

CHILD WELFARE.

No. 29 of 1968.

AN ACT to amend the Child Welfare Act, 1947-1967.

[Assented to 25th October, 1968.]

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:—

Short title.
and citation.

1. (1) This Act may be cited as the *Child Welfare Act Amendment Act, 1968*.

Reprinted,
as approved
for reprint,
25th August
1961, and
further
amended by
Acts Nos. 22
and 43 of
1962, 79 of
1965 and 27
and 42 of
1967.

(2) In this Act the Child Welfare Act, 1947-1967, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Child Welfare Act, 1947-1968.

2. Section nine of the principal Act is repealed. S. 9 repealed.

3. Section ten of the principal Act is amended by adding, after subsection (2), the following subsection— S. 10 amended.

(3) The Director or, with his authority, an officer of the Department may take such action, not inconsistent with the provisions of this Act, as may be reasonably or probably necessary for promoting the welfare of a child, whether a ward or not. .

4. Section nineteen of the principal Act is amended— S. 19 amended.

(a) by repealing subsections (1a) and (1b);

(b) by repealing subsection (3) and re-enacting it, as follows—

(3) Except as provided by sections twenty B and twenty C of this Act, a court shall be constituted of a special magistrate, sitting alone or with one member, or of at least two members. ;

and

(c) by substituting for the words, “have the powers of a police magistrate”, in lines five and six of subsection (6), the passage, “, except as regards sections twenty B and twenty C, have the powers of a stipendiary magistrate”.

5. Section twenty of the principal Act is repealed and re-enacted, as follows— S. 20 repealed and re-enacted.

20. (1) Subject to the succeeding provisions of this section, a court has exclusive jurisdiction— Jurisdiction as regards children.

(a) to hear and determine a complaint of an offence brought against a child;

(b) to hear and determine all complaints and applications made—

(i) under this Act; and

(ii) under sections sixteen, seventeen, seventeen A, seventeen B, eighteen and twenty of the Education Act, 1928; and

(c) to make recommendations in respect of a child brought before it on a complaint of an offence or as a destitute, neglected or uncontrolled child.

(2) Where a complaint of wilful murder, murder, manslaughter or treason or of attempting any of those crimes is brought against a child, a court shall exercise such powers and jurisdiction, only, as are conferred upon justices in respect of indictable offences, by the Justices Act, 1902.

(3) A court may, instead of hearing and determining a complaint of an indictable offence brought against a child who is over the age of fourteen years, exercise such powers and jurisdiction, only, as are conferred upon justices in respect of indictable offences, by the Justices Act, 1902, or, if hearing and determining the complaint and convicting the child, may commit him for sentence before the Supreme Court.

(4) Where it is provided by any other Act that a person, instead of appearing before justices on a complaint of a simple offence, may elect to suffer a prescribed monetary penalty in respect of that offence, then, notwithstanding anything in this Act, a child may so elect.

7. Section twenty B of the principal Act is ^{S. 20B} amended—
amended—

- (a) by repealing subsections (1), (2), (3) and (3a) and enacting the following subsections in their stead—

(1) Notwithstanding any provision of The Criminal Code but subject to the succeeding provisions of this section, a court constituted of, or comprising, a special magistrate who is a stipendiary magistrate may hear and determine a complaint of committing or attempting to commit any of the indictable offences set out in the Third Schedule to this Act brought against a person who was, at the time of the alleged offence, of or over the age of eighteen years.

(2) A court shall not exercise the jurisdiction conferred by this section, unless the complaint is of an offence committed against, or in respect of, a child under the age of sixteen years.

(3) A person summarily convicted pursuant to this section is liable to imprisonment with hard labour for eighteen months. ;

and

- (b) as to subsection (4)—

- (i) by substituting for the word, “him”, where first occurring in line five of paragraph (a), the words, “the court”;
- (ii) by substituting for the word, “magistrate”, where occurring in lines two, seven, and eight of paragraph (b), in lines two, and three of paragraph (c), in lines two and three, four and seven of paragraph (d), the word, “court”, in every case;

- (iii) by deleting the words, "hearing the charge", in line four of paragraph (c);
- (iv) by substituting for the word, "he", in line five, the word "him" and the word "he", in line seven, of paragraph (c) and the word "he", in line four of paragraph (d), the word, "it", in every case; and
- (v) by deleting the words, "the magistrate", in line eight of paragraph (d).

S. 20C added.

8. The principal Act is amended by adding, after section twenty B, the following section—

Summary
proceedings
for assaults
on children.

20C. (1) Subject to the succeeding provisions of this section, a court constituted of, or comprising, a special magistrate who is a stipendiary magistrate has exclusive jurisdiction to exercise the powers conferred upon justices by Chapter XXXI of The Criminal Code, in respect of a complaint of assaulting a child under the age of sixteen years brought against a person who was, at the time of the alleged offence, of or over the age of eighteen years.

(2) Section three hundred and twenty of The Criminal Code does not apply to a complaint heard pursuant to this section, but, if the court finds that the assault that is the subject of the complaint was accompanied by an attempt to commit a crime and—

- (a) the crime is any of those mentioned in the Third Schedule to this Act, the court is required to remand the defendant to appear before another children's court constituted as provided by this section of a different person or different persons, for the rehearing of the complaint amended in accordance with that finding;

- (b) the crime is not any of those mentioned in the Third Schedule to this Act, the court is required to exercise such powers and jurisdiction, only, as are conferred upon justices, in respect of indictable offences, by the Justices Act, 1902. .

9. Section twenty-two of the principal Act is ^{S. 22} amended—

- (a) by deleting the subsection designation, “(1)”, in line one;
- (b) by deleting the passage, “, and not in any police or other court-house” in lines four and five; and
- (c) by repealing subsection (2) and the proviso thereto.

10. Section twenty-nine of the principal Act is ^{S. 29} amended by substituting for the words, “incorrigible or uncontrollable”, in lines four and five, the word, “uncontrolled”.

11. Section thirty-four of the principal Act is ^{S. 34} amended—

- (a) by substituting for the passage, “sufficient:”, at the end of paragraph (d), the passage, “sufficient; or”; and
- (b) by adding, after paragraph (d), the following paragraphs—
 - (e) discharge the child upon his entering into his own recognisance, with or without sureties, in such amount as the court thinks fit, that he will keep the peace and be of good behaviour for a term not exceeding one year; or
 - (f) impose on the child a fine not exceeding five hundred dollars: .

S. 108
amended.

12. Section one hundred and eight of the principal Act is amended by substituting for paragraph (c) the following paragraph—

(c) cause, suffer or permit a child under the age of sixteen years—

(i) to take part in a public entertainment, by singing, playing or performing for profit or reward to the child or to any other person, not being a school or charitable or patriotic organisation; or

(ii) to be engaged in commercial advertising, by radio, television or newspaper,

without first obtaining, and thereafter complying with any conditions or limitations imposed by, a license issued for that purpose by the Minister. .

S. 139
repealed.

13. Section one hundred and thirty-nine of the principal Act is repealed.

S. 142
amended.

14. Section one hundred and forty-two of the principal Act is amended by substituting for the word, "sixty", in the last line, the words, "one hundred".

S. 146A
amended.

15. Section one hundred and forty-six A of the principal Act is amended by adding immediately after the word, "place", being the last word in subsection (1), the words, "and there investigate and inquire into the information".

S. 146C
amended.

16. Section one hundred and forty-six C of the principal Act is amended—

(a) by adding, after the section number, "146C.", the subsection designation, "(1)"; and

(b) by adding the following subsection—

(2) For the purposes of subsection (1) of this section, anything done or omitted to be done by a person therein mentioned, in good faith and for reasonable or probable cause in promoting the welfare of a child, is deemed to have been done pursuant to a duty imposed by this Act. .

17. Section one hundred and forty-nine of the principal Act is amended—

S. 149
amended.

(a) by adding, after the section number, “149.”, the subsection designation, “(1)”; and

(b) by adding the following subsection—

(2) Regulations may be made pursuant to this section or sections one hundred and sixteen and one hundred and eighteen A of this Act—

(a) so as to require a matter or thing affected by the regulations to be in accordance with a specified standard or a specified requirement or as approved by, or to the satisfaction of, a specified person or body, or class of person or body; and so as to delegate to, or confer upon a specified person or body, or class of person or body, a discretionary authority; and

(b) so as to provide that, in specified cases, in specified class of case or specified classes of cases, persons or things or a class or classes of persons or things may, whether on specified conditions or unconditionally, be exempted from the provisions of the regulations or any of them, either wholly or to such extent as may be specified. .

Third
Schedule
added.

18. The principal Act is amended by adding, after the Second Schedule, the following Schedule—

S. 20B

THIRD SCHEDULE.

Item.	Sections of The Criminal Code.	Offence.
1	181, 182	Having or attempting to have unlawful carnal knowledge of a person against the order of nature.
2	183	Unlawfully and indecently dealing with a boy under the age of fourteen years.
3	185	Having or attempting to have unlawful carnal knowledge of a girl under the age of thirteen years.
4	187	Having or attempting to have unlawful carnal knowledge of a girl under the age of sixteen years.
5	189	Unlawfully and indecently dealing with a girl who is— (i) under the age of sixteen years; or (ii) to the knowledge of the accused person an idiot or imbecile; or (iii) under the age of seventeen years, and of whom the accused person is a guardian, employer, teacher or schoolmaster.
6	189	Unlawfully and indecently dealing with a girl under the age of thirteen years.
7	190	Being a guardian, employer, teacher or schoolmaster of a girl under the age of seventeen years, unlawfully and carnally knows, or attempts to have unlawful and carnal knowledge of, the girl.
8	328	Unlawfully and indecently assaulting a girl.