

CHILD WELFARE.

No. 79 of 1965.

AN ACT to amend the Child Welfare Act, 1947-1962.

[Assented to 7th December, 1965.]

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 Act Amendment Act, 1965*. Short title and citation.

(2) In this Act the Child Welfare Act, 1947-1962 is referred to as the principal Act. Reprinted, as approved for reprint, 25th August, 1961 and amended by Acts Nos. 22 and 43 of 1962.

(3) The principal Act as amended by this Act may be cited as the Child Welfare Act, 1947-1965.

Commence-
ment.

2. This Act shall come into operation on the date on which the Married Persons and Children (Summary Relief) Act, 1965, comes into operation.

S. 4
amended.

3. Section four of the principal Act is amended by substituting for the interpretation, "ward", the following interpretation—

"ward" means a child who is committed, under this or any other Act, to the care of the Department or to the custody of the Director, for a period that has not expired; .

S. 17
amended.

4. Section seventeen of the principal Act is amended by substituting for the passage commencing with the word, "only", in line four, and ending with the word, "Council", being the last word in the section, the passage, ", only".

S. 20
amended.

5. Section twenty of the principal Act is amended by deleting paragraphs (d) and (da).

S. 20A
amended.

6. Section twenty A of the principal Act is amended by deleting subparagraph (iii) of paragraph (a) of subsection (4).

S. 21
amended.

7. Section twenty-one of the principal Act is amended by deleting both provisos thereto.

S. 23
amended.

8. Section twenty-three of the principal Act is amended by repealing subsection (2) and re-enacting it, with amendments, as follows—

(2) A person shall not, without the express authority of the court, publish in any newspaper or other printed medium or broadcast or televise any report of the proceedings of the court on the hearing of a charge against, or any application concerning a child. .

9. Section twenty-five of the principal Act is repealed and re-enacted with amendments, as follows—

S. 25
repealed and
re-enacted.

25. The court, in dealing with a child, shall have regard to the future welfare of the child. .

Court to have
regard to
future
welfare of
children.

10. Section thirty of the principal Act is amended by deleting paragraph (b).

S. 30
amended.

11. Section thirty-two of the principal Act is amended by substituting for paragraph (a) the following paragraph—

S. 32
amended.

(a) order the child to be committed to the care of the Department until eighteen years of age or for such shorter period as the court may think sufficient; or .

12. Section thirty-four A of the principal Act is repealed and re-enacted with amendments, as follows—

S. 34A
repealed and
re-enacted.

34A. (1) The court shall not impose a sentence of imprisonment—

Power of
court to
imprison
children.

(a) on a child under the age of fourteen years;

(b) exceeding three months, in respect of any one offence, on a child aged fourteen years and under the age of sixteen years; or

(c) exceeding six months, in respect of any one offence, on a child aged sixteen years or more.

(2) In sentencing a child to imprisonment the court may direct that the imprisonment be served in a penal institution established by the Department for the imprisonment of children. .

S. 34C
amended.

13. Section thirty-four C of the principal Act is amended—

(a) by inserting, immediately after the section number, “34C.”, the subsection designation, “(1)”; and

(b) by adding the following subsection—

(2) Where a child is, under the sections mentioned in subsection (1) of this section, released on probation for any period, the Minister may, upon the recommendation of the Director in writing, order that the child be discharged from probation or order that the period of his release on probation be abridged by such period as the Minister, in his absolute discretion thinks fit and, in that event, the child shall be discharged from probation or continue to be released on probation for the abridged period, as the case may require. .

S. 37
amended.

14. Section thirty-seven of the principal Act is amended by substituting for the words, “committed to”, in line one, the words, “detained in”.

S. 38
amended.

15. Section thirty-eight of the principal Act is amended—

(a) by adding, after the section number, “38.”, the subsection designation, “(1)”; and

(b) by substituting for the passage, commencing with the words, “the Director”, where secondly appearing in the section, and ending with the word, “be”, being the last word in the section, the passage, “the probation officer having the control of the child may, without any authority other than that of this section, cause the child to be apprehended and disposed of, in the manner provided for the disposition of an apprehended child, under section twenty-nine of this Act”; and

(c) by adding the following subsection—

(2) Where a child has been apprehended pursuant to subsection (1) of this section the Director may, with the written consent of the Minister, cause the child to be brought before the court; and the court may exercise such of the powers conferred upon it, by the sections mentioned in that subsection, as the circumstances of the case may require. .

16. Section thirty-nine of the principal Act is repealed and re-enacted with amendments, as follows—

S. 39
repealed and
re-enacted.

39. Notwithstanding any other provision of this Act, the court may commit a child, aged upwards of sixteen years, to the care of the Department for a period not exceeding two years. .

Child over
sixteen years
may be
committed
for a period
of up to
two years.

17. Section forty of the principal Act is repealed.

S. 40
repealed.

18. The principal Act is amended by adding the following section—

S. 40A
added.

40A. (1) Where, in any proceeding under section thirty, thirty A, thirty-two, thirty-three or thirty-four of this Act, a child is committed to the care of the Department, the court may, without any complaint being made against, or a summons being served on, them or any of them, by an order under this section require any of the parents of the child who is able to pay for, or contribute towards, the past or future maintenance of the child to pay to the Department—

Orders for
maintenance
of wards.

(a) such amount for the past maintenance of the child; and

- (b) such amount, or such amounts over such period, for the future maintenance of the child,

as to the court may appear sufficient.

(2) An order shall not be made under this section for the payment of maintenance by a person who is not then present before the court, unless the court is satisfied that he received due and sufficient notice of the intention to move the court in that regard.

(3) Where an order is made under this section for the payment of maintenance, the court shall cause a certified copy of the order to be sent to the Summary Relief Court established under the Married Persons and Children (Summary Relief) Act, 1965, at the place nearest to that at which the order was made, for registration in the manner provided by the rules of that court; and the order shall, when so registered, be deemed, for all purposes, to be an order of that court.

(4) Every order for the payment of maintenance for the benefit of a child made under the provisions of this Act as they existed before the coming into operation of the Child Welfare Act Amendment Act, 1965, shall, forthwith after the coming into operation of that Act, be registered in the Summary Relief Court mentioned in subsection (3) of this section, at the place nearest to that at which the order was made; and the order shall, when so registered, be deemed, as regards that part of it that relates to the payment of maintenance, to be an order of that court. .

20. Section forty-three of the principal Act is amended, as to subsection (1),—

S. 43
amended.

(a) by deleting the words, “or to an institution”, in lines two and three; and

(b) by substituting for the words, “is to be detained”, in line five, the words, “was committed”.

21. Section forty-six of the principal Act is repealed and re-enacted with amendments, as follows—

S. 46
repealed and
re-enacted.

46. A ward who absconds from an institution, from a foster parent or from any situation in which he has been placed at the requirement of the Director may be apprehended, without warrant, by a police officer or by an officer of the Department and be conveyed to such place as the Director may direct. .

Ward
absconding
may be
apprehended
without
warrant.

22. Section forty-seven of the principal Act is amended by deleting both provisos thereto.

S. 47
amended.

23. Section forty-nine of the principal Act is repealed and re-enacted with amendments, as follows—

S. 49
repealed and
re-enacted.

49. The Minister may, from time to time, order that the period for which a child was committed to the care of the Department, whether by his or any other order, be extended; but an order made under this section ceases to have effect after the ward attains the age of twenty-one years. .

Minister
may extend
committal.

24. Section sixty-two of the principal Act is amended by deleting the passage commencing with “, and”, in lines five and six, and ending with the word, “institution”, being the last word in the section.

S. 62
amended.

Part V
repealed.

25. Part V of the principal Act is repealed.

S. 126
repealed and
re-enacted.

26. Section one hundred and twenty-six of the principal Act is repealed and re-enacted with amendments, as follows—

Disclosure
of convictions,
etc.,
restricted.

126. Where a child has been committed to the care of the Department or has been convicted of an offence, a person, other than the child, shall not disclose the fact of the committal or the conviction, except—

- (a) to a court of law;
- (b) to a person acting in the performance of his duties pursuant to any Act; or
- (c) to a person who, as a part of his duties, is concerned with the custody or welfare of the child. .

S. 130
repealed and
re-enacted.

27. Section one hundred and thirty of the principal Act is repealed and re-enacted with amendments, as follows—

Offence of
deserting
children.

130. (1) Every person who, being a parent of a child,—

- (a) deserts the child; or
- (b) wilfully leaves the child without, or wilfully neglects to provide the child with, adequate means of support,

commits an offence.

Penalty: Imprisonment with, or without, hard labour for twelve months.

(2) This section does not apply to a person who is obliged under a provision of an order of any court to make a payment or payments of maintenance for the benefit of the child. .

S. 131
amended.

28. Section one hundred and thirty-one of the principal Act is amended by substituting for the words, “sections seventy-seven and”, in line five, the word, “section”.

29. Section one hundred and thirty-one A of the principal Act is repealed. S. 131A
repealed.

30. Section one hundred and thirty-six of the principal Act is amended— S. 136
amended.

- (a) by deleting the subsection designation, “(1)”, in line one;
- (b) by inserting, immediately after the word, “may”, in line nine, the passage, “, whether committing the child to the care of the Department or not,”; and
- (c) by substituting for the words, “as is provided for in section sixty-nine”, in the penultimate line, the passage, “, in the manner provided by section forty A of this Act”.

31. Section one hundred and thirty-seven of the principal Act is amended, as to subsection (1),— S. 137
amended.

- (a) by inserting, immediately after the word, “become”, in line eight, the passage, “, or to continue to be,”; and
- (b) by inserting, immediately after the word, “becoming”, in the penultimate line, the passage, “, or continuing to be,”.