ 11. Organisation of child protection

Child protection shall be organised by the Government of the Republic, prevention council, Ministry of Social Affairs, Social Insurance Board and local authorities based on the functions provided for in this Act.
[RT I, 06.08.2022, 6 – entry into force 16.08.2022]

§ 12. Function of Government of the Republic

The function of the Government of the Republic upon the organisation of child protection shall be the development and approval of relevant draft legislation and national strategies and ensuring sustainable financing.

§ 13. Functions of prevention council

[RT I, 06.08.2022, 6 – entry into force 16.08.2022]

(1) The prevention council is a government committee, the functions of which in the organisation of child protection policy are:

- 1) to establish the strategic objectives and priorities and co-ordinate cross-sectoral activities;
- 2) to submit proposals concerning the protection of children's rights and ensuring the well-being of children to the Government of the Republic and other relevant institutions;
- 3) to review the recommendations to the state submitted by the UN Committee on the Rights of the Child and to co-ordinate the activities related therewith.

(2) The membership, management and the rules of procedure of the prevention council shall be established by a regulation of the Government of the Republic.

[RT I, 06.08.2022, 6 – entry into force 16.08.2022]

§ 14. Functions of Ministry of Social Affairs

(1) The functions of the Ministry of Social Affairs upon the organisation of child protection are:

- 1) to develop the child protection policy and to coordinate the implementation thereof;
- 2) to submit reports to the Government of the Republic concerning the situation of children and families;
- 3) the national coordination of child protection and supervision thereof;
- 4) to participate in the formation of international child protection policy and cooperation;
- 5) to organise the performance of child protection studies and analyses and to plan and develop child protection measures;
- 6) to develop instructions, implementing guidelines and other informative materials for the protection of children's rights and ensuring children's well-being and notification of the public thereof;
- 7) to organise the further training of child protection officials.

(2) The conditions of and procedure for the further training of child protection officials shall be established by a regulation of the minister in charge of the policy sector.

(3) The performance of functions specified in clauses 5–7 of subsection 1 of this section may be assigned to a person in private law with an administrative contract.

§ 15. Functions of Social Insurance Board

(1) The functions of the Social Insurance Board upon the organisation of child protection are the implementation of state child protection policy, application of national strategies and coordination of cross-sectoral cooperation and prevention concerning child protection.

(2) Based on the request of the local government, the Social Insurance Board shall apply the following state measures supporting children and families:

- 1) provision of counselling to the local governments upon the preparation of development plans supporting the well-being of children;
- 2) mediation of individual international child protection cases to the local government and provision of counselling to the local government thereon;
- 3) provision of assistance to the local governments upon resolving child protection cases;
- 4) supporting the local governments upon the establishment of suitable measures for children or families from amongst the existing state measures.

(3) The Social Insurance Board shall apply the following state measures supporting children and families:

- 1) organisation of national and international adoption and servicing the international adoption committee;
[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

1¹) assessment of suitability of foster families and performance of acts relating to the preparation of foster families;

[RT I, 28.11.2017, 2 - entry into force 01.01.2018]

- 2) collection of child protection statistics;
- 3) 24-hour counselling of state and local government agencies, the officials thereof and legal persons in public and private law for the assistance of children in need of assistance or children in danger;
- 4) organisation of notification related to child protection;
- 5) organisation of employment counselling of the child protection officials of a local government;
- 6) maintenance of child helpline service 116 111;
- 6¹) provision of measures provided for in § 291 of this Act for assisting sexually abused children or children behaving in a sexually abusive manner;
[RT I, 28.04.2022, 1 – entry into force 08.05.2022]
- 7) exercise of state and administrative supervision on the bases provided for in this Act.

(4) The performance of functions specified in clauses 4–6 of subsection 3 of this section may be assigned to a person in private law with an administrative contract.

(5) The Social Insurance Board as the Central Authority shall perform the functions prescribed for in points (a), (b), (f) and (g) of Article 79 and in Articles 80 and 82 of Council Regulation (EU) 2019/1111 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (recast) (OJ L 178, 02.07.2019, p. 1–115).

[RT I, 10.11.2022, 1 – entry into force 20.11.2022]

§ 16. Functions of county governor

[Repealed – RT I, 28.11.2017, 2 - entry into force 01.01.2018]

§ 17. Functions of local government

(1) The functions of a local government upon the organisation of child protection are:

- 1) to follow the principles ensuring the rights and well-being of children in the local government development plan;
- 2) to develop programmes and projects ensuring the rights and well-being of children and the application thereof in its administrative territory to prevent and decrease the risks that endanger children;
- 3) upon becoming aware of a child in need of assistance, to immediately assess the child's need for assistance and to provide measures for assisting the child;
- 4) to provide measures to a child separated from family and to his or her family;
- 5) to organise supervisory control over the internal evaluation of child care institutions administered by the local government;
- 6) to collect necessary information concerning the situation and needs of children and families in order to create an environment supporting the child's development and to improve the coping of children, families with children and persons raising children in its administrative territory;
- 7) to exercise state supervision on the bases provided for in this Act.

(2) The local government shall create conditions for the performance of child protection work with the purpose of ensuring the performance of functions listed in subsection 1 of this section. The committee of children and families shall be established at local governments as an advisory body, if necessary.

Chapter 4

Child Protection Officials and Persons Working with Children

§ 18. Child protection officials and persons working with children

(1) A child protection official is an official of the Social Insurance Board or a local authority who performs the functions provided for in this Act or other legislation upon ensuring the rights and well-being of children.
[RT I, 28.11.2017, 2 - entry into force 01.01.2018]

(2) A person working with children is a person in direct contact with children in the course of his or her work or professional activities and also a person in direct contact with children in the course of voluntary activities, serving in alternative service, participating in employment services or practicing as a trainee.

§ 19. Requirements for child protection officials

(1) Child protection officials must have professional qualification and higher education.

(2) Child protection officials shall acquire the profession of a social worker with specialisation in child protection no later than within two years after starting service as a child protection official.

(3) The compliance of professional qualifications acquired abroad with the requirements of this Act shall be decided by the Social Insurance Board on the basis of the Recognition of Foreign Professional Qualifications Act, taking into account of the specifications arising from this Act.

§ 20. Restrictions for working as child protection officials and persons working with children

(1) A person who has been punished or to whom coercive treatment has been imposed for a criminal offence provided for in §§ 89–93, 95–112, 113, 114, 116, 118¹, 133–133³, 141–145¹, 175–179 or 187 of the Penal Code, the information concerning punishment of which has not been deleted from the criminal records database according to the Criminal Records Database Act or the information concerning punishment of which has been deleted from the criminal records database and entered in the archives of the criminal records database, may not act as a child protection official or as a person working with children.
[RT I, 06.08.2022, 4 – entry into force 01.10.2022]

(1¹) The restriction provided for in subsection 1 of this section shall also be applied to persons who have been punished before entry into force of the Penal Code for acts qualified under §§ 100–102, 115–117, subsection 2 of § 118, § 200, 200³, 202, 202², 202⁴ or clause 1 or 2 of subsection 3 of § 202⁶ of the Criminal Code and also to persons who have been punished for equal criminal offences committed in a foreign state.
[RT I, 06.08.2022, 4 – entry into force 01.10.2022]

(2) A person who has been punished or to whom coercive treatment has been imposed for a criminal offence provided for in §§ 118, 119¹, 121, 122, 125, clause 2 of subsection 2 of § 134, § 135, subsection 2 of § 136, clause 2 of subsection 2 of § 138¹, subsection 2 of § 140, §§ 153¹, 171–174, 180–182, 182¹, 185, clause of subsection 2 of § 195, §§ 200, 214, subsection 3 of § 215, §§ 237–237³, 244, 246, clause 3 of subsection 3 of § 251, § 263, clause of subsection 2 of § 266, §§ 274, 290¹, 291, 302, 303, 312, 322, 323, subsection 3 of § 327, §§ 403–405 or 435 of the Penal Code, the information concerning punishment of which has not been deleted from the criminal records database according to the Criminal Records Database Act, may not act as a child protection official or as a person working with children.
[RT I, 06.08.2022, 4 – entry into force 01.10.2022]

(3) A person who enables working with children or the issuer of a relevant activity licence is required to verify compliance with the restrictions provided for in subsections 1–2 of this section upon the employment of a person or issue of an activity licence. A person who enables working with children is required to verify the compliance of the person working with children with subsections 1–2 of this section at least once in 12 months, unless a notification on the change in the person's punishment data is transmitted automatically. In case of a legal person, compliance with the requirements provided for in this subsection shall be organised by the legal representative of the legal person who may also re-delegate this obligation. If the organisation of compliance with the requirements has been re-delegated by the legal representative of the legal person, the person to whom the obligation has been delegated shall be liable for the organisation of compliance with the requirements.
[RT I, 06.08.2022, 4 – entry into force 01.10.2022; the start of the term for regular verification of compliance with the requirements of this Act of a person working with children shall be calculated from 1 January 2023]

(4) A person who has been punished on the basis of subsection 2 of § 118 or § 202 of the Criminal Code or on the basis of § 175, 175¹, 178 or 179 of the Penal Code may submit an application to the Social Insurance Board for the re-assessment of the prohibition on working with children if the act being the basis of the prohibition is not punishable according to the applicable law or has been transferred under the elements of another offence.

Chapter 5

Principles of Treatment of Children

§ 21. Setting best interests of child as primary consideration

(1) Upon the adoption of or deciding not to adopt decisions affecting a child and choosing between different options upon planning a decision (hereinafter deciding together), the best interests of the child shall be ascertained and they shall be based on as the primary consideration upon the making of decisions.

(2) In order to ascertain the best interests of the child, it is necessary:

- 1) to ascertain all the relevant circumstances concerning the situation and person of the child and other information which is necessary to evaluate the effect of the decision on the child's rights and well-being;
- 2) to explain the content and reasons of the planned decision to the child, to hear the child in a manner taking account of his or her age and development and to account for his or her opinion based on the child's age and development as one of the circumstances upon ascertaining the best interests of the child;
- 3) assessing all the relevant circumstances in aggregate, to form a reasoned opinion concerning the best interests of the child with regard to the planned decision.

(3) If the best interests of a child differ from the child's opinion or if a decision which does not coincide with the child's opinion is made on other grounds, the reasons for not taking the child's opinion into account must be explained to the child.

§ 22. Obligations of persons raising children and persons working with children

(1) A person raising a child is the parent or a person actually raising the child.

(2) Upon caring for and raising a child, the person raising a child and the person working with a child shall, taking into account the age and development of the child:

- 1) discuss the care and educational issues with the child, taking into account the abilities and increase of the child's need to act independently and responsibly;
- 2) to provide instruction and guidance to the child to act independently;
- 3) to explain to the child how to look after his or her health, to develop his- or herself, to reduce risks and to prevent danger.

(3) Upon occurrence of the child's need for assistance, the person raising a child and the person working with a child shall seek assistance and cooperate with child protection officials and other persons working with children, if necessary.

(4) Upon occurrence of the child's need for assistance or receipt of a notification thereon, the person working with a child shall immediately notify the person raising the child thereof.

§ 23. Restriction for minors to be in public places

(1) It is prohibited for a minor under sixteen years of age to be in a public place from 23.00 to 06.00 without being accompanied by an adult. During the period from 1 June to 31 August, it is prohibited for a minor under sixteen years of age to be in a public place from 00.00 to 05.00 without being accompanied by an adult.

(2) Local governments have the right to temporarily shorten the night-time restriction of movement provided for in this section.

§ 24. Prohibition of child abuse

(1) Neglect of a child, mental, emotional, physical and sexual abuse of a child, including humiliation, frightening and physical punishment of a child, also punishment of a child in any other manner which endangers his or her mental, emotional or physical health is prohibited.

(2) In order to prevent child abuse, the legal representative of a child has the right to receive information on the punishment records of another person on the basis of the Criminal Records Database Act.

(3) It is not a case of child abuse for the purposes of this Act if the child's behaviour poses a direct and immediate threat to the life or health of the child or to the life or health of other people and the threat cannot be prevented, including by way of conversation, convincing or verbal reassurance and due to that the person raising the child, the person working with the child and child protection official must apply physical strength to an extent which does not cause physical, mental or emotional damage to the child and inflicts the rights and freedoms of the child the least.

(4) Physical strength for the purposes of this Act may only be applied to restrict the child's moving or movements to an extent proportional to and the least necessary for the elimination of the risk threatening the child or originating from the child. Physical strength may not be used for the purpose of punishment.

§ 25. Prohibition of dissemination of objects with pornographic content and promoting violence

(1) It is prohibited to manufacture, show and disseminate to children printed matter, films, audio and video recordings and objects that promote violence or cruelty.

(2) It is prohibited to manufacture, show and disseminate to children objects, printed matter and films of pornographic content.

Chapter 6 Child in Need of Assistance

§ 26. Child in need of assistance

A child in need of assistance is a child whose well-being is threatened or in the case of whom doubt has arisen concerning his or her abuse, neglect or any other situation violating the rights of the child and a child whose behaviour threatens his or her well-being or the well-being of other persons.

§ 27. Notification of child in need of assistance

(1) All persons who have knowledge of a child in need of assistance are required to notify of the child in need of assistance

(2) A child in need of assistance must be immediately notified of to the local government or to child helpline service 116 111.

(3) The authority or official having received the notice of a child in need of assistance, except for the local government of the child's residence entered in the population register or the child protection official thereof, shall be required to forward the notice immediately to the local government of the child's residence entered in the population register.

(4) If the local government of the child's residence entered in the population register is unknown or it cannot be ascertained, the notice of a child in need of assistance shall be immediately forwarded to the local government where the child is staying.

(5) The identity of the person having notified of a child in need of assistance or the fact of notification shall not be disclosed, except for in proceedings of an offence. The person notifying of a child in need of assistance shall have the right not to disclose his or her data upon notification for his or her own protection or the protection of his or her family.

§ 27¹. Ascertaining children in need of assistance

(1) The local government of the child's residence entered in the population register shall have the right, for the purposes of ascertaining children in need of assistance, process in the register of social services and benefits, the data on such children in case of whom the Social Insurance Board has been submitted an application for the establishment of the degree of disability according to the Social Benefits for Disabled Persons Act.

(2) For the purpose specified in subsection 1 of this section the local government shall process the following personal data:

- 1) given name and surname of the child;
- 2) place of residence and whereabouts of the child;
- 3) personal identification code of the child;
- 4) information on whether or not a degree of disability has been established;
- 5) information on the grant of disabled child allowance to a child with rare disease disability;
- 6) if a degree of disability has been established, the degree and duration of the disability and functional deviation;
- 7) name and personal identification code of the parent or guardian or the registry code and contact details of a legal person;
- 8) place of residence and whereabouts of the parent or guardian according to the population register;
- 9) date of death of the child.

[RT I, 28.04.2022, 1 – entry into force 01.01.2023]

§ 28. Assessment of need for assistance

(1) Before the application of a suitable measure to a child in need of assistance, the child's need for assistance must be assessed. The child's need for assistance shall be assessed by a child protection official or a person working with a child, except for a person in direct contact with a child in the course of voluntary activity, serving in alternative service, participating in employment services or practicing as a trainee, by involving a relevant specialist therefor, if necessary.

(2) Upon assessing the child's need for assistance, the child protection official or a person working with a child shall give an assessment to:

- 1) the physical, medical, psychological, emotional, social, cognitive, educational and economic situation of the child;
- 2) the parenting skills of the person raising the child.

(3) A child protection official shall involve the child and the person raising the child or the child care institution where the child is staying in the assessment of the need for assistance.

§ 29. Provision of assistance for child in need of assistance

(1) Provision of assistance for a child in need of assistance means the application of measures supporting the child's well-being in a manner which improves the relations between the child and the person raising the child.

(2) Networking shall be applied upon the provision of assistance, following the principles of case management pursuant to the procedure provided for in the Social Welfare Act.

(3) The local government shall, within ten days after becoming aware of a child in need of assistance, make a decision on whether or not to commence case management or to forward the case to a competent official.

(3¹) Where the local government becomes aware of a child raised by a person who is an adult victim of domestic violence who is in danger for the purposes of subsection 2 of § 9 of the Victim Support Act, the local government must commence case management for the provision of assistance to the child and cooperate with the Social Insurance Board and other agencies assisting adult victims.

[RT I, 06.01.2023, 1 – entry into force 01.04.2023]

(4) Case management may not be commenced only in case the child's need for assistance can be satisfied by a non-recurring measure.

(5) Upon assessing the child's need for assistance and provision of assistance, the local government shall establish and document the opinion of the child and attach it to the mandatory case plan related with the child, unless provided otherwise by a specific Act.

§ 29¹. Measures of Social Insurance Board for assisting sexually abused children or children behaving in sexually abusive manner

(1) A local government agency shall notify the Social Insurance Board immediately after becoming aware of a child in need of assistance if the child:

- 1) has been sexually abused or in case of suspicion thereof;
- 2) is a suspect or a person subject to proceedings in a sexual offence or the sexual behaviour of the child threatens the wellbeing of other persons or the child.

(2) The Social Insurance Board starts to perform the functions provided for in this section also based on the inquiry of another agency or person or based on the information received through the child helpline. In such case the Social Insurance Board shall notify the local government agency responsible for the child's case management, and in case of criminal proceedings, taking into account the provisions of § 214 of the Code of Criminal Procedure on the disclosure of data in pre-trial procedure.

(3) To support the wellbeing of a child specified in subsection 1 of this section, the Social Insurance Board shall:

- 1) provide a child-friendly environment for making child protection and offence proceedings acts with regard to the child and providing services supporting the rehabilitation of the child;
- 2) hear the child, if necessary, to ascertain the abuse and shall video record the hearing to use it as evidence in offence proceedings;
- 3) assess the need for assistance resulting from the abuse of the child or associated with the abusive behaviour and also the risks associated with the abusive behaviour of the child, by involving a relevant specialist therefor, if necessary;
- 4) support and counsel the child and persons close to the child;
- 5) monitor the performance of measures applied for assisting the child.

(4) The video recording of hearing a child specified in clause 2 of subsection 3 of this section shall be preserved by the Social Insurance Board for up to six months following the date of the video recording. The conditions of and procedure for preserving the recording shall be provided for in the regulation established under subsection 5 of this section.

(5) The specific conditions of and procedure for the performance of functions specified in subsection 3 of this section shall be established by a regulation of the minister in charge of the policy sector.
[RT I, 28.04.2022, 1 – entry into force 08.05.2022]

Chapter 7

Child in Danger

§ 30. Child in danger

A child in danger means a child who is in a situation which endangers his or her life or health and a child who endangers his or her life or health or that of the others through his or her behaviour.

§ 31. Notification of child in danger

(1) All persons who have knowledge of a child in danger shall be required to notify of the child in danger.

(2) A child in danger shall be immediately notified of through the emergency call number 112.

§ 32. Placement of child in danger in safety

(1) A child in danger shall be assisted immediately and the situation having endangered the life or health of the child shall be eliminated. If necessary, a child in danger may be placed in safety until such a time as the danger passes, without request of the consent of the person exercising legal custody of the child.

(2) If the child was not endangered due to the activity or inactivity of the person exercising legal custody of the child or the danger arising from him or her has ceased, the child in danger shall be delivered to the person exercising legal custody of the child.

(3) A child in danger shall be placed in safety by the child protection official of the local government of the child's location or by the police on the basis provided for in clause 8 of subsection 1 of § 46 of the Law Enforcement Act.

(4) A child in danger shall be placed in safety at a social, health care or educational institution or person providing such service (hereinafter service provider) or at a person who is safe for the child depending on the child's needs and the situation.

(5) If the child in danger cannot be delivered to the person exercising legal custody of the child, the child may be temporarily placed with the service provider for the provision of a suitable service or with a person who is safe for the child in the following cases:

- 1) with the consent of the person exercising legal custody of the child;
- 2) with the decision of the child protection official of a local government if the person exercising legal custody of the child cannot be accessed, or
- 3) with the decision of the child protection official of the Social Insurance Board if the person exercising legal custody of the child cannot be accessed.

§ 33. Temporary separation of child in danger from family

(1) The local government or the Social Insurance Board may separate a child from family and, if necessary, determine the procedure of communication of the parent and child before the ruling on restriction of legal custody if leaving the child in the family or the communication between the parent and child endangers the life or health of the child. The local government or the Social Insurance Board shall make a decision on temporary separation of a child in danger from family in the following cases:

- 1) the child has been endangered due to the activity or inactivity of the person exercising legal custody of the child;
- 2) the person exercising legal custody of the child refuses the temporary placement of a child with a service provider for the provision of a suitable service.

(2) With the decision specified in subsection 1 of this section, a child in danger shall be separated from family and his or her place of stay shall be determined and, if necessary, the procedure of communication of the parent and child shall be determined for up to 72 hours starting from separation of the child from family.

(3) The local government or the Social Insurance Board shall evaluate the situation of the child and his or her need for assistance and, taking into account of the term provided for in subsection 2 of this section, turn to court in order to restrict legal custody and, if necessary, the right of access on the bases provided for in the Family Law Act.

(4) If a child in danger comes to the service provider by him- or herself or in another manner, the service provider shall immediately apply for a decision specified in subsection 1 of this section concerning the temporary separation of the child from family if it has become known to the service provider or he or she has reason to believe that the child has been endangered due to the person exercising legal custody of the child.

Chapter 8

Protection of Child Separated from Family

§ 34. Protection of child separated from family

(1) Upon choosing a guardian for a child separated from family, granting consent for adoption, evaluating the suitability of foster family and placement of a child in substitute care, the local government shall proceed from the continuity of raising the child, taking into account the ethnic, religious, cultural and linguistic origin of the child.

(2) The child protection official of a local government shall, in cooperation with the person raising the child or with the child care institution in which the child separated from family is staying, be required to provide information to the child concerning his or her origin, the reasons for separation from family and subsequent care issues regarding him or her and to maintain and support the relations between the child separated from family and his or her family, if possible.

(3) Siblings may be separated from each other after their separation from family only as an extreme measure in a situation where their staying together would considerably endanger their rights or well-being.

(4) The child protection official of a local government shall prepare a case plan specified in this Act for a child separated from family and shall ensure the periodic overview and amendment thereof, if necessary, in cooperation with the child and the person raising the child.

§ 34¹. Placement of child from another Member State in Estonia

(1) The Social Insurance Board processes, on the basis of Council Regulation (EU) 2019/1111, the requests related with the placement of a child from another Member State of the European Union (hereinafter *Member State*) in Estonia.

(2) The list of information on the request for placement of a child shall be established by a regulation of the minister in charge of the policy sector.

(3) The local authority and competent authorities shall be required, upon request of the Social Insurance Board, collect and submit information connected with the proceedings of placement of a child from another Member State in Estonia.

(4) In case of establishment of guardianship proceedings concerning another Member State, the Social Insurance Board shall verify, in case of placement of a child in Estonia, whether the potential guardian complies with the requirements for a guardian provided for in the Family Law Act.

(5) In case of other proceedings related with the placement of a child in Estonia, the Social Insurance Board shall verify whether the person specified in the application complies with the provisions of clauses 1–7 of subsection 1 of § 45¹³ of the Social Welfare Act.

(6) Upon making a decision on the placement of a child from another Member State in Estonia, the Social Insurance Board shall account for all the circumstances pertaining to the child and assess the potential effect of placement on the child's rights and wellbeing.

(7) A child from another Member State may be placed in Estonia without the previous consent of the Social Insurance Board only with the child's parent.

[RT I, 10.11.2022, 1 – entry into force 20.11.2022]

Chapter 9

Child Care Institution

§ 35. Child care institution

A child care institution is a state or local government agency, a legal person in public or private law or a natural person who provides social, educational or in-patient health services for children on the basis of the law or other legislation.

§ 36. Right of child staying in child care institution to submit opinions and complaints

(1) A child staying in a child care institution shall have the right, independent of anyone, to contact the person raising the child, the child protection official of the local government of the child's residence entered in the population register, and the Chancellor of Justice and to submit opinions and complaints thereto concerning the activity of the child care institution.

(2) A child care institution shall create conditions which help to ensure the right of the child provided for in subsection 1 of this section.

(3) A child care institution shall ensure the independent opportunity for the child to submit opinions and complaints concerning the activity of the child care institution. The child care institution shall record the opinions and complaints of the child and provide immediate feedback to the child thereon. If necessary, changes in the organisation of the everyday life of the child care institution or another important sphere of life of the child shall be prescribed.

(4) A child care institution shall not disclose the identity of the child having submitted an opinion or complaint about the child care institution or the fact of submission of complaint, except for in proceedings of an offence.

§ 37. Internal evaluation of child care institution

(1) The internal evaluation of a child care institution means the activity in the course of which the organisation of work and the working environment of the child care institution as well as the efficiency of activities upon ensuring the child's rights and well-being are evaluated. The internal evaluation establishes the circumstances supporting and hindering the achievement of objectives of the child care institution and analyses the compliance of activities of the child care institution with legislation.

(2) The child care institution shall immediately eliminate the circumstances established upon the internal evaluation which hinder the ensuring of the child's rights and well-being.

(3) The internal evaluation of a child care institution shall be organised by the head of the child care institution.

Chapter 10 State and Administrative Supervision

§ 38. Exercise of state and administrative supervision

(1) State supervision over compliance with the requirements provided for in this Act and in the legislation established on the basis thereof shall be exercised by the Social Insurance Board, Consumer Protection and Technical Regulatory Authority and local authority (hereinafter *law enforcement agency*).
[RT I, 12.12.2018, 3 - entry into force 01.01.2019]

(2) The Social Insurance Board shall exercise state supervision over compliance with the requirements provided for in §§ 19–21, subsections 2–4 of § 22, subsection 3 of § 24, §§ 27 and 28, subsections 2–5 of § 29, § 31, subsections 1–4 and clauses 1 and 2 of subsection 5 of § 32 and §§ 33, 34, 36 and 37 of this Act.
[RT I, 28.11.2017, 2 - entry into force 01.01.2018]

(3) [Repealed –RT I, 28.11.2017, 2 - entry into force 01.01.2018]

(4) The Consumer Protection and Technical Regulatory Authority shall exercise state supervision over compliance with the requirements provided for in § 25 of this Act.
[RT I, 12.12.2018, 3 - entry into force 01.01.2019]

(5) The local government shall exercise state supervision over compliance with the requirements provided for in §§ 21 and 22, subsection 1 of § 23 and §§ 24, 27 and 31 of this Act.

(6) Administrative supervision over compliance with the requirements established for local governments provided for in § 17 of this Act and over compliance with the requirements established for child protection officials of local governments provided for in § 28, subsection 3 and clause 2 of subsection 5 of § 32, subsections 1 and 4 of § 33 and § 34 of this Act shall be exercised by the Social Insurance Board.

§ 39. Special state supervision measures

(1) For the exercise of state supervision provided for in this Act, the law enforcement agency may apply the special state supervision measures provided for in §§ 30–32 and 49–52 of the Law Enforcement Act on the basis of and pursuant to the procedure provided for in the Law Enforcement Act.

(2) In addition to the special measures specified in subsection 1 of this section, the local government may, for the exercise of state supervision provided for in this Act, apply the special state supervision measure provided for in clauses 6 and 8 of subsection 1 of § 46 of the Law Enforcement Act on the basis of and pursuant to the procedure provided for in the Law Enforcement Act.

§ 40. Specifications for exercise of state supervision

(1) A child protection official of a local government or the Social Insurance Board shall have the right to enter a property in order to ascertain danger in case of suspicion of danger.

(2) A child protection official of a local government or other official appointed by a local government shall have the right to issue precepts to a person raising a child for the protection of a child in need of assistance and to require the person raising a child to cooperate with the child protection official.

Chapter 11 Implementing Provisions

§ 41. Implementation of §§ 19 and 20

(1) Child protection officials who have commenced employment before the entry into force of this Act shall comply with the requirements provided for in subsections 1 and 2 of § 19 of this Act no later than by 1 January 2022.

(2) Child protection officials and persons working with children who have commenced employment before the entry into force of this Act shall comply with the requirements provided for in subsections 1–3 of § 20 of this Act by 1 January 2017, except in the case provided for in subsection 3 of this section.
[RT I, 28.11.2017, 2 – entry into force 01.01.2018]

(3) Child protection officials and persons working with children who have commenced employment before the entry into force of this Act and who have been punished, before entry into force of the Penal Code, for acts qualified under §§ 100–102 of the Penal Code shall comply with the requirements provided for in subsection 1¹ of § 20 of this Act by 1 January 2019.
[RT I, 28.11.2017, 2 – entry into force 01.01.2018]

§ 41¹. Application of § 27¹

Upon ascertaining a child in need of assistance provided for in § 27¹ of this Act for the first time, the local government shall, within 30 days after becoming aware of a child in need of assistance, make a decision on whether or not to commence case management.
[RT I, 28.04.2022, 1 – entry into force 01.01.2023]

§ 41². Application of subsection 3 of § 20

(1) The start of the term for regular verification of compliance with the requirements of this Act of a person working with children specified in subsection 3 of § 20 of this Act shall be calculated from 1 January 2023.
[RT I, 06.08.2022, 4 – entry into force 01.10.2022]

§ 42. Omitted from this translation.

§ 43. Repeal of Republic of Estonia Child Protection Act

The Republic of Estonia Child Protection Act shall be repealed.

§ 44. –§ 46. Omitted from this translation.

§ 47. Entry into force of Act

(1) This Act enters into force on 1 January 2016.

(2) Section 19 of this Act enters into force on 1 January 2020.