

# CHILD WELFARE (No. 2).

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No. 61 of 1984.

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**AN ACT to amend the Child Welfare Act 1947.**

*[Assented to 24 October 1984.]*

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Child Welfare Amendment Act (No. 2) 1984*.

Short title  
and principal  
Act.

(2) In this Act, the Child Welfare Act 1947 is referred to as the principal Act.

Reprinted  
as approved  
11 November  
1977 and  
amended by  
Acts No. 77  
of 1979,  
57 of 1981,  
20, 57 and  
87 of 1982  
and 31  
of 1984.

Section 36  
amended.

2. Section 36 of the principal Act is amended—

- (a) in subsection (1), by deleting “payment of a fine” and substituting the following—

“ a payment to which this section applies ”;

- (b) in subsection (3), by deleting “the payment of a fine imposed by a court under section 34 (1) of this Act, or under the provisions of any other Act, and no order has been made for detention in default of the payment of the fine” and substituting the following—

“ making a payment to which this section applies and no order has been made for detention in default of the payment ”;

- (c) by repealing subsections (4) and (5) and substituting the following subsections—

“ (4) Where a child, in respect of whom a community service order may, subject to the consent of the child, be made, defaults in making a payment to which this section applies, the court may, whether or not any order has been made for detention in default of the payment, issue a summons requiring the child to appear before the court and, in default of the child so appearing, issue a warrant ordering the child to be apprehended and be brought before the court and, upon the child so appearing or being so brought before the court, the court may invite the child to consent to the making of a community service order by the court in respect of the payment and, where the child declines to so consent and an order has not been made for detention in default of the payment, the court shall, unless sufficient cause to the

contrary is shown, make an order for the detention of the child in respect of the default and issue a warrant of commitment accordingly or make an order for the detention of the child to take effect if, after such further time as may be fixed by the order, the child is still in default.

(5) Where a child appears or is brought before a court pursuant to subsection (4) and the court makes a community service order under section 39A (1) (b) for the performance of unpaid work as an alternative to the payment—

- (a) notwithstanding any order that has been made for detention in default of the payment, no warrant of commitment for the default shall be issued except in accordance with section 39G (3); and
- (b) the discharge of the community service order—
  - (i) by performance of the work; or
  - (ii) by a court pursuant to section 39J,

shall be taken to be satisfaction of the obligation to make the payment.

(6) This section applies to—

- (a) the payment of a fine imposed by a court under this Act or under the provisions of any other Act; and

- (b) the payment of costs or charges incurred in relation to proceedings or a sum ordered to be paid upon the forfeiture of a recognizance under this Act or under the provisions of any other Act. ”.

Section 39A  
amended.

3. Section 39A of the principal Act is amended by inserting after subsection (2) the following subsection—

“ (2a) Subsection (1) applies to a child who appears or is brought before a court pursuant to section 36 (4) by reason of a default in the payment of costs, charges or a sum ordered to be paid upon the forfeiture of a recognizance notwithstanding that the default occurred before the coming into operation of the Child Welfare Amendment Act (No. 2) 1984. ”.

Section 39F  
amended.

4. Section 39F of the principal Act is amended in subsection (2)—

- (a) by deleting “the fine” in paragraph (c) and substituting the following—

“ the obligation to make the payment ”;

and

- (b) by deleting “payment of the fine” in paragraph (d) and substituting the following—

“ a payment ”.

## 5. Section 39G of the principal Act is amended—

Section 39G  
amended.

- (a) in subsection (3), by deleting paragraph (b) and substituting the following paragraph—

“ (b) where the community service order was made under section 39A (1) (b) upon default in making a payment—

(i) if any order has been made for detention in default of making the payment—issue a warrant of commitment for the default; or

(ii) if an order has not been made for detention in default of making the payment—make an order for the detention of the child in respect of the default and issue a warrant of commitment accordingly. ”; and

- (b) in subsection (5), by deleting “and if he admits that he was so found guilty, or that the fine was imposed on him and he defaulted in the payment of the fine,” and substituting the following—

“ or whether the costs, charges or sum in respect of which the community service order was made were ordered to be paid by him and whether he defaulted in such payment, and if he admits that he was so found guilty, or that the fine was imposed on him and he defaulted in the payment of the fine, or that the costs, charges or sum were ordered to be paid by him and he defaulted in the payment, ”.

Section 39J  
amended.

6. Section 39J of the principal Act is amended in subsection (3)—

(a) by deleting “of the fine” in paragraph (a) and substituting the following—

“ of the obligation to make a payment ”; and

(b) by deleting “payment of the fine” in paragraph (b) and substituting the following—

“ the payment ”.

Section 126  
repealed  
and  
substituted.

7. Section 126 of the principal Act is repealed and the following section is substituted—

Restrictions  
on reports of  
proceedings  
involving  
children.

“ 126. (1) A person shall not publish or cause to be published in any newspaper or other publication or broadcast or cause to be broadcast by radio or television a report of any proceedings in a Children’s Court, or in any other court on appeal from a Children’s Court, containing any particulars or other matter likely to lead to the identification of a child who is concerned in those proceedings—

(a) as a person against whom the proceedings are taken;

(b) as a person in respect of whom the proceedings are taken;

(c) as a witness; or

(d) as a person against or in respect of whom an offence has or is alleged to have been committed.

(2) In the case of criminal proceedings in the Supreme Court or the District Court, including any appellate proceedings to which subsection (1) does not apply, the court may,

after considering the public interest and the interests of the child or children concerned, order that no person shall publish or cause to be published in any newspaper or other publication or broadcast or cause to be broadcast by radio or television a report of those proceedings containing any particulars or other matter likely to lead to the identification of a child who is concerned in those proceedings—

- (a) as a person against whom those proceedings are taken;
- (b) as a witness; or
- (c) as a person against or in respect of whom an offence has or is alleged to have been committed.

(3) In the case of proceedings in any court in which a person is alleged to have committed an offence under Chapter XXII or XXXII or section 314 or 315 of The Criminal Code, including any appellate proceedings in respect of a conviction for such an offence, a person shall not publish or cause to be published in any newspaper or other publication or broadcast or cause to be broadcast by radio or television a report of those proceedings containing any particulars or other matter likely to lead to the identification of a child against or in respect of whom that offence has been or is alleged to have been committed. ”.

8. After section 126A of the principal Act, the following section is inserted—

Section 126B  
inserted.

“ 126B. Where—

- (a) a complaint against a child is dismissed by a Children’s Court or a Children’s Panel under this Act;

Disclosure of  
convictions,  
orders, etc.  
restricted.

(b) a child is convicted or found guilty of an offence by a Children's Court;

or

(c) a child is ordered to be committed to the care of the Department or placed under the control of the Department,

a person other than the child shall not, in a manner which identifies or is likely to lead to the identification of the child, disclose the fact of the dismissal, the conviction or finding of guilt or the order except to a court of law, to a person acting in the performance of his duties under any Act, or to a person who as part of his duties is concerned with the custody or welfare of the child. ”.

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