

CHILDREN'S COURT BILL 1987*

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Community Welfare Bill 1987.

The object of this Bill is to re-enact, with modifications, the provisions of the Community Welfare Act 1982 relating to the establishment of a Children's Court of New South Wales.

PART 1—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on a day to be appointed by the Governor-in-Council.

Clause 3 is an interpretation provision for the purposes of the proposed Act. In particular, "authorised Magistrate" is defined to mean a Magistrate who is authorised to exercise the jurisdiction of the proposed Children's Court by virtue of a proclamation referred to in clause 10.

PART 2—CONSTITUTION OF THE COURT

Clause 4 constitutes a court of record to be known as the Children's Court of New South Wales ("the Court").

Clause 5 makes provision with respect to the seal of the Court.

Clause 6 provides that the Court shall be comprised of such members as the Chief Magistrate may from time to time appoint.

* Amended in committee—see table at end of volume.

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Clause 7 provides for the appointment of persons as members of the Court, being persons who—

- (a) are Magistrates; and
- (b) have, in the opinion of the Chief Magistrate—
 - (i) such training in the social or behavioural sciences;
 - (ii) such experience in dealing with children; or
 - (iii) such personal qualities,as is or are appropriate for a member of the Court.

Clause 8 provides for the appointment of a person as the senior member of the Court.

Clause 9 provides for the appointment of a person as the acting senior member of the Court during vacancies in the office of senior member and during periods when the senior member is absent.

Clause 10 enables the Governor-in-Council, by proclamation published in the Gazette, to declare that the jurisdiction of the Court may be exercised by a Magistrate sitting at such place as may be specified in the proclamation.

Clause 11 provides for the employment of a Registrar of the Court and of such other staff as may be necessary to enable the Court to exercise its jurisdiction.

PART 3—JURISDICTION OF THE COURT

Clause 12 provides that the Court shall have such jurisdiction as may be conferred or imposed on it by or under the proposed Act or any other Act, and further provides that the Court may exercise its jurisdiction throughout the whole of New South Wales.

Clause 13 enables the jurisdiction of the Court to be exercised by a member of the Court or by an authorised Magistrate sitting alone.

Clause 14 enables more than one sitting of the Court to be held at the same time.

Clause 15 enables the Court to make such orders as it thinks appropriate in relation to all matters in respect of which it has jurisdiction.

PART 4—MISCELLANEOUS

Clause 16 imposes certain administrative functions on the senior member of the Court and further provides that, in relation to the exercise of those functions, the senior member is to be subject to the control and direction of the Chief Magistrate.

Clause 17 provides for the delegation of functions by the senior member of the Court.

Clause 18 requires the senior member of the Court to prepare reports in relation to the activities of the Court for submission to the Attorney General.

Clause 19 makes provision with respect to the buildings and rooms in which sittings of the Court may be held.

Clause 20 enables the Court to transfer the hearing of a matter to a sitting of the Court at some other place so as to ensure that the matter may be more conveniently or fairly heard.

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Clause 21 enables the Court to impose a penalty of \$200 or imprisonment for 10 days on any person who commits contempt in the face of the Court.

Clause 22 requires judicial notice to be taken of the signature of the senior member of the Court, a member of the Court, an authorised Magistrate or the Registrar of the Court where appearing on a document issuing out of the Court.

Clause 23 enables the Governor-in-Council to make rules for the purposes of the proposed Act including, in particular, rules with respect to the practice and procedure of the Court.

Schedule 1 makes provision with respect to the members of the Court and, in particular—

- (a) provides that a member of the Court does not cease to be a Magistrate merely because of the member's having been appointed as a member of the Court (clause 1);
 - (b) provides that a member of the Court shall hold office for such period (not exceeding 3 years) as is specified in the member's instrument of appointment (clause 2);
 - (c) provides for the remuneration of members of the Court in accordance with the Statutory and Other Offices Remuneration Act 1975 (clause 3);
 - (d) excludes members of the Court from the operation of the Public Service Act 1979 (clause 4);
 - (e) specifies the circumstances under which a member of the Court shall be deemed to have vacated office (clause 5); and
 - (f) provides that a person does not cease to be a Magistrate merely because of his or her resignation from office as a member of the Court or the expiration of his or her term of office as a member of the Court (clause 6).
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