



New South Wales

Children (Criminal Proceedings) Amendment (Publication of Names) Act 2007 No 30

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New South Wales

Children (Criminal Proceedings) Amendment (Publication of Names) Act 2007 No 30

Act No 30, 2007

An Act to amend the *Children (Criminal Proceedings) Act 1987* with respect to the prohibition against the publication and broadcasting of names in connection with criminal proceedings involving a child; and for related purposes. [Assented to 4 July 2007]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Children (Criminal Proceedings) Amendment (Publication of Names) Act 2007*.

2 Commencement

This Act commences on the date of assent to this Act.

3 Amendment of Children (Criminal Proceedings) Act 1987 No 55

The *Children (Criminal Proceedings) Act 1987* is amended as set out in Schedule 1.

4 Consequential amendment of Children and Young Persons (Care and Protection) Act 1998 No 157

The *Children and Young Persons (Care and Protection) Act 1998* is amended as set out in Schedule 2.

5 Repeal of Act

- (1) This Act is repealed on the day following the day on which this Act commences.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 Amendment of Children (Criminal Proceedings) Act 1987

(Section 3)

[1] Section 3 Definitions

Insert “(except in section 11)” after “includes” in the definition of *parent* in section 3 (1).

[2] Section 11 Publication and broadcasting of names

Insert at the end of section 11 (4) (c):

, or

- (d) the publication or broadcasting of the name of a deceased child with the consent of a senior available next of kin of the child, but only if it appears to the senior available next of kin, after making such inquiries as are reasonable in the circumstances, that no other senior available next of kin objects to the publication or broadcasting of the name.

[3] Section 11 (4F) and (4G)

Insert after section 11 (4E):

- (4F) A senior available next of kin who is charged with, or is convicted of, an offence to which the criminal proceedings concerned relate cannot give consent, or object, to the publication or broadcasting of the name of a deceased child as referred to in subsection (4) (d).
- (4G) In considering whether to give consent to the publication or broadcasting of the name of a deceased child as referred to in subsection (4) (d), a senior available next of kin must, if the publication or broadcasting of the name of a brother or sister of the deceased child is prohibited under subsection (1) (d):
 - (a) make such inquiries as are reasonable in the circumstances to obtain the views of that brother or sister regarding the publication or broadcasting of the name of the deceased child, and
 - (b) take into account the impact of such a publication or broadcasting on that brother or sister.

[4] Section 11 (7)

Insert after section 11 (6):

- (7) In this section, *senior available next of kin* of a deceased child means:
- (a) a parent of the child, or
 - (b) if the parents of the child are dead, cannot be found, or for some other reason cannot exercise their parental responsibilities to the child:
 - (i) a person who, immediately before the death of the child, had parental responsibility (within the meaning of the *Children and Young Persons (Care and Protection) Act 1998*) for the child, or
 - (ii) in the case of a child who was in the care of the Director-General of the Department of Community Services immediately before his or her death—the Director-General.

[5] Schedule 2 Savings and transitional provisions

Insert at the end of clause 1 (1):

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[6] Schedule 2, Part 13

Insert at the end of the Schedule:

**Part 13 Children (Criminal Proceedings)
Amendment (Publication of Names) Act
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17 Publication and broadcasting of names

Section 11, as amended by the *Children (Criminal Proceedings) Amendment (Publication of Names) Act 2007*, applies in relation to proceedings whether commenced before or after the commencement of that Act.

18 Publication and broadcasting of names previously published or broadcast

Section 11 does not apply to the publication or broadcast of the names of the following persons in connection with criminal proceedings:

- (a) the name of a person that had been published or broadcast before 21 December 2001 (the date on which that section was amended by the *Criminal Legislation Amendment Act 2001*), being a person who was not a child at the time of the publication or broadcast,
- (b) the name of a person that had been published or broadcast before 24 March 2004 (the date on which that section was amended by the *Crimes Legislation Amendment Act 2004*), being a person who was deceased at the time of the publication or broadcast.

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Schedule 2 Amendment of Children and Young Persons (Care and Protection) Act 1998

Schedule 2 Amendment of Children and Young Persons (Care and Protection) Act 1998

(Section 4)

Section 105 Publication of names and identifying information

Insert after section 105 (5):

- (6) This section does not apply in relation to criminal proceedings.
Note. See section 11 of the *Children (Criminal Proceedings) Act 1987*.

[Agreement in principle speech made in Legislative Assembly on 8 June 2007
Second reading speech made in Legislative Council on 28 June 2007]

BY AUTHORITY