



New South Wales

Children and Young Persons (Care and Protection) Amendment (Body Piercing and Tattooing) Bill 2008

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Children and Young Persons (Care and Protection) Act 1998*:

- (a) to prohibit the intimate body piercing of children under the age of 16 years and to require parental consent for non-intimate body piercing of children under the age of 16 years, and
- (b) to extend the circumstances in which it is an offence to tattoo a child or young person under the age of 18 years to include procedures such as scarification, branding and beading.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act 28 days after the date of assent to the Act.

Clause 3 is a formal provision that gives effect to the amendments to the *Children and Young Persons (Care and Protection) Act 1998* set out in Schedule 1.

Clause 4 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendments

Schedule 1 [1] amends the *Children and Young Persons (Care and Protection) Act 1998* by expanding the definition of **tattooing** to include any procedure which makes a permanent mark on the skin, such as scarification, branding or beading. The amendment also allows the consent of a parent to be given in person (as well as in writing). Performing tattooing on a child or young person (that is, a person under the age of 18 years) without parental consent is already an offence with a maximum penalty of 200 penalty units (currently \$22,000).

Schedule 1 [2] creates two new offences in relation to body piercing.

The first proposed offence prohibits a person from performing body piercing on the genitalia or nipples of a child (a person under the age of 16 years). The maximum penalty is 200 penalty units (currently \$22,000). It will not be a defence to a prosecution that the child or parent consented to the body piercing.

The second proposed offence prohibits a person from performing body piercing on any other part of a child's body without the consent of a parent of the child to the body piercing of that part of the child's body. The consent must be given either in writing or in person by a parent accompanying the child. The maximum penalty is 30 penalty units (currently \$3,300).

The new offences do not apply to body piercing for medical purposes.

Schedule 1 [3] provides for the making of savings and transitional regulations consequent on the enactment of the proposed Act.

First print



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No. , 2008

A Bill for

An Act to amend the *Children and Young Persons (Care and Protection) Act 1998* relating to body piercing and tattooing of children and young persons.

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| The Legislature of New South Wales enacts: | 1 |
| 1 Name of Act | 2 |
| This Act is the <i>Children and Young Persons (Care and Protection) Amendment (Body Piercing and Tattooing) Act 2008</i> . | 3 4 |
| 2 Commencement | 5 |
| This Act commences on the day occurring 28 days after the date of assent to the Act. | 6 7 |
| 3 Amendment of Children and Young Persons (Care and Protection) Act 1998 No 157 | 8 9 |
| The <i>Children and Young Persons (Care and Protection) Act 1998</i> is amended as set out in Schedule 1. | 10 11 |
| 4 Repeal of Act | 12 |
| (1) This Act is repealed on the day following the day on which the Act commences. | 13 14 |
| (2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act. | 15 16 |

Schedule 1 Amendments

| | | |
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| | | 1 |
| | (Section 3) | 2 |
| [1] | Section 230 | 3 |
| | Omit the section. Insert instead: | 4 |
| | 230 Tattooing of children and young persons | 5 |
| | (1) In this section, <i>tattooing</i> means any procedure the purpose of which is to make a permanent mark on the skin of a person, and includes the procedures known as scarification, branding and beading. | 6 7 8 9 |
| | (2) A person must not perform tattooing on any part of a child's or young person's body unless the person has first obtained the consent of a parent of the child or young person, given in accordance with this section, to the tattooing of the child or young person in that manner and on that part of the child's or young person's body. Maximum penalty: 200 penalty units. | 10 11 12 13 14 15 16 |
| | (3) The consent of a parent to the tattooing must be given in person by a parent accompanying the child or young person or in writing. | 17 18 19 |
| [2] | Section 230A | 20 |
| | Insert after section 230: | 21 |
| | 230A Body piercing of children | 22 |
| | (1) In this section, <i>body piercing</i> means piercing a part of the body of a person to insert a ring, bar or other thing through that body part. | 23 24 25 |
| | (2) A person must not perform body piercing on any part of: | 26 |
| | (a) the genitalia of a child, or | 27 |
| | (b) the nipples of a child. | 28 |
| | Maximum penalty: 200 penalty units. | 29 |
| | (3) It is not a defence to a prosecution for an offence under subsection (2) that the child or a parent of the child consented to the body piercing of the child. | 30 31 32 |

Children and Young Persons (Care and Protection) Amendment (Body Piercing and Tattooing) Bill 2008

Schedule 1 Amendments

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| (4) | A person must not perform body piercing on any other part of a child's body unless the person has first obtained the consent of a parent of the child, given in accordance with this section, to the body piercing of that part of the child's body. | 1 |
| | Maximum penalty: 30 penalty units. | 2 |
| (5) | The consent of a parent to the body piercing must be given in person by a parent accompanying the child or in writing. | 3 |
| (6) | This section does not apply in relation to any body piercing performed for a medical purpose. | 4 |
| [3] | Schedule 3 Savings, transitional and other provisions | 5 |
| | Insert at the end of clause 1 (1): | 6 |
| | <i>Children and Young Persons (Care and Protection) Amendment (Body Piercing and Tattooing) Act 2008</i> | 7 |
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